(Published in Part - III Section 4 of the Gazette of India, Extraordinary)

Tariff Authority for Major Ports

G.No.499 **New Delhi,** **30 December 2019**

NOTIFICATION

In exercise of the powers conferred by Sections 48 and 50 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal of the South West Port Limited for general revision of its Scale of Rates for Berth 5A and 6A in the Mormugao Port Trust as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports

Case No. TAMP/38/2019-SWPL

South West Port Limited - - - **Applicant**

QUORUM:

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

O R D E R

(Passed on this 29th day of November 2019)

This case relates to the proposal dated 24 July 2019 received from South West Port Limited (SWPL) for revision of its Scale of Rates (SOR) for Berth 5A and 6A in the Mormugao Port Trust (MOPT).

2.1. This Authority vide its Order No.TAMP/40/2016-SWPL dated 17 November 2016 had revised the SOR of the SWPL based on the proposal filed by SWPL and following the erstwhile Tariff Guidelines, 2005 then applicable to SWPL. The SOR approved on 17 November 2016 was notified in the Gazette of India on 30 November 2016 vide Gazette No.433. The revised SOR came into force after expiry of 30 days from the date of notification of the Order notifying the SOR in the Gazette of India. In the said Order, this Authority had granted tariff increase of 27.80% in cargo handling charge and 10% in berth hire charge as against tariff increase of 34% and 17% sought by SWPL for the corresponding activities. The validity of the SOR was prescribed till 31 March 2019. A speaking Order passed by this Authority was notified in the Gazette of India on 06 January 2017 vide Gazette No.10.

2.2. In the context of the tariff Order dated 17 November 2016, the MOPT filed an application to review the said tariff Order dated 17 November 2016. However, the MOPT withdrew its review application.

3.1. The SWPL vide its letter dated 08 April 2019 had made a request to extend the validity of the existing tariff till 30 September 2019 or till the new tariff is notified whichever is earlier.

3.2. In this regard, it was brought to the notice of SWPL that we have vide our letter dated 8 November 2017 requested the SWPL to file a proposal based on actuals of 2016-17 and revise the tariff estimates and corresponding income and expenditure estimations for the years 2017-18 and 2018-19 latest by 30 November 2017 in pursuance of the decision of this Authority in para 13 (vii) (a) of the Order No.TAMP/40/2016- SWPL dated 17 November 2016. This was followed by reminder dated 5 March 2018. The SWPL did not respond, despite reminder. Instead of complying with the decision taken by this Authority and keeping silent on the request made to SWPL by our letter, the SWPL sought extension of the validity of existing SOR. SWPL was requested to furnish the physical and financial performance for the year 2018-19 to process the SWPL letter dated 08 April 2019 seeking extension. The SWPL remained silent.

4. In the meantime, the MOS vide its letter No.PR-14019/20/2009- PG (Pt-IV) dated 5 March 2019 has issued Tariff Guidelines for BOT operators operating in all Major Port Trusts and previously governed by 2005 Tariff Guidelines in exercise of powers conferred on it by Section 111 of the Major Port Trusts Act, 1963, and directed this Authority to act accordingly with immediate effect. The Tariff Guidelines for BOT operators operating in Major Port Trust and previously governed by 2005 Tariff Guidelines has been notified in the Gazette of India Extraordinary (Part III Section 4) on 7 March 2019 vide Gazette No.92. Thereafter, as per Clause 1.7 of the Tariff Policy, 2019, Working Guidelines to operationalize the Tariff Policy is notified in the Gazette of India vide Gazette No.244 dated 11 July 2019 after consultation with the Major Port Trusts and the concerned BOT Operators governed under the erstwhile Tariff Guidelines of 2005.

5.1. In this backdrop, the SWPL has filed its proposal dated 24 July 2019 following Tariff Policy, 2019 for general revision of its SOR. The SWPL has submitted the following:

(i). The SWPL has prepared the proposal for fixation of tariff in accordance with the said Tariff Guidelines and Working Guidelines, in the formats and supporting documents as prescribed by the Tariff Authority for Major Ports. The proposed tariff will have a validity period of three years from 01 April 2019 to 31 March 2022.

(ii). **Traffic:**

SWPL handled traffic of 11.75 MMT, 10.61 MMT & 5.25 MMT for the years 2016-17, 2017-18 & 2018-19. For consideration of Average Revenue Requirement (ARR) traffic for next tariff cycle is taken as average of previous three years actual i.e. 9.2 MMT.

(iii). **Expenditure Projections:**

(a). **Operating expenses (excluding depreciation)** :
Operating expenses is taken as average of previous 3 years' actual expenses.

(b). **Depreciation:**
For tariff proposal, depreciation was calculated as per IGAAP and due adjustment is made in depreciation calculated as per Ind AS. Details given in Form-7.

(c). **Royalty:**
As per Clause 2.2 of the revised tariff guidelines of 2019, Royalty / Revenue share payable to the landlord port by the private operator will not be allowed as an admissible cost for tariff computation as decided by the Govt. in the Ministry of Shipping vide its Order No.PR-14019/6/2002-PG dated 29 July 2003. In those BOT cases where bidding process was finalised before 29 July 2003, the tariff computation will take into account royalty / revenue sharing as cost subject to maximum of the amount quoted by the next highest bidder for tariff fixation.

Accordingly, Royalty at 13.1% (being the second highest bid for the Tender) has been considered as admissible expenses for tariff computation.

(d). **Lease Rentals:**
This has been projected on the basis of the provisions of the L.A.
[The lease rental considered in the ARR calculation is based on actuals reported in the Audited Annual Accounts]

(iv). **ARR:**

To arrive at ARR following assumption were taken:

(a). **Exchange rate:**
For calculating berth hire income INR / USD rate of ₹70 is considered.

(b). **Fixed Assets:**
For consideration of Gross Fixed Assets, due adjustments were made on Fixed Assets reported in the Audited Annual Accounts based on Ind AS to arrive at Fixed Assets based on IGAAP.

(c). **Working Capital:**

For consideration of working capital following assumptions were made:

(i). **Inventory**: Inventory consumption for FY 2018-19 was ₹325.70 lakh. For ARR calculation, 6 months average consumption i.e. ₹162.85 lakh is considered.

(ii). **Sundry debtors**: SWPL paid ₹867.76 lakh in advance to the Port Trust as License fee and lease rent. Annual average i.e. ₹433.88 lakh is included as Sundry Debtors for ARR calculation.

(iii). **Cash**: Annual expense, based on FY 2018-2019, of SWPL terminals is ₹13,244.44 lakh. For consideration of ARR, one month expense i.e. ₹1103.70 Lakh is taken as cash requirement for working capital.

(v). **Return on Capital Employed:**
As prescribed in the Guidelines, Return on Capital Employed of 16% is considered.

(vi). **Indexation in the ARR:**
To arrive at ARR with indexation, applicable WPI of 3.45% is considered.

(vii). **Proposed SOR:**
Based on the calculation of ARR, it is proposed to increase tariff for SWPL terminals by 23%. Proposed SOR is furnished.

5.2. The SWPL has furnished detailed computation of ARR under Form-1 and Revenue estimation at the proposed rate in Form-3 and other Forms as prescribed in the Working Guidelines. The Form-1 (ARR), Form-3 (Revenue Estimation), Form-6A (Reconciliation statement), Form-7 (Fixed Assets Statement as per IGAAP considered in ARR computation giving details of adjustments) have been duly certified by practicing Chartered Accountant.

(i). A summary position of ARR computation furnished by SWPL is tabulated below:

(₹ in lakhs)

Sl. No.	Description	Y1 (2016-17)	Y2 (2017-18)	Y3 (2018-19)
(1).	**Total Expenditure (As per Audited Annual Accounts)**			
(i).	Operating expenses (including depreciation)	24,021.16	23,605.00	16,819.02
(ii).	Finance and Miscellaneous expenses (FME)	239.73	279.60	21.84
	Total Expenditure 1=(i)+(ii)	24,260.89	23,884.60	16,840.86
(2).	**Adjustments in respect of items where there is variation in figures reported as per INDAS (as per Audited Accounts) and IGAAP**			
(i).	Depreciation	(670.77)	(964.17)	(793.46)
(ii).	Other expenditure items, if any, to be listed	(217.50)	(0.02)	(0.75)
	Total of Adjustments 2=(i)+(ii)	(888.27)	(964.19)	(794.21)
(3).	**Less Adjustments:**			
(i).	Actual Royalty / Revenue share paid to the port	(3,415.98)	3,554.06)	(2,154.16)
(ii).	Interest on loans	(239.73)	(279.60)	(21.84)
(iii).	Provision for bad and doubtful debts	-	-	-
(iv).	Provision for slow moving inventory	-	-	-
(v).	Other provisions, if any	-	-	-
	Total of 3 = [3(i)+3(ii)+3(iii)+3(iv)+3(v)+3(vi)]	(3,655.71)	(3,833.65)	(2,176.00)
(4).	**Add: Admissible Royalty/ Revenue Share as per Clause 2.2. of the Tariff Guidelines, 2019**	2,486.07	2,586.56	1,567.75
(5).	**Total Expenditure after Total Adjustments (5=1+2+3+4)**	22,202.98	21,673.32	15,438.40
(6).	Average Expenses of Sl. No.5 = [Y1+Y2+Y3]/3			19,771.57
(7).	**Capital Employed**			
	(i). Gross Fixed Assets (Property, Plant & Equipment) as on 31st March Y3 or 31 December of Y3 followed by the BOT operator (As per IGAAP)			48,602.09
	(ii). Add: Capital Work in Progress as on 31st March Y3 or 31 December of Y3 followed by the BOT operator (As per Audited Annual Accounts)			172.75
	(iii). Add: Working Capital as per norms prescribed in clause 2.6 of the Tariff Guidelines, 2019			
	(a). Inventory			162.85
	(b). Sundry Debtors			2,704.74
	(c). Cash			1,103.70
	(d). Sum of (a)+(b)+(c)			3,971.30
	(iv). Total Capital Employed [(i)+(ii)+(iii)]			52,746.14
(8).	**Return on Capital Employed 16% on Sl. No.7(iv)**			8,439.38
(9).	**Annual Revenue Requirement (ARR) as on 31 March Y3 or 31 December of Y3 as applicable [(6)+(8)]**			28,210.95
(10).	**Indexation in the ARR @ 100% of the WPI applicable for the year Y4 @ 3.45% and the indexed ARR for the year Y4 will be (9) x 1.0345)**			**29,218.22**

(11).	**Ceiling Indexed Annual Revenue Requirement**	**29,218.22**
(12).	**Revenue Estimation at the Proposed indexed SOR within the Ceiling indexed ARR estimated at Sl. No.11 above**	29,082.00

(ii). The SWPL has proposed across the board increase of 23% in Berth hire charges and in Cargo handling charges to meet the estimated ARR.

(ii). The SWPL has in Form 4 furnished detailed working of revenue estimation for the existing tariff as well as the proposed tariff for the average of the actual traffic handled by the BOT operator during the years Y1, Y2 and Y3. As per the said form, the total revenue estimated at the proposed tariff is ₹29,082.00 lakhs.

6.1. In accordance with the consultative procedure prescribed, a copy of SWPL proposal dated 24 July 2019 was circulated vide our letter dated 1 August 2019 to the MOPT and concerned users/ user organisation seeking their comments.

6.2. In response, the Goa Chamber of Commerce and Industry (GCCI) and Hiralal & Co. vide their letters dated 16 August 2019 have furnished their comments which were forwarded to SWPL vide our letter dated 27 August 2019 as feedback information. The SWPL vide its email dated 21 August 2019 has furnished its reply.

6.3. The MOPT vide its email dated 23 September 2019 has forwarded a copy of letter dated 23 September 2019 addressed to SWPL in which MOPT has furnished its comments on the subject proposal which were forwarded to SWPL vide our letter dated 24 September 2019 as feedback information. The SWPL vide its email dated 02 September 2016 has furnished its comments on the comments of MOPT dated 23 September 2019.

7.1. A joint hearing in this case was held on 27 September 2019 at the MOPT premises. The SWPL made a brief Power Point presentation of its proposal. A copy of Hard copy of the Power Point presentation is given by the SWPL. At the joint hearing, the MOPT, SWPL and the concerned users / user organizations have made their submissions.

7.2. Subsequently, the MOPT has furnished additional comments vide its email dated 10 October 2019 which were forwarded to SWPL vide our letter dated 10 October 2019 as feedback information. The SWPL has, however, not responded.

7.3. As agreed at the joint hearing, the SWPL vide our letter dated 04 October 2019 was requested to take action on the following points arising out of joint hearing proceedings by 09 October 2019:

(i). At the joint hearing, the MOPT pointed out that as per the License Agreement (LA) entered by the port with the SWPL, port earns 18% revenue share on gross revenue earned by the SWPL from cargo handling charges. The MOPT does not get revenue share from berth hire revenue of SWPL as per the LA. The port requested the SWPL to consider nominal increase in berth hire charges and higher increase in cargo related charges instead of 23% increase proposed by the SWPL across the board. As agreed at the joint hearing, the SWPL was requested to look into the matter and respond to TAMP and MOPT.

(ii). The another point of the MOPT is that SWPL has proposed concession in the cargo handling charge for thermal coal and iron ore pellets at 60% of the rate proposed for the foreign cargo. These two cargo items are not entitled for coastal concession as per the coastal concession policy of the Govt. The existing SOR of the SWPL does not prescribe coastal concession for these two cargo items which are not eligible for coastal concession. The SWPL to make necessary modification in the proposal to fall in line with the Coastal Concession Policy of the Government which is uniformly followed across all the Major Port Trusts and BOT operators operating thereat.

8. In response to the action points flowing from the joint hearing, the SWPL has filed its revised proposal dated 16 October 2019 under cover of its email dated 17 October 2019. The SWPL has made the following modifications in its revised proposal.

(i). Vessel related charges is proposed to be increased by 15% and Cargo related charges is proposed to be increased by 26% as against across the broad increase of 23% in berth hire charges and cargo related charges proposed earlier.

(ii). Tariff for coastal coal and coke is kept same as foreign cargo.

(iii). Penal interest is now proposed at 15% as per the Tariff Guidelines, 2019.

(iv). There is no change done by SWPL in Form-1 to Form-8.

9. Based on the preliminary scrutiny of the revised proposal, the SWPL was requested vide our letter dated 04 November 2019 to furnish information/ clarifications on a few points by 18 November 2019. The SWPL has furnished its reply on additional information/ clarification vide its letter dated 14 November 2019 and subsequent emails dated 22 November 2019 and 22 November 2019. A summary of additional information/ clarification sought by us and reply furnished by SWPL thereon is tabulated below:

Sl. No.	Information/ Clarification sought by us	Reply furnished by SWPL
1.	**<u>Annual Revenue Requirement (ARR) (Form No.1):</u>**	
(i).	As per Clause 2.3.2 of Tariff Guidelines, 2019 in case there is variation in the expenditure reported under IND AS and IGAAP, then necessary adjustments need to be done in ARR computation by excluding IND AS figure and considering figures as per IGAAP. In this regard, Form 6A, furnished by the SWPL at Sr. No.2 shows adjustments for Gratuity and Genl. Expenses as per IND AS reported in the Accounts vis-à-vis IGAAP considered in the cost statement. The SWPL is requested to explain the adjustments done giving cross reference with the figures reported in the Annual Accounts as per IND AS. Further the basis of IGAAP figures consolidated in form 6A for each of the years with explanation. Whilst the SWPL has shown adjustment for gratuity for the year 2016-2017 with reference to the figures reported in the Audited Annual Accounts as per IND AS vis-à-vis IGAAP, the reasons for not considering any such adjustment for the gratuity item reported in the Audited Annual Accounts for the years 2017-2018 and 2018-2019 as per IND AS to be explained.	The Company recognizes under the provision of IND AS disclosure, the net obligation of the defined benefit plan in its balance sheet as asset and liability. Gain and losses through a re-measurement of the net defined benefits liability / assets are recognized in other comprehensive income, which was applicable in IGAAP. The SWPL has subsequently vide email dated 22 November 2019 clarified that under IND AS, company recognises current and past periods service cost and the net interest on the net benefit liability or asset arrived using discount rate as expenses of the period and has charged as an employee benefit cost. However, remeasurement of defined benefit liability or asset consisting of: actuarial gains / losses, return on plan assets and changes in the asses ceiling effect needs to be treated as other comprehensive income under the provision of IndAS accounting rule. However, in erstwhile scenario, under IGAAP it was treated as an employee benefits.
(ii).	(a). In the Form 3 relating to computation of working capital (as per norms), the SWPL has considered receivables at ₹2,270.86 lakhs at Sr. No.II (a). This is not found to be in line with Working capital norms prescribed in Clause 2.6 of of the Tariff Guidelines, 2019 and the format prescribed (Form 3) to the Working Guidelines. The SWPL to make necessary modification to comply with the Tariff Guidelines.	For the calculation of working capital, debtors are removed.
	(b). As per the clause 2.6 of the Tariff Guidelines, 2019 read with clause 2.2 of the Working guidelines to operationalise the	The Company has paid licensee fee of ₹8,6776,187 to the Port Trust in the month of May 2019 for advance license fee for the

	Tariff Guidelines, 2019, advance payment of lease rental / license fee to landlord port flowing from the contractual obligations will be recognised as sundry debtor for computation of working capital. The SWPL is required to pay the lease rent for the lands allotted to it in advance every year as stipulated in Article 7.3.5.2 of the LA. The License fees for the year 2018-19 reported in the Audited Annual Accounts is ₹656.89 lakhs. 50% thereof comes to ₹328.45 lakhs in line with the approach followed in earlier tariff revision. Whereas, the SWPL has considered an amount of ₹433.88 lakhs towards Advance paid for license fee in Form-3. SWPL to make necessary corrections in the computation of Working Capital in this item.	financial year 2019-20. Previous year the company paid ₹656.89 lakh only and hence even if considering the allowable escalation of 4.26% on License fee paid during FY 2019 this will be less that the actual amount paid to the Port Trust. Therefore, half of the actual amount paid ₹4,33,88,094 is considered for working capital.
	(c). Allowable cash expenses in Working Capital computation is considered at ₹1,103.70 lakhs i.e. one month of operating expenses reported in the Audited Annual Accounts for the year 2018-19 excluding depreciation and finance cost. Recognizing that in the computation of ARR few adjustments have been done under Sr. No.2, one month cash expenses need to be considered based on total expenditure for the year 2018-19 as per Sr. No.5 as per Form 1 and after excluding depreciation captured therein as per IGAAP.	Total operating expense based on Annual Revenue requirement is ₹19771.57 lakhs. After adjustment of average depreciation of last three years for ARR calculation of ₹ 809.47 Lakhs, annual operating expense is ₹18,962.10 lakh. For purpose of working capital consideration, average one month expense i.e. ₹1580.17 is considered as cash balance required.
(iii).	As per clause 2.5 of the Tariff Guidelines 2019 Capital Employed will comprise of Gross Fixed assets (Property, Plant & Equipment) [as arrived as per the Indian Generally Accepted Accounting Principles (IGAAP)] plus capital work in progress as on 31 March/ 31 December of the year Y3 to be restated from the figures reported under IND AS in the Audited Annual Accounts and working capital as per norms prescribed. The BOT operators need to furnish a reconciliation statement duly certified by a Chartered Accountant/ Cost Accountant reconciling the figures of Audited Accounts and Gross Fixed Assets (Property, Plant & Equipment) under IGAAP considered by them giving details of the adjustment. Capital employed shall be duly certified by a practicing Chartered Accountant / Cost Accountant. The SWPL to furnish a reconciliation statement duly certified by a practicing Chartered Accountant / Cost Accountant of the gross fixed assets considered at ₹48,602.09 lakhs for the year 2018-19 under the IGAAP vis-à-vis gross fixed assets reported in the Audited Annual accounts at ₹46,790.08 lakhs [i.e. ₹194.73 lakhs (Tangibles) + ₹46,595.35 lakhs (intangible assets)] for the year 2018-19 under the IND	Under the head of plant and equipment, ship unloaders were acquired under the EPCG scheme of the Government of India for the capital goods acquired. The value of duty saved amount, aggregating to ₹3008 lakh is recognized as fixed asset under the provision of IND AS for considering the fair value of the asset, however the said duty benefit cannot be recognized as Cost of the Fixed Asset under AS 12 of IGAAP. Reconciliation is attached as annexure I.

	AS. This may be supported with detailed working and explanation. If the working is being given in excel, then the same may be furnished with linkages for ease of understanding the adjustments done.	
(iv).	The SWPL has indexed the estimated ARR of ₹28210.95 lakhs arrived based on actuals for the years 2016-17 to 2018-19 by 3.45%. The applicable indexation to be considered should be 4.26% for the year 2019-20. The SWPL to, therefore, modify the indexation factor and arrived at the revised ARR	Indexation for FY 2019-20 is revised from 3.45% to 4.26% and accordingly proposal is revised.
2.	**<u>Revenue estimation (Form-4):</u>**	
(i).	The SWPL vide email dated 17 October 2019 has furnished revised proposal under cover of its letter dated 16 October 2019. In the revised proposal the SWPL has proposed 15% increase in vessel related income and 26% increase in cargo related income as against 23% increase sought in its original proposal for both cargo and vessel related activities. The SWPL has also furnished revised proposed SOR. It is, however, seen that in the revenue estimation furnished in Form 4, the SWPL has not considered revised proposed rate. The SWPL is, therefore, requested to furnish modified Form-4 based on the rates proposed in the revised proposed SOR.	Form 4 is revised as per the revised revenue estimates and revised tariff proposal. Subsequently, the SWPL vide its email dated 22 November 2019 has furnished in further revised Form 4 giving detailed working of revenue estimation at the proposed tariff for the average of the actual traffic handled by the BOT operator during the years Y1, Y2 and Y3. As per the said form, the total revenue estimated at the proposed tariff is ₹287.50 crores as against revised estimated ARR of ₹291.35 crores.
(ii).	The current exchange rate is 1US$ = ₹70.99 as against 1US$ = ₹69.00 considered by SWPL in the revenue estimation of vessel related charges. The SWPL may consider to modify the revenue estimation of vessel related charges based on the prevailing exchange rate.	Exchange rate of 1US$ = INR 69 is modified to 1US$ = INR 71.
(iii).	The SWPL has proposed a new tariff item viz., Charges for supply of water to vessels for which the SWPL has not captured any revenue impact in Form-4. The SWPL to capture probable revenue estimate for this item also in Form-4.	Water supply income is not envisaged. The same is removed from SOR.
(iv).	Tariff items prescribed in existing SOR and also included in proposed SOR with revised tariff; but no revenue is estimated by the port in Form-4 for the following tariff items: (a).<u>Wharfage Charges at Berth No.5A & 6A:</u> (i). Foreign cargo: (a). Iron Ore Pellets (b). Any other bulk cargo (ii). All Coastal cargo. (b). <u>All cargo Handling Charges at Berth No. 5A.</u> (c). <u>Cargo Handling Charges at Berth No.6A:</u> (i). (a). Iron Ore Pellets (Foreign cargo) (b).Any other bulk cargo (Foreign cargo)	Revenue from Iron Ore Pellets and any other bulk cargo has not been estimated as these cargoes are not expected as per previous years experience. The proposal has escalated tariff assuming that if the customers do feel to handle these cargoes through this terminal then the same will be applicable. In case these cargoes would be handled, other quantity of cargo like limestone or coal may be reduced due to capacity constraints. Therefore, there will be no impact on total revenue due to these cargoes.

	(ii). All Coastal cargo. The SWPL to confirm that no traffic / services are rendered by the SWPL for the above items in the year 2018-19 and no revenue earned during the year 2018-19. If the traffic was not handled by the SWPL in the year 2018-19, the SWPL may consider traffic of the years 2016-17 and / or 2017-18 as base for revenue estimation for the above items.	
3.	**Scale of Rates:**	
(i).	General Terms and Conditions: The Authority has passed common adoption Orders for all Major Port Trusts and BOT operators operating thereat including SWPL from time to time and all the Major Port Trusts and BOT operators operating thereat including SWPL were requested to include suitable notes in the SOR. However, the SWPL has not included suitable notes in the proposed SOR in line with following common adoption Order: (a). (i). Amendment Order No.TAMP/53/2015-VOCPT dated 10 June 2016 in common adoption Order No.TAMP/53/2015-VOCPT dated 26 November 2015 relating to provision prescribed for System of classification of vessel for levy of Vessel Related Charges (VRC) and Criteria for levy of Vessel Related Charges and Concessional Coastal rate. (ii). Amendment Order No.TAMP/53/2015-VOCPT dated 25 September 2018 in common adoption Order No.TAMP/53/2015-VOCPT dated 26 November 2015 relating to provision prescribed for concessional coastal tariff for ships and cargo that move from one Indian Port to another Indian Port through the territorial waters of Sri Lanka or Bangladesh in terms of Notification No.38/2018- Customs (N.T.) dated 11 May 2018 issued by the Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance.	Provisions as per Amendment Order No. TAMP/53/2015-VOCPT dated November 26, 2015 for System for classification of vessel for levy of Vessel Related Charges (VRC) and Criteria for levy of Vessel Related Charges (VRC) at Concessional Coastal rate and foreign rate has been incorporated in revised SOR.
	(b). The Authority had passed the Order No.TAMP/12/2019-MUC dated 24 July 2019 as common Order incorporating a provision towards levy of Mandatory User Charge (MUC) on containers for the Logistics Data Bank Service to be rendered by Delhi-Mumbai Industrial Corridor Development Corporation (DMICDC) in the Scale of Rates of all the Major Port Trusts and BOT	Provision for Mandatory User Charges (MUC) as per Order No. TAMP/12/2019-MUC is specifically for containers. South West Port is not handling any container cargo, hence the same is not applicable.

	operators operating thereat for a period of two years as per the common adoption Order by all Major Port Trusts and BOT terminals thereat shall be applicable in case of SWPL also. The SWPL is requested to incorporate the provisions in the SOR stipulated in these common Orders.	
(ii).	As per the coastal concession policy of the Government, thermal coal, iron ore pellets and POL including Crude oil are not entitled for coastal concession. (a). Accordingly, in the existing SOR no coastal concession is prescribed for iron ore pellets under Wharfage Charge and Cargo Handling Charges. However, the SWPL in the proposed SOR has proposed concessional rate for coastal iron ore pellets which is not in line with the coastal concession policy of the Government. The SWPL to make necessary correction in the proposed SOR and revenue estimate, if any, under this category is estimated to be handled. (b). In the existing SOR, in the wharfage charges and cargo Handling charges under Section A and B respectively, the nomenclature prescribed is “Coal except thermal coal”. Accordingly, as per the coastal concession policy of the Govt., concession in tariff is prescribed for coastal cargo under this nomenclature. However, the SWPL in the proposed SOR has modified the nomenclature as coal of all types. While doing so, the SWPL has not proposed concessional tariff for coastal coal cargo. Since thermal coal is not entitled for coastal concession per the coastal concession policy of the Govt. and the Tariff Order No.TAMP/4/2004-Genl. dated 15 March 2005, the SWPL is requested to make necessary correction in the proposed SOR prescribing coastal concession for coal-all types except thermal and separate entry may be prescribed for thermal coal without concessional tariff to fall in line with the coastal concession policy of the Govt. Consequently, necessary correction may be made in the revenue estimates as well.	For revenue estimate of coal, both thermal and non-thermal, the Company considered only foreign vessels based on the previous years’ experience. Though, in revised SOR, concession for coastal vessels carrying coal other than thermal coal has been proposed as per the tariff policy, there is no need to change the revenue estimates as all the coal are considered for foreign vessels. [In the revised proposed SOR, the SWPL has not proposed Coastal Concession for thermal Coal. However, for iron ore pellets, SWPL has proposed Coastal Concession which is not in line with the Coastal Concession Policy of the Government]
(iii).	Clause 8.2.3 of Working Guidelines, 2019 stipulates that before classifying any cargo under “Unspecified” category under the wharfage schedule, the relevant custom classification should be referred to find out whether the cargo could be classified under any of the specified categories mentioned in the wharfage schedule. The MOPT while furnishing the comments on the original proposal of the SWPL has requested for	Provision for unspecified cargo incorporated in revised SOR.

<table>
<tr><td></td><td>incorporation of said clause. The SWPL is, therefore, requested to incorporate the same in the proposed SOR.</td><td></td></tr>
<tr><td>(iv).</td><td>The SWPL has proposed to include a new tariff item viz., charges for supply of water to vessels and miscellaneous services at the rate of US $ 3.3069 per 1000 litres for foreign going vessel and ₹88.55 per 1000 litres for coastal vessels. The SWPL to furnish the basis for proposed rate and proposing dollar denominated tariff for supply of water to foreign vessels may be justified.</td><td>Tariff for water charges is removed.</td></tr>
<tr><td>4.</td><td><u>Past Period Surplus</u>:</td><td></td></tr>
<tr><td></td><td>Clause 3.1.2 of the Tariff Guidelines, 2019 stipulates that in case of operators who have not approached Courts, the surplus/deficit upto the period of first tariff fixation under this Guidelines shall be dealt with as per Clause 2.13 of the 2005 Tariff Guidelines as reproduced below:

"The actual physical and financial performance will be reviewed at the end of the prescribed tariff validity period with reference to the projections relied upon at time of fixing the prevailing tariff. If performance variation of more than + or - 20% is observed as compared to the projections, tariff will be adjusted prospectively. While doing so 50% of the benefit/ loss already accrued will be set off while revising the tariff."

The SWPL is, therefore, requested to furnish the statement reviewing the actual physical and financial performance vis-à-vis the estimates relied upon in the previous tariff cycle as done in earlier tariff revision under erstwhile Tariff Guidelines, 2005 and make necessary adjustments from the estimated ARR in case there is variation in both physical and financial parameters by +/- 20%.</td><td>The SWPL has furnished revised statement of past period surplus for the year 2016-17 to 2018-19.
A summary position is given below:

<table>
<tr><th>Particular</th><th>Estimates relied upon in the Tariff Order dated 15.01.2016</th><th>Actuals</th><th>Variation in %</th></tr>
<tr><td>Traffic (In MMTPA)</td><td>22.50</td><td>27.64</td><td>22.84%</td></tr>
<tr><td>Total Operating Income</td><td>73,507.32</td><td>74,378.95</td><td>1.19%</td></tr>
<tr><td>Operating Costs (excluding depreciation)</td><td>36,578.46</td><td>44,683.01</td><td>22.16%</td></tr>
<tr><td>Depreciation</td><td>7,358.75</td><td>8,115.00</td><td>10.28%</td></tr>
<tr><td>Overheads</td><td>5,633.08</td><td>6,846.77</td><td></td></tr>
<tr><td>FMI Less FME</td><td>272.00</td><td>278.64</td><td>2.44%</td></tr>
<tr><td>Capital Employed</td><td>95,066.35</td><td>87,139.26</td><td>-8.34%</td></tr>
<tr><td>RoCE adjusted for capacity utilization</td><td>15,210.62</td><td>13,942.28</td><td>-8.34%</td></tr>
<tr><td>Net Surplus / (Deficit)</td><td>8,998.41</td><td>1,070.53</td><td></td></tr>
</table>

Subsequently, SWPL vide its email dated 22 November 2019 has further clarified with regard to income classified under other income viz., Foreign exchange gain/loss, SEIS (Service Export from India Scheme) Income, EPCG (Export Promotion of Capital Goods) and Miscellaneous income as follows:

(i). Foreign exchange gain/loss: This amount is reflected in Profit and Loss statement considering notional gain on buyers credit availed for Ship Unloaders.

(ii). SEIS (Service Export from India Scheme) Income: This income is received under export of services incentive scheme.

(iii). EPCG (Export Promotion of Capital Goods): Under this scheme benefit is availed on saving of custom duty. Currently under IndAS accounting, this custom duty benefit needs to be added in the capital cost, hence this is also reflected in the amortization of the assets.</td></tr>
</table>

		(iv). Miscellaneous income: This income is in nature of non-operational one time generated out of equipment shared with outside customers or subcontractors for the temporary assignments and other capex purposes.

10.1. While furnishing the additional information/ clarifications, the SWPL vide its letter dated 14 November 2019 and subsequent email dated 22 November 2019 has furnished revised proposal comprising revised Form-1 (ARR), Form-3 (Working Capital), Form-4 (Revenue Estimation), Form-6A (Reconciliation statement) and Past Period.

(i). A summary position of ARR computation furnished by SWPL is tabulated below:

(₹ in lakhs)

Sl. No.	Description	Y1 (2016-17)	Y2 (2017-18)	Y3 (2018-19)
(1).	**Total Expenditure (As per Audited Annual Accounts)**			
(i).	Operating expenses (including depreciation)	24,021.16	23,605.00	16,819.02
(ii).	Finance and Miscellaneous expenses (FME)	239.73	279.60	21.84
	Total Expenditure 1=(i)+(ii)	24,260.89	23,884.60	16,840.86
(2).	**Adjustments in respect of items where there is variation in figures reported as per INDAS (as per Audited Accounts) and IGAAP**			
(i).	Depreciation	(670.77)	(964.17)	(793.46)
(ii).	Other expenditure items, if any, to be listed	(217.50)	(8.69)	(18.20)
	Total of Adjustments 2=(i)+(ii)	(888.27)	(972.86)	(811.66)
(3).	**Less Adjustments:**			
(i).	Actual Royalty / Revenue share paid to the port	(3,415.98)	(3,554.06)	(2,154.16)
(ii).	Interest on loans	(239.73)	(279.60)	(21.84)
(iii).	Provision for bad and doubtful debts	-	-	-
(iv).	Provision for slow moving inventory	-	-	-
(v).	Other provisions, if any	-	-	-
	Total of 3 = [3(i)+3(ii)+3(iii)+3(iv)+3(v)+3(vi)]	(3,655.71)	(3,833.65)	(2,176.00)
(4).	**Add: Admissible Royalty/ Revenue Share as per Clause 2.2. of the Tariff Guidelines, 2019**	2,486.07	2,586.56	1,567.75
(5).	**Total Expenditure after Total Adjustments (5=1+2+3+4)**	22,202.98	21,664.65	15,420.95
(6).	Average Expenses of Sl. No.5 = [Y1+Y2+Y3]/3			19,762.86
(7).	**Capital Employed**			
	(i). Gross Fixed Assets (Property, Plant & Equipment) as on 31st March Y3 or 31 December of Y3 followed by the BOT operator (As per IGAAP)			48,602.09
	(ii). Add: Capital Work in Progress as on 31st March Y3 or 31 December of Y3 followed by the BOT operator (As per Audited Annual Accounts)			172.75
	(iii). Add: Working Capital as per norms prescribed in clause 2.6 of the Tariff Guidelines, 2019			
	(a). Inventory			162.85
	(b). Sundry Debtors			433.88
	(c). Cash			1,579.45
	(d). Sum of (a)+(b)+(c)			2,176.18
	(iv). Total Capital Employed [(i)+(ii)+(iii)]			50,951.02
(8).	**Return on Capital Employed 16% on Sl. No.7(iv)**			8,152.16
(9).	**Annual Revenue Requirement (ARR) as on 31 March Y3 or 31 December of Y3 as applicable [(6)+(8)]**			27,915.02
(10).	**Indexation in the ARR @ 100% of the WPI applicable @1.0426% and after adjustment of past period surplus of ₹ 30.51 lakhs**			**29,134.72**
(11).	**Ceiling Indexed Annual Revenue Requirement**			**29,134.72**

(12).	**Revenue Estimation at the Proposed indexed SOR within the Ceiling indexed ARR estimated at Sl. No.11 above**	**28,750.00**

(ii). The SWPL in the final revised proposal has proposed the following modifications:

(a). Berth hire charges is proposed to be increased by 15% and Cargo related charges is proposed to be increased by 26% to meet the estimated ARR.

[At the proposed rate, the increase in cargo related charges works out to 20% to 26.67% and not uniform increase of 26% as stated by the SWPL]

(b). The SWPL has furnished in revised Form 4 giving detailed working of revenue estimation at the proposed tariff for the average of the actual traffic handled by the BOT operator during the years Y1, Y2 and Y3. As per the said form, revised estimated ARR is ₹291.35 crores as against the earlier estimated revenue of ₹290.82 crores.

(c). Further, the SWPL has agreed to send copies each of Form-1 (ARR), Form-3 (Revenue Estimation), Form-6A (Reconciliation statement), Form-7 (Fixed Assets Statement as per IGAAP considered in ARR computation giving details of adjustments) duly certified by practicing Chartered Accountant as soon as possible.

10.2. Subsequently, the SWPL vide its email dated 25 November 2019 has furnished Form-1 (ARR), Form-3 (Revenue Estimation), Form-6A (Reconciliation statement), Form-7 (Fixed Assets Statement as per IGAAP considered in ARR computation) duly certified by practicing Chartered Accountant with reference to its final revised cost statements furnished vide email dated 22 November 2019.

11. 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.

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

(i). The Scale of Rates of South West Port Limited (SWPL) was last revised by this Authority vide Order No.TAMP/40/2016-SWPL dated 17 November 2016, following the Tariff Guidelines of 2005, which stipulated cost plus pricing model. The validity of the SOR was prescribed till 31 March 2019.

Before proceeding to the current proposal filed by the SWPL for revision of its SOR, it is relevant here to state that the said tariff Order of November 2016, stipulated that the SWPL may be called upon to file ahead of schedule review in case the actual traffic handled by the SWPL varies significantly from the traffic estimates considered relying on the submissions made by the SWPL and endorsed by the MOPT for the reasons explained in para 13 (vii) (a) of the Order No.TAMP/40/2016- SWPL dated 17 November 2016. The SWPL in the current proposal has reported to have handled traffic of 11.75 MMT, 10.61 MMT & 5.25 MMT for the years 2016-17, 2017-18 & 2018-19 respectively.

In this regard it is relevant here to state that, when the MOPT reported the actual traffic handled by the SWPL in the year 2016-17 is 11.75 MTPA, at that point of time itself, SWPL was vide our letter dated 8 November 2017 requested to file a proposal based on actuals of 2016-17 and revise the tariff estimates and corresponding income and expenditure estimations for the years 2017-18 and 2018-19 and furnish its proposal latest by 30 November 2017 in pursuance of the decision of this Authority in para 13 (vii) (a) of the Order dated 17 November 2016. This was followed by reminder dated 5 March 2018. The SWPL had chosen to remain silent at that point of time and did not respond, despite reminder and despite follow up done by the Licensor Port. On the other hand, the SWPL, vide its letter dated 08 April 2019 had requested this Authority to extend the validity of the existing tariff till 30 September 2019 or till the new tariff is notified whichever is earlier. The above position of non-action from the side of the SWPL was brought to the notice of SWPL vide our letter dated 14 May 2019 advising SWPL to furnish the actual performance for the year 2018-19. It was then, that SWPL has filed the current proposal in July 2019 for revision of its SOR under the new Tariff Guidelines, 2019.

(iii). The Ministry of Shipping (MOS), as a policy direction under Section 111 of the Major Port Trusts Act, 1963, has issued Tariff Guidelines, 2019, for BOT operators who were previously governed by 2005 Tariff Guidelines. Consequent to the issue of the Tariff Guidelines, 2019, by the MOS, the tariff fixation exercise in respect of the SWPL is to be governed by the stipulations contained in the Tariff Guidelines, 2019 and the Working Guidelines issued to operationalize the Tariff Guidelines, 2019.

The current proposal dated 24 July 2019 filed by the SWPL for general revision of its SOR is under the Tariff Guidelines, 2019 and Working Guidelines to operationalize the Tariff Guidelines, 2019. The SWPL has furnished the requisite information/ clarification sought by us along with revised Annual Revenue Requirement (ARR), draft SOR and modified estimates of revenue vide its letter dated 14 November 2019 and subsequent email dated 22 November 2019. The final revised proposal filed by SWPL vide its letter dated 14 November 2019 and subsequent email dated 22 November 2019 along with submissions made by the SWPL and port during the processing of the case are considered in this analysis.

(iv). (a). Clause 2.1 of the Tariff Guidelines, 2019, requires each BOT Operator to assess the ARR which is the average of the sum of Actual Expenditure as per the final Audited Annual Accounts of the immediate preceding three years (Y1), (Y2) and (Y3) at the time of submitting the proposal subject to certain exclusions as prescribed in Clause 2.2, 2.3.1 and 2.3.2 of the Tariff Guidelines, 2019 and the Working Guidelines issued by this Authority plus Return at 16% on Capital Employed obtaining as on 31st March Y3, duly certified by a practicing Chartered Accountant/ Cost Accountant.

(b). The SWPL has assessed the ARR based on Audited Annual Accounts for three years i.e. 2016-17 (Y1), 2017-18 (Y2) and 2018-19 (Y3) duly certified by a practicing Chartered Accountant. While assessing the ARR, the SWPL has made exclusions of the expenses not admissible in ARR computation, as prescribed in Clause 2.2, 2.3.1 and 2.3.2 of the Tariff Guidelines, 2019. The following adjustments done by SWPL in line with provisions prescribed in Clause 2.2, 2.3.1 and 2.3.2 of the Tariff Guidelines, 2019 and the Working Guidelines are brought out for specific mention:

(i). Clause 2.2 of the Tariff Guidelines, 2019, interalia, stipulates that Royalty/Revenue share payable to the landlord port by the BOT operator in those cases where the bidding process was finalized before 29 July 2003 tariff computation will be taken into account to the extent of the next highest bidder in the ARR computation.

Accordingly, of Revenue share as reflected in the Audited Annual Accounts to the tune of ₹34.16 crores, ₹35.54 crores and ₹21.54 crores during the years 2016-17 to 2018-19 respectively is excluded. Since the bidding process in respect of SWPL was finalised before 29 July 2003, revenue share to the extent of the next highest bidder i.e. 13.1% has been considered in the computation of ARR i.e. ₹24.86 crores, ₹25.86 crores and ₹15.67 crores during the years 2016-17 to 2018-19 respectively. This is in line with the clause 2.2 of the tariff guidelines of 2019.

(ii). As per Clause 2.3.1 (ii) of the Tariff Guidelines, 2019, Interest on loans, provision for bad and doubtful debts, provision for slow moving inventory etc., are to be excluded. The SWPL has accordingly, excluded ₹239.73 lakhs, ₹279.60 lakhs and ₹21.84 lakhs during the years 2016-17 to 2018-19 respectively as interest on loan. The other items for exclusion are considered as nil.

(iii). Clause 2.3.2 stipulates that in case there is variation in the expenditure reported under IND AS and IGAAP (like depreciation), then necessary adjustments to be done in ARR computation by excluding IND AS figure and considering figures as per IGAAP. The Audited accounts of SWPL are IND AS compliant. The SWPL has made necessary adjustment in the Depreciation, Gratuity and General expenses to capture these items as per IGAAP to comply with the Guideline position. The SWPL has shown as exclusion of ₹888.27 lakhs, ₹972.86 lakhs and ₹811.66 lakhs during the years 2016-17 to 2018-19 respectively from the computation of ARR on account of adjustment of Deprecation and other expenses under IGAAP. The SWPL has furnished the requisite working in Form 6A which is duly certified by practicing Chartered Accountant and the same is relied upon.

(v). Following the provisions prescribed at Clause 2.2, 2.3.1 and 2.3.2 of the Tariff Guidelines, 2019 and the Working Guidelines and based on the adjustments as discussed above, the SWPL has arrived at average expenses for the years 2016-17 to 2018-19 at ₹19,762.86 lakhs (₹197.63) crores, as per the stipulation prescribed in clause 2.4 of the Tariff Guidelines, 2019.

(vi). (a). As per clause 2.5 of the Tariff Guidelines 2019 Capital Employed will comprise of Gross Fixed assets (Property, Plant & Equipment) [as arrived as per the Indian Generally Accepted Accounting Principles (IGAAP)] plus capital work in progress as on 31 March/ 31 December of the year Y3 to be restated from the figures reported under IND AS in the Audited Annual Accounts and working capital as per norms prescribed. The Audited Annual Accounts for the year 2018-19 reports Gross fixed Assets of ₹467.90 crores under the IND AS. The SWPL has considered gross fixed assets at ₹48,602.09 lakhs (₹486.03 crores) as per IGAAP in line with provision prescribed in Clause 2.5 of the Tariff Guidelines, 2019. The SWPL has furnished prescribed Form 7 giving computation of gross fixed assets as per IGAAP duly certified by practicing Chartered Accountant. The SWPL has also furnished a reconciliation in this regard. The Gross Fixed Assets as on 2018-19 considered by the SWPL as per IGAAP duly certified by the Chartered Accountant is relied upon and considered.

The SWPL has considered capital work-in-progress of ₹172.75 lakhs as reflected in the audited Annual Accounts for the year 2018-19.

(b). Working capital comprises of Inventory, Sundry debtors and Cash balances, as per Clause 2.6 of the Tariff Guidelines, 2019. The Inventory is seen to have been computed as per norms prescribed in clause 2.6 of Tariff Guidelines, 2019. As regards cash, the SWPL has considered average cash expense of last three years instead of the year 2018-19. Cash expense for working capital computation is considered at one month cash expense of the year 2018-19.

(c). As per the clause 2.6 of the Tariff Guidelines, 2019 read with clause 2.2 of the Working guidelines to operationalise the Tariff Guidelines, 2019, advance payment of lease rental / license fee to landlord port flowing from the contractual obligations will be recognised as sundry debtor for computation of working capital. The SWPL is required to pay the lease rent for the lands allotted to it in advance every year as stipulated in Article 7.3.5.2 of the LA. The License fees for the year 2018-19 reported in the Audited Annual Accounts is ₹656.89 lakhs. 50% thereof comes to ₹328.45 lakhs in line with the approach followed in earlier tariff revision. Whereas, the SWPL has considered an amount of ₹433.88 lakhs towards advance license fee. SWPL has stated that it has paid advance licensee fee for the financial year 2019-20 to the tune of ₹867.77 lakhs in the month of May 2019 and the same is considered in the

ARR computation. The SWPL has contended that the SWPL has paid ₹ 656.89 lakhs in the previous year 2018-19 and even if the allowable escalation of 4.26% thereon is considered, License fee for the financial year 2019-20 will be less than the actual amount of ₹867.77 lakhs paid by the SWPL to the MOPT. Therefore, the SWPL has tried to justify the figure of half of the actual amount paid during the year 2019-20 i.e. ₹433.88 lakhs considered for working capital.

In this regard, it is relevant to state that Tariff Guidelines 2019 require to calculate the ARR computation based on average of expenses of immediate previous three years Y1, Y2 and Y3 as per the final Audited Annual Accounts subject to certain adjustments plus 16% return on capital employed for which the figures reported in the Audited Accounts of Y3 forms the base. In the case of SWPL, the ARR computation is based on actuals of the years 2016-17, 2017-18 and 2018-19 Audited Accounts subject to adjustments as prescribed in the Tariff Guidelines. The request of SWPL to consider only one component i.e. advance payment of license fee for working capital based on Y4 figures i.e. 2019-20 for the reasons cited is not found to be in line with the Guideline position and hence not considered. The computation of the working capital is modified to that extent. 50% of License fees reported in the Audited Annual Accounts for the year 2018-19 i.e. 50% of ₹656.89 lakhs= ₹328.45 lakhs is considered.

(d). Subject to modifications as explained above, the modified capital employed works out to ₹50,319.48 lakhs as against total capital employed arrived by SWPL at ₹50,951.02 lakhs. Return on Capital Employed (ROCE) considered by SWPL at 16% is ₹8,152.16 lakhs. The modified ROCE works out to ₹8,051.12 lakhs based on the modified Capital Employed.

(vii). The ARR comprises of the average of the expenditure for the three financial years 2016-17 to 2018-19 plus 16% ROCE. The ARR arrived by SWPL is ₹279.15 crores (₹197.63 crores + ₹81.52 crores). The modified ARR arrived by us works out to ₹278.14 crores (₹197.63 crores + ₹80.51 crores). Further, as per Clause 2.8 of Tariff Guidelines, 2019, the said ARR needs to be indexed @ 100% of the WPI applicable for the year 2019-20 which is 4.26%. The indexed ceiled ARR assessed by the SWPL is ₹291.04 crores applying 4.26% indexation. The SWPL has also made adjustment of past period deficit for the years 2016-17 to 2018-19 to the tune of ₹30.51 lakhs (₹ 0.31 crores) and added this deficit to the ARR and arrived at ceiling indexed ARR of ₹291.35 crores (₹291.04 + 0.31 crores).

However, the modified cost statement furnished by the SWPL subsequently for the past period 2016-17 to 2018-19 reflects aggregate additional surplus of ₹1070.53 lakhs (₹10.70 crores) after admissible cost plus 16% ROCE.

As per the modified ARR computation done by us the modified indexed ceiling ARR works out to ₹289.99 crores for the year 2019-20 (₹278.14 crores * 1.0426). This does not include of past period adjustment. The analysis relating to the past period is brought out in subsequent paragraphs.

The final detailed working of ARR calculation furnished by the SWPL which has been duly certified by Chartered Accountant are relied upon. This is subject to minor modification as explained above. The detailed ARR calculation furnished by the SWPL and modified ARR calculation by us are attached as **Annex-I** (**a**) and (**b**) respectively.

(viii). Clause 3.1.2.of the Tariff Guidelines 2019 stipulate that in case of the BOT operators who have not gone to the Court against the previous Order of this Authority, the surplus/ deficit for the past period till the period of tariff fixation during the first fixation of Tariff under the Tariff Guidelines of 2019 is to be done as per clause 2.13 of the Tariff Guidelines 2005.

The SWPL has furnished Form-8 giving the average of actuals for the years 2016-17 to 2018-19. In the said form, the SWPL has assessed average net deficit of ₹76.28

lakhs after admissible expenses and 16% return on capital employed. 20% thereof is absorbed by SWPL and of the balance 80% i.e. ₹76.28 crores *80% = ₹61.02 lakhs, the SWPL has considered adjustment of 50% of the net deficit i.e. ₹30.51 lakhs in the computation of the final ceiling indexed ARR. The Form-8 furnished by SWPL is not relevant for the first cycle under Tariff Guidelines, 2019. As per the note prescribed in the said Form attached to the Working Guidelines 2019, Form 8 is relevant to be furnished subsequent to the first tariff revision under the Tariff Guidelines, 2019.

The SWPL has, however, subsequently furnished revised Cost Statement for the past period 2016-17 to 2018-19 reviewing the estimates considered in last tariff Order vis-à-vis the actuals in line with clause 3.1.2.of the Tariff Guidelines 2019 read with clause 2.13 of the Tariff Guidelines 2005. The review of past period actuals vis-à-vis estimates furnished by the SWPL for the years 2016-17 to 2018-19 is modified/ corrected for the reasons explained in the subsequent paragraphs.

(ix). During the last tariff revision, the tariff of SWPL was fixed by relying upon the estimates for the years 2016-17 to 2018-19. Thus, the estimates vis-à-vis actuals for the years 2016-2017 to 2018-19 are to be analyzed to assess the actual performance of SWPL during the said tariff period to comply with the clause 3.1.2. of the Tariff Guidelines 2019. The general approach followed to analyse the estimated position in the last tariff Order is adopted to assess the actual net surplus / deficit for the years 2016-17 to 2018-19. The analysis is as given below:

(a). The actual traffic handled by SWPL during the period from 2016-17 to 2018-19 is 11.77 Million Metric Tonnes Per Annum (MMTPA), 10.62 MMTPA and 5.25 MMTPA respectively aggregating to 27.64 MMTPA as against the estimated traffic of 7.50 MMTPA for each of the three years aggregating to 22.50 MMTPA estimated in the tariff Orders of November 2016 for the corresponding period.

The actual traffic of the SWPL reported by MOPT in the years 2016-17 to 2018-19 aggregates to 27.68 MMTPA which slightly varies from the actual aggregate traffic reported by the SWPL at 27.64 MMTPA for the corresponding period. The SWPL has clarified that there is negligible variation from the traffic figures because they have gone by the actual traffic as per the bill of lading. For the purpose of this analysis, the actual traffic reported by the SWPL is considered.

The variation in the physical performance is 22.84% positive which is found to be more than 20%.

(b). The income estimates considered in the last tariff Order for the year 2017-18 is adjusted for three months i.e. the period from January 2017 to 31 March 2017 and for the years 2017-18 and 2018-19 on pro rata basis to capture the effect of tariff increase of 10% in berth hire charges and 27.8% tariff increase in cargo handling charges effected in the November 2016 tariff Order for a like to like comparison with the actual income from the date of implementation of the Order.

(c). The opinion of Attorney General for India conveyed by Ministry of Shipping vide its letter dated 12 June 2015 is that the actual income earned by the operator based on their Audited Accounts should be considered and not any notional income. Therefore, for the purpose of analysis of the past period, the actual income as reported in the Annual Accounts is considered.

(d). Revenue share is considered as a cost item to the extent of the revenue share quoted by the second highest bidder i.e., 13.10% on the actual cargo handling revenue reported during the years 2016-17 to 2018-19 in line with the approach adopted in the last tariff Order which is in line with the clause 2.8.1 of the tariff guidelines of 2005 as done by the SWPL as well.

(e). The SWPL has considered the depreciation figure as per the IGAAP in the cost statement prepared by it for the past period. The same is considered on the premise, that the cost statement prepared during the last revision was based on the estimates which at that time was based on IGAAP. From the year 2016-17, the SWPL has followed IND AS method of accounting. But, for a like to like comparison as done by the SWPL, the depreciation figure under IGAAP duly certified by the Practicing Chartered Accountant is considered as done by the SWPL.

(f). It is seen that the SWPL has not made necessary adjustment as regards Gratuity and General expenses as per IGAAP in the past period cost statement for the years 2016-17 to 2018-19. Since the estimates for the years 2016-17 to 2018-19 considered during the last tariff revision was based on the then accounting method as per IGAAP followed by the SWPL, while comparing the actuals vis a vis the estimates for the same period, the figures reported in the Audited Accounts for the years 2016-17 to 2018-19 based on IND AS need to brought as per IGAAP. The SWPL has not done this adjustment. Hence, in the cost statement prepared by us for the past period, this adjustment is done based on the figures as per IGAAP made available by the SWPL in form 6A. This adjustment is captured in the management and general overheads expenses by reducing it to the tune of ₹217.50 lakhs, ₹8.69 lakhs and ₹18.20 lakhs based on the IGAAP figures for these items furnished by the SWPL itself in Form 6A.

(g). The actual FMI reported in the Audited Annual Accounts of the SWPL is ₹1,858.51 lakhs, ₹3,564.87 lakhs and ₹2,576.96 for the years 2016-17 to 2018-19 crores respectively.

The SWPL has considered ₹88.75 lakhs, ₹309.51 lakhs and ₹421.56 lakhs for the year 2016-18 to 2018-19 respectively under the head FMI. This income pertains to operating income from other port services as per the Annual Accounts and hence it is shifted from FMI to operating income in the Cost Statement prepared by us. The SWPL has clarified the nature of foreign exchange gain/ loss, Service Export from India Scheme (SEIS) income, miscellaneous income reported under the head FMI in the Audited Annual Accounts. The foreign exchange gain is stated to be notional gain on account of buyers credit. Since, this item is not reported to have arisen due to actual transaction, it is not captured as income in the cost statement prepared by us. As regards miscellaneous income, SWPL has stated that it is non-operational one time income generated out of equipment shared with sub-contractors for which no tariff is approved by this Authority. These items are, therefore, not considered as FMI in the modified cost statement for the past period prepared by us. The SEIS income in the years 2017-18 and 2018-19 is stated to have been received by SWPL as export of service incentive income. This is captured in the Cost Statement. Further, income from profit on sale of assets and sale of scrap reported in the Audited Annual Accounts are also captured in the Cost Statement prepared by us for the past period.

(h). As per the LA, Security Deposit of ₹1.53 crores paid by the SWPL to the MOPT is refundable at the end of the project period. During the last tariff revision, the Security Deposit refund was annualized over the remaining period of the project life by discounting at 11%. The SWPL has not considered the effect of this item. In the last tariff fixation exercise, the terminal value receivable at the end of the project was annualized over the project life by applying discounting rate of 11%. The same figures is considered in the cost statement for a like to like comparison.

(i). All the other cost items are considered as reported in the Annual Accounts.

(j). The Capital employed considered during the last tariff revision under the then applicable Tariff Guidelines of 2005 is Net Fixed Assets + working capital as per the prescribed norms. The Net Fixed Assets reported in the Audited Annual Accounts for the year 2016-17 to 2018-19 is based on IND AS. The SWPL has considered capital employed at ₹310.96 crores, ₹290.35 crores and

₹270.08 cores for the years 2016-17 to 2018-19 respectively for the purpose of computing ROCE. The capital employed considered by the SWPL is not supported with working.

The Net Fixed Assets under IGAAP as furnished by the SWPL duly certified by the practicing Chartered Accountant at ₹316.27 crores, ₹299.97 crores and ₹271.80 crores for the years 2016-17 to 2018-19 is considered for like to like comparison of the estimate of net fixed assets considered during the last tariff revision which was also based on IGAAP method of accounting then followed by the SWPL.

(k). The working capital is considered as per norms. The Stores and spares consumed is captured in line with the norms prescribed in the Tariff Guidelines of 2005. The cash balance is considered at one month cash expense in line with the guideline position. 50% of the lease rentals in each of the years is considered as part of working capital in line with the approach followed in the last tariff Order. The current liabilities as reported in the audited annual accounts of the respective years is considered. Subject to the above adjustments, Working Capital works out to be negative. Hence, it is considered as NIL.

Thus, the modified Capital Employed comprises of only Net Block of Assets at ₹316.27 crores, ₹299.97 crores and ₹271.80 crores for the years 2016-17 to 2018-19 respectively as against ₹310.96 crores, ₹290.35 crores and ₹270.07 crores for the years 2016-17 to 2018-19 respectively considered by the SWPL, which is not supported by any working.

(l). A copy of the cost statement reviewing estimates of 2016-17 to 2018-19 vis-à-vis actuals of the corresponding period is attached as **Annex - II**.

(m). A summary of the comparison of the actuals vis-à-vis the estimates considered in the last tariff Order is tabulated below:

(**₹ in crores**)

Particulars	**Aggregate for the years 2016-17 to 2018-19 in absolute terms (₹ in lakhs)**		**Variation in %**
	Estimates as per tariff Order	**Actuals**	
Traffic (in MMTPA)	22.50	27.64	22.84%
Total Operating Income	569.59*	751.99	32.02%
Total Expenditure including FME less FMI, Depreciation and overheads	492.98	579.36	17.52%
Surplus/ deficit before Return	76.61	172.63	
Capital Employed (Average)	316.89	296.01	(6.59%)
16% Return on Capital Employed	152.11	142.08	(6.59%)
Net Surplus after ROCE (before adjustment of past surplus)	(75.50)	30.55	
Adjustment of Past period surplus assessed in November 2016 Order	75.52	-	
Net Surplus after ROCE (after adjustment of past surplus)	-	30.55	

* *The operating income estimates are updated to reflect the effect of tariff increase effected in tariff Order of November 2016 from January 2017 till 31 March 2019.*

(n). The findings of the analysis with reference to the past period relating to the period from 2016-17 to 2018-19 are given below:

(i). The actual aggregate traffic handled by the SWPL is 27.64 MMTPA as against the estimated traffic of 22.50 MMTPA during the period from 2016-17 to 2018-19. The variation in the physical parameters i.e. actual traffic handled is 22.84% positive in comparison to the estimates.

(ii). The operating income earned by the SWPL is ₹751.99 crores as against estimation of ₹569.59 crores for the corresponding period resulting in positive variance of 32.02%.

(iii). On the expenditure side, the actual aggregate expenditure for the years 2016-17 to 2018-19 is ₹579.36 crores as against the estimated expenditure of ₹492.98 crores considered in the last Order for the corresponding period. The total actual expenditure thus shows positive variance of 17.52% in comparison to the expenditure estimated in the last tariff Order.

(iv). The actual average capital employed for the period from 2016-17 to 2018-19 is ₹296.01 crores as against average estimated capital employed of ₹316.89 crores. The variation in the average capital employed comes to 6.59% negative.

(v). As per the cost statement for the past period furnished by the SWPL, the SWPL has earned aggregate surplus of ₹10.70 crores for the years 2016-17 to 2018-19 after admissible cost and 16% ROCE. As per the modified cost statement for the past period prepared by us, the SWPL has earned aggregate surplus of ₹30.55 crores after admissible cost and 16% ROCE for the period from 2016-17 to 2018-19.

(vi). When we see the position before ROCE to determine the average ROCE earned by SWPL for the said three years, it is seen from the cost statement prepared by us, that the SWPL has earned aggregate surplus of ₹172.63 crores before return on capital employed for the period from 2016-17 to 2018-19. The average surplus comes to ₹57.54 crores. The average annual return earned on the average capital employed thus works out to 19.44%, as shown in the following table:

(**₹ in Lakhs**)

Particulars	2016-17	2017-18	2018-19	AVG.
Actual Surplus/ deficit before return	8,158.68	7,170.09	1,934.68	17,263.45 (Total) 5754.48 (Avg.)
Actual Capital Employed	31,626.88	29,996.53	27,180.57	29,601.33 (Avg.)
Actual Return earned on capital employed	25.80%	23.90%	7.12%	19.44%

(vii). As per clause 2.13 of the tariff guidelines, if review of actual physical and financial performance for the previous tariff cycle shows the variation of more than + 20%, then 50% of such accrued benefit / loss has to be adjusted in the next tariff cycle. As per the opinion of AG also as conveyed by the MOS, variation in both physical and financial parameters should be taken into account for the purpose of clause 2.13.

It can be seen from the above analysis that the variation in the physical parameter i.e., actual traffic handled and financial performance in terms of return on capital employed is positive and the same is more than 20%. Further, as per the above table, the SWPL has earned average return of 19.44% on the capital employed as against 16% return allowed in the last tariff Order. Thus, the variation in both physical and financial parameters exceeds 20% variation and variation is positive. Hence, there is a case for adjustment of past period surplus of SWPL operations while arriving at the tariff for the current tariff cycle following the opinion on the interpretation of clause 2.13 of the Tariff Guidelines of 2005 of the AG. .

As per the opinion of the AG, if the variation in both the physical and financial parameters is more than 20%, then 20% of the surplus is to be allowed to be retained by the operator. It is only the surplus over and above the 20% that shall be shared equally i.e. 50:50 between the operator and the users. In nutshell, 60% of additional surplus is allowed to be retained with the operator and 40% additional is to be shared with users by considering adjustment in future tariff.

Accordingly, 40% of Net additional surplus for the years 2016-17 to 2018- 19 i.e. ₹30.55 crores * 40% ₹12.22 crores is to be considered for adjustment in the current tariff cycle by spreading it over three years and the per annum impact shall come to 4.07 crores which is considered for reduction in the ARR computation by reducing the indexed ARR.

For the year 2019-20, from 1 April 2019 till the date of implementation of the revised SOR, the actual net surplus/ deficit will be assessed under Clause 2.13 of the Tariff Guidelines, 2005 during the next revision.

(x). As brought out in the preceding paragraphs, the modified indexed ceiling ARR was arrived at ₹289.99 crores for the year 2019-20 (₹278.14 crores * 1.0426) without adjustment of past period surplus. The ceiling indexed ARR after reduction of the additional past period surplus of ₹4.07 crores for the years 2016-17 to 2019-20 comes to ₹285.92 crores (i.e. ₹289.99 crores – ₹4.07 crores).

(xi). (a). As per Clause 2.10 of Tariff Guidelines, 2019, for drawing the SOR, the traffic to be considered would be the average of the actual traffic handled by the BOT operator during the years Y1, Y2 and Y3, duly certified by the concerned port. The average traffic for the years 2016-17 to 2018-19 has been considered by the SWPL at 92.00 MMTPA. Therefore, for the purpose of this analysis, the actual traffic reported by the SWPL is considered.

(b). As per Clause 2.11.1 of Tariff Guidelines, 2019, the BOT Operators have the flexibility to determine the rates to respond to the market forces based on commercial judgment and draw the Scale of Rates within the ceiling of indexed ARR, duly certified by a practicing Chartered Accountant.

In the original proposal, the SWPL had proposed across the board increase of 23% in berth hire charges and cargo handling charges.

The MOPT has objected the increase proposed in the berth hire charges. Since the MOPT does not get revenue share from berth hire revenue of SWPL as per the LA. The port has requested the SWPL to consider nominal increase in berth hire charges and higher increase in cargo related charges instead of 23% increase proposed by the SWPL across the board in the original proposal. The MOPT has also at one place viewed that vessel related activity is in huge surplus and they do not mind if SWPL proposes 48% increase in cargo.

As regards the activity wise allocation of expenditure between the cargo handling activity and vessel related activity sought by the MOPT, as rightly stated by the SWPL, under Tariff Guideline 2019, there is no provision for activity wise cost statement. Furnishing of activity wise costing was applicable under the earlier Tariff Guidelines of 2005. Under the Tariff Guidelines of 2019, the tariff is to be fixed based on the Annual Revenue Requirement to be computed on the actuals reported in the Audited Accounts subject to certain adjustments and 16% ROCE. The BOT operators have the flexibility to propose rates such that the revenue estimates at the proposed rates are within the ARR. That being so, the point made by the MOPT seeking activity wise allocation of expense is not found to be in line with the new Tariff Guidelines 2019 applicable to the BOT operators governed by the erstwhile Tariff Guidelines of 2005.

The SWPL in view of the request made by the MOPT has stated that, in the final revised proposal, 15% increase in the berth hire charges and 26% increase in the cargo handling charges is proposed as against 23% increase proposed in both these activities in the original proposal. On comparing the cargo handling charges proposed in the final proposed SOR and captured in the revenue estimates, it is seen that for cargo handling charges the increase proposed is in the range of 20% to 26.67% and 15% increase in berth hire charges. With reference to the request made by the MOPT to consider steep increase in cargo handling activity, the SWPL has categorically stated that if steep increase is done in cargo handling rate, the cargo will go to neighboring ports. Clause 2.11.1 of Tariff Guidelines, 2019, gives flexibility to the BOT Operators to determine the rates within the estimated ARR to respond to the market forces based on commercial judgment. The proposal of the SWPL is within the guideline provision. In fact the M/s.Hiralal & Co., have agreed to the proposal of SWPL and the increase sought in the VRC. They have categorically stated that the efficiency of SWPL is very high and hence they have no problem for increase proposed in VRC.

At the revised proposed rate, the SWPL has estimated revenue of ₹287.50 crores. The SWPL has given detailed working of revenue estimation indicating each of the tariff items in the proposed SOR for corresponding average traffic for the years 2016-17 to 2018-19, as required as per Clause 2.11.1 of the Tariff Guidelines, 2019. The revenue estimation statement has been duly certified by a Chartered Accountant.

As per the modified ARR computation and past period analysis done by us, as brought out in the preceding paragraph, the modified ceiling indexed ARR after adjustment of the past period surplus comes to ₹285.92 crores (i.e. ₹289.99 crores – ₹4.07 crores). The revenue estimated by the SWPL at ₹287.50 crores at the proposed tariff exceeds the ARR by ₹1.58 crores as against revenue gap of ₹3.85 crores estimated by the SWPL.

Since the revenue estimated by the SWPL exceeds the ARR, and considering that the licensor port has objected the increase in the berth hire charges, the increase in the existing berth hire charges have to allowed by 12.5% as against 15% increase proposed by the port. This is done to ensure that the revenue estimates is within the modified ARR. The modified revenue estimate based on the above analysis works out to ₹285.84 crores leaving a marginal revenue gap of ₹0.08 crores uncovered.

The revenue estimation furnished by the SWPL and revenue estimation modified by us are attached as **Annex-III** (**a**) and (**b**) respectively.

(xii). Based on the above analysis, a summary of the ceiling indexation ARR furnished by the SWPL and as considered by us based on the modified cost statement is given below:

(**₹ in crores**)

Sr. No.	**Particulars**	**ARR computation furnished by the SWPL**	**ARR computation modified by us**
1	Average admissible Expenses for the years 2016-17, 2017-18 and 2018-19 [Y1+Y2+Y3]/3	197.63	197.63
2	Capital employed as on 31.03.2019 including capital work in progress as on 31.03.2019 and working capital as per norms	509.51	503.20

3	Return on capital employed @ 16%	81.52	80.51
4	ARR as on 31 March 2019 (4=2+3)	279.15	278.14
5	Indexation in the ARR @ 100% of the WPI applicable for the year 2019-20 (4.26% for the year 2019-20)	291.04	289.99
6	SWPL: Add Adjustment of past period loss for the years 2016-17 to 2019-20 captured by SWPL in the ARR computation. TAMP: Less Adjustment of past period additional surplus for the years 2016-17 to 2019-20 in the ARR computation.	0.31	(-) 4.07
7	Ceiling Indexed Annual Revenue Requirement (ARR)	291.35	285.92
8	Revenue estimated by the SWPL at proposed rate and modified revenue estimated by TAMP by considering 12.5% increase in berth hire charge as against 15% increase proposed by the SWPL	287.50	285.84
9	Revenue gap	3.85	0.08

(xiii). One another point of the MOPT is that SWPL has proposed concession in the cargo handling charge for thermal coal and iron ore pellets at 60% of the rate proposed for the foreign cargo. These two cargo items are not entitled for coastal concession as per the coastal concession policy of the Govt. The existing SOR of the SWPL does not prescribe coastal concession for these two cargo items which are not eligible for coastal concession. The SWPL was requested to make necessary modification in the proposal to fall in line with the Coastal Concession Policy of the Government which is uniformly followed across all the Major Port Trusts and BOT operators operating thereat.

In the final revised proposed SOR, the SWPL has proposed separate rate for thermal coal without any coastal concession in line with the coastal concession policy of the Government. However, as regards, iron ore pellets, SWPL has proposed Concessional rate for coastal cargo which is not in line with the Coastal Concession Policy of the Government. In the revised SOR, the cargo handling rates and wharfage for coastal iron ore pellets is prescribed at par with the rate proposed for foreign cargo as this cargo is not eligible for coastal concession. This will not have any revenue impact as no coastal iron ore pellets traffic is reported to have been handled during the last three years 2016-17 to 2018-19.

(xiv). As regards the penal rate of interest for delayed payment and refund, the SWPL has proposed the rate penal interest at 15% which is in line with clause 5.4.1 of the Tariff Guidelines 2019. Free period for import cargo is proposed to be increased from existing three days to seven days at par with free days prescribed for export cargo. The Working Guidelines, 2019 gives flexibility to BOT Operators to propose free period. Hence, the proposed free period is approved. Apart from this, the SWPL has retained the conditionalities as prescribed in the existing SOR.

(xv). The SWPL was requested to incorporate the provisions in the SOR stipulated in common adoption Orders approved by this Authority regarding levy of concessional charges for coastal cargo/ container vide an Order No.TAMP/53/2015-VOCPT dated 29 September 2015 and further amended vide Order No.TAMP/53/2015-VOCPT dated 26 November 2015 and 10 June 2016. The said Order passed is for common adoption by all the Major Port Trusts and the concerned BOT operators in whose Scale of Rates the relevant conditions are prescribed. The notes incorporated by the SWPL are not complete in line with the said common adoption Order. That being so, the notes under 1.2 General Terms and Conditions proposed by the SWPL are replaced with the modified provisions approved by this Authority vide Orders dated 26 November 2015 and 10 June 2016.

(xvi). The new tariff item for supply of water to vessels and miscellaneous services proposed by the port in the original proposal has been withdrawn by the SWPL in the final revised proposal.

(xvii). As per Clause 2.12 of the Tariff Guidelines, 2019, the SOR will be indexed annually to inflation to the extent of 60% of the variation in Wholesale Price Index (WPI) announced by the Government of India occurring between 1st January to 31 December of the relevant year. Such adjusted SOR will come into force from 1st May of the relevant year to 30th April of the following year. It is relevant here to state that in the instant case indexation for the year 2019-20 is already considered in the ARR and for drawing the SOR. The next annual indexation in SOR will be applicable from 1 May 2020. That being so, a note is inserted in the SOR to the effect that the SOR approved by this Authority is subject to automatic annual indexation at 60% of the WPI to be announced by this Authority. The annual indexation will be from 01 May 2020. The indexed SOR by the SWPL has to be intimated by the SWPL to the concerned MOPT, users and to this Authority.

(xviii). Clause 4.9 of the Tariff Guidelines, 2019 prescribe tariff validity cycle of three years subject to annual indexation as mentioned in clause 2.12. Therefore, the validity of the revised SOR is prescribed for a period of 3 years from the date of effect of revised SOR subject to annual indexation clause prescribed in the SOR.

(xix). Clause 4.8 of the Tariff Guidelines, 2019 stipulates that ordinarily the Order approved by this Authority shall come into effect after expiry of 30 days from the date the Order is notified in the Gazette. Accordingly, the SOR will come into effect after expiry of 30 days from the date of notification of the Order in the Gazette.

(xx). (a). **As per the Tariff Guidelines, 2019, the rates prescribed in the Scale of Rates are ceiling levels; likewise, rebates and discounts are floor levels. The SWPL may exercise the flexibility to charge lower rates and/or allow higher rebates and discounts.**

(b). **If there is any error apparent on the face of record considered or for any other justifiable reasons, the SWPL may approach this Authority for review of the tariff fixed, giving adequate justification/ reasoning within 30 days from the date of notification of the Order passed in the Gazette of India.**

13.1. In the result, and for the reasons given above, and based on a collective application of mind, the revised Scale of Rates of the SWPL attached as **Annex - IV** is approved.

13.2. The revised Scale of Rates and conditionalities of the SWPL shall come into effect after expiry of 30 days from the date of notification of the Order in the Gazette of India and shall be in force for a period of three years from the date the revised SOR comes into effect. The approval accorded will automatically lapse thereafter unless specifically extended by this Authority.

13.3. As per clause 7 of the Tariff Guidelines 2019, the SWPL shall furnish to TAMP without fail annual reports on cargo traffic handled and ship berth day output. The annual reports shall be submitted by the SWPL within 90 days following the end of each of the year. Any other information which is required by TAMP shall also be furnished to them from time to time. The SWPL is advised specifically to refrain from withholding requisite information.

(T.S. Balasubramanian)
Member (Finance)

Annex-I (a)

Form - 1

Computation of Annual Revenue Requirement under Tariff Policy, 2019 for Determination of Tariff for BOT operators operating at Major Port Trusts furnished by SWPL

Rs. in lakhs

Sl. No.	Description	Y1 (2016-17)	Y2 (2017-18)	Y3 (2018-19)
(1).	**Total Expenditure (As per Audited Annual Accounts)**			
(i).	Operating expenses (including depreciation)	24,021.16	23,605.00	16,819.02
(ii).	Finance and Miscellaneous expenses (FME)	239.73	279.60	21.84
	Total Expenditure 1=(i)+(ii)	24,260.89	23,884.60	16,840.86
(2).	**Adjustments in respect of items where there is variation in figures reported as per INDAS (as per Audited Accounts) and IGAAP**			
(i).	Depreciation	(670.77)	(964.17)	(793.46)
(ii).	Other expenditure items, if any, to be listed	(217.50)	(8.69)	(18.20)
	Total of Adjustments 2=(i)+(ii)	(888.27)	(972.86)	(811.66)
(3).	**Less Adjustments:**			
(i).	Actual Royalty / Revenue share paid to the port	(3,415.98)	(3,554.06)	(2,154.16)
(ii).	Interest on loans	(239.73)	(279.60)	(21.84)
(iii).	Provision for bad and doubtful debts	-	-	-
(iv).	Provision for slow moving inventory	-	-	-
(v).	Other provisions, if any	-	-	-
	Total of 3 = [3(i)+3(ii)+3(iii)+3(iv)+3(v)+3(vi)]	(3,655.71)	(3,833.65)	(2,176.00)
(4).	**Add: Admissible Royalty/ Revenue Share as per Clause 2.2. of the Tariff Guidelines, 2019**	2,486.07	2,586.56	1,567.75
(5).	**Total Expenditure after Total Adjustments (5 = 1+2+3+4)**	22,202.98	21,664.65	15,420.95
(6).	Average Expenses of Sl. No.5 = [Y1 + Y2 + Y3] / 3	19,762.86		
(7).	**Capital Employed**			
	(i). Gross Fixed Assets (Property, Plant & Equipment) as on 31st March Y3 followed by the BOT operator (As per IGAAP)	48,602.09		
	(ii). Add: Capital Work in Progress as on 31st March Y3 or 31 December of Y3 followed by the BOT operator (As per Audited Annual Accounts)	172.75		
	(iii). Add: Working Capital as per norms prescribed in clause 2.6 of the Tariff Guidelines, 2019			
	(a). Inventory	162.85		
	(b). Sundry Debtors	433.88		
	(c). Cash	1,579.45		
	(d). Sum of (a)+(b)+(c)	2,176.18		
	(iv). Total Capital Employed [(i)+(ii)-(iii)]	50,951.02		
(8).	**Return on Capital Employed 16% on Sl. No.7(iv)**	8,152.16		
(9).	**Annual Revenue Requirement (ARR) as on 31 March Y3 or 31 December of Y3 as applicable [(6)+ (8)]**	27,915.02		
(10).	**Indexation in the ARR @ 100% of the WPI applicable for the year Y4 [(9) x 1.0426]**	**29,104.20**		
(11).	**Adjustment of past period deficit of Rs.30.51 lakhs pertaining to years 2016-17 to 2018-19**	**30.51**		
(12).	**ARR after adjustment of past period deficit [(10)+(11)]**	**29,134.72**		
(13).	**Ceiling Indexed Annual Revenue Requirement (ARR)**	**29,134.72**		
(14).	**Revenue Estimation at the Proposed indexed SOR within the Ceiling indexed ARR estimated at Sl. No.11 above**	28,750.36		

Annex-I (b)

Form - 1

Computation of Annual Revenue Requirement under Tariff Policy, 2019 for Determination of Tariff for BOT operators operating at Major Port Trusts furnished by SWPL and

Rs. in lakhs

Sl. No.	Description	Y1 (2016-17)	Y2 (2017-18)	Y3 (2018-19)
(1).	**Total Expenditure (As per Audited Annual Accounts)**			
(i).	Operating expenses (including depreciation)	24,021.16	23,605.00	16,819.02
(ii).	Finance and Miscellaneous expenses (FME)	239.73	279.60	21.84
	Total Expenditure 1=(i)+(ii)	24,260.89	23,884.60	16,840.86
(2).	**Less Adjustments in respect of items where there is variation in figures reported as per INDAS (as per Audited Accounts) and IGAAP**			
(i).	Depreciation	670.77	964.17	793.46
(ii).	Other expenditure items, if any, to be listed	217.50	8.69	18.20
	Total of Adjustments 2=(i)+(ii)	888.27	972.86	811.66
(3).	**Less Adjustments:**			
(i).	Actual Royalty / Revenue share paid to the port	3,415.98	3,554.06	2,154.16
(ii).	Interest on loans	239.73	279.60	21.84
(iii).	Provision for bad and doubtful debts	-	-	-
(iv).	Provision for slow moving inventory	-	-	-
(v).	Other provisions, if any	-	-	-
	Total of 3 = [3(i)+3(ii)+3(iii)+3(iv)+3(v)+3(vi)]	3,655.71	3,833.65	2,176.00
(4).	**Add: Admissible Royalty/ Revenue Share as per Clause 2.2. of the Tariff Guidelines, 2019**	2,486.07	2,586.56	1,567.75
(5).	**Total Expenditure after Total Adjustments (5 = 1-2-3+4)**	22,202.98	21,664.65	15,420.95
(6).	Average Expenses of Sl. No.5 = [Y1 + Y2 + Y3] / 3	19,762.86		
(7).	**Capital Employed**			
	(i). Gross Fixed Assets (Property, Plant & Equipment) as on 31st March Y3 followed by the BOT operator (As per IGAAP furnished by SWPL duly certified by Chartered Accountant)	48,602.09		
	(ii). Add: Capital Work in Progress as on 31st March Y3 or 31 December of Y3 followed by the BOT operator (As per Audited Annual Accounts)	172.75		
	(iii). Add: Working Capital as per norms prescribed in clause 2.6 of the Tariff Guidelines, 2019			
	(a). Inventory	162.85		
	(b). Sundry Debtors	328.45		
	(c). Cash	1,053.34		
	(d). Sum of (a)+(b)+(c)	1,544.64		
	(iv). Total Capital Employed [(i)+(ii)-(iii)]	50,319.48		
(8).	**Return on Capital Employed 16% on Sl. No.7(iv)**	8,051.12		
(9).	**Annual Revenue Requirement (ARR) as on 31 March Y3 or as applicable [(6)+(8)]**	27,813.98		
(10).	**Indexation in the ARR @ 100% of the WPI applicable for the year Y4 for example, if Y4 is 2019-20, then the applicable WPI is 4.26% and the indexed ARR for the year Y4 will be (9) x 1.0426)**	**28,998.85**		
(11).	**Less: Adjusment of past period surplus for the years 2016-17 to 2018-19 over the three years. The annual impact of such adjustment works out to Rs 407.31 lakhs. (i.e. Rs. 3054.81 lakhs * 40% = Rs. 1221.92 lakhs / 3 years = Rs. 407.31 lakhs)**	**407.31**		
(12).	**Ceiling Indexed Annual Revenue Requirement (ARR) after adjustment of past period surplus (10-11)**	**28,591.54**		
(13).	**Revenue Estimation at the Proposed indexed SOR within the Ceiling indexed ARR estimated at Sl. No.11 above**	28,584.00		

Annex-II

SOUTH WEST PORT LIMITED

Analysis of the Past Period Performance of SWPL for the years 2016-17 to 2018-19 furnished by SWPL and modified by TAMP

(Rs. In Lakhs)

Sr. No.	Particulars	Estimates relied upon in the Tariff Order dated 15 January 2016				Actuals				Variation in Percentage (%)
		2016-17	2017-18	2018-19	Total	2016-17	2017-18	2018-19	Total	
	Traffic (In MMTPA)	7.50	7.50	7.50	22.50	11.77	10.62	5.25	27.64	22.84%
	Capacity (in MMTPA)	7.00	7.00	7.00	21.00	7.00	7.00	7.00	21.00	
I	**Total Operating Income**									
	(i) Cargo handling income	10,744.20	12,838.79	12,838.79	36,421.77	18,958.89	19,763.87	11,967.05	50,689.81	
	(ii) Vessel related income	6,541.87	7,003.73	6,991.15	20,536.75	11,167.66	7,819.55	4,701.94	23,689.15	
	(iii) Other Income	-	-	-	-	88.75	309.51	421.56	819.82	
	Total (i to iii)	**17,286.06**	**19,842.52**	**19,829.94**	**56,958.52**	**30,215.30**	**27,892.93**	**17,090.54**	**75,198.77**	32.02%
II	**Operating Costs (excluding depreciation)**									
	(i) Cargo handling expenses	7,596.23	7,976.04	8,374.84	23,947.11	12,125.64	11,408.33	6,761.29	30,295.26	
	(ii) Equipment Running Costs	1,907.31	2,038.33	2,124.87	6,070.51	1,827.34	1,740.89	1,060.99	4,629.22	
	(iii) Maintanence dredging	-	-	-	-	219.10	328.07	313.46	860.63	
	(iv) Royalty / revenue share	1,316.03	1,316.03	1,316.03	3,948.09	2,486.07	2,586.56	1,567.75	6,640.39	
	(v) Lease Rentals payable as per C. Agreement	613.30	643.20	675.36	1,931.86	603.14	605.45	656.89	1,865.47	
	(vi) Insurance	152.05	165.29	181.48	498.82	144.42	117.54	130.08	392.05	
	(vii) Other expenses	59.22	60.68	62.17	182.07				-	
	Total (i to vii)	**11,644.14**	**12,199.57**	**12,734.75**	**36,578.46**	**17,405.71**	**16,786.85**	**10,490.46**	**44,683.02**	22.16%
III	Depreciation	**2,343.15**	**2,421.35**	**2,594.25**	**7,358.75**	**2,511.84**	**2,821.60**	**2,780.92**	**8,114.36**	10.27%
IV	Overheads									
	(i) Management & Administration overheads	1,258.56	1,289.52	1,321.24	3,869.32	1,985.23	1,834.50	1,934.05	5,753.78	
	(ii) General Overheads	537.56	550.78	564.33	1,652.67	300.48	221.71	215.31	737.51	
	(iii) Preliminary expenses & Upfront Payment write-off	37.03	37.03	37.03	111.09	37.03	37.03	37.03	111.09	
	Total (i to iii)	**1,833.15**	**1,877.33**	**1,922.60**	**5,633.08**	**2,322.74**	**2,093.24**	**2,186.40**	**6,602.38**	
V	Operating Surplus / (Deficit) (I) – (II) – (III) - (IV)	**1,465.62**	**3,344.27**	**2,578.34**	**7,388.23**	**7,975.01**	**6,191.24**	**1,632.77**	**15,799.02**	
VI	Finance & Miscellaneous Income (FMI)									
	(i) Profit on sale of assets.	-	-	-	-	0.45	0.55	-	1.00	
	(ii) Other Operating Income	99.80	99.80	99.80	299.40	-	-	-	-	
	(iii). Sale of scrap					182.35	152.66	115.51	450.52	
	(iv). SEIS income					-	824.68	185.33	1,010.01	
	(v). Others (Credit of return from security deposit)	0.87	0.96	1.07	2.90	0.87	0.96	1.07	2.90	
	Total (i to v)	**100.67**	**100.76**	**100.87**	**302.30**	**183.67**	**978.85**	**301.91**	**1,464.43**	
VII	**Finance & Miscellaneous Expenses (FME)**									
	(i) Bank charges	9.60	10.10	10.60	30.30				-	
	Total (i to iv)	**9.60**	**10.10**	**10.60**	**30.30**	**-**	**-**	**-**	**-**	
VIII	**FMI Less FME (VI) - (VII)**	**91.07**	**90.66**	**90.27**	**272.00**	**183.67**	**978.85**	**301.91**	**1,464.43**	
IX	**Surplus Before Interest and Tax (V)+(VIII)**	1,556.69	3,434.93	2,668.61	**7,660.23**	8,158.68	7,170.09	1,934.68	**17,263.45**	
X	Capital Employed	**30,181.10**	**32,489.75**	**32,395.50**	**95,066.35**	**31,626.88**	**29,996.53**	**27,180.57**	**88,803.99**	-6.59%
XI	RoCE - Maximum permissible @ 16%	4,828.98	5,198.36	5,183.28	15,210.62	5,060.30	4,799.45	4,348.89	14,208.64	-6.59%
XII	**Net Surplus / (Deficit) (IX) - (XIII)**	**(3,272.29)**	**(1,763.43)**	**(2,514.67)**	**(7,550.39)**	**3,098.37**	**2,370.65**	**(2,414.21)**	**3,054.81**	
XIII	**Net Surplus / (Deficit) as a % of operating income (XII/I in %)**	-18.93%	-8.89%	-12.68%	-13.26%	10.25%	8.50%	-14.13%	4.06%	
XIV	**Adjustment of additional past surplus**	1,589.28	1,589.27	1,589.27	4,767.82					
	(a) 50% of the net additional surplus accrued in the past three years 2010-11 to 2012-13 considered for adjustment over five years period beginnning from 2014-15 (February 2015) following the AG's opinion.	701.04	701.04	701.04	2,103.12				-	
	(b) .Impact of operating cost and ROCE allowed in the last tariff Order with reference to the additions to the gross block of assets relating to in-motion wagon system, single rail line along with related assets which should have been in place by 31 March 2012 but not deployed by the SWPL. Hence considered for 100% adjustment over five years beginning from 2014-15 (February 2015) and 2015-16 in the current cycle and balance to be adjusted in the subsequent tariff cycle. [In January 2015 Order this Surplus was adjusted in the years 2014-15 and 2015-16]	226.93	226.93	226.93	680.79				-	
	(c). 100% Actual surplus for the year 2013-14 set off in 2014-15 and 2015-16									
XV	Net Surplus / (Deficit) after adjustment of past Surplus	**(755.04)**	**753.81**	**2.57**	1.34	**3,098.37**	**2,370.65**	**(2,414.21)**	3,054.81	
XVI	Net surplus / (Deficit) as % Operating Income.	-4.37%	3.80%	0.01%	0.00%	10.25%	8.50%	-14.13%	4.06%	
XVII	Average net surplus/deficit in % Operating Income		**0.0%**				**4.1%**			

Annex-III (a)

Form - 4

Revenue Estimation at the proposed Scale of Rates furnished by SWPL

(A). Traffic details

Sl. No.	Description	Actual Traffic			Total	Average
		Y1 (2016-17)	Y2 (2017-18)	Y3 (2018-19)		
(1).	**Total Actual Traffic handled (in Metric Tonnes/ TEUs)**	11,747,065	10,605,899	5,248,022	27,600,986	9,200,329
(2).	**Actual Vessel Traffic**					
(i).	Number of vessels handled	193	156	107	456	152
(ii).	Total Gross Registered Tonnage (GRT)	8,457,161	8,162,571	4,174,285	20,794,017	6,931,339

(B). Revenue Estimation

Sl. No.	Description	Existing tariff	Reference to the schedule and Sl. No. in existing SOR	Proposed Tariff	Unit of levy	Reference to the schedule and Sl. No. in proposed SOR	Average of the actual traffic handled by the BOT operator during the years Y1, Y2 and Y3	Revenue estimation at the proposed tariff (Rs. in lakhs)	% increase over the existing tariff
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9) = 5*8	(10) = (5-3)/3
A.	Tariff Items								
	Berth hire charges								
	at Berth 5								
	Foreign vessels	0.0138	Section C of Part - I of Vessel Related Charges	0.0159	USD/GT/Hour	Section C of Part - I of Vessel Related Charges	854,126	608	15%
	Coastal vessels	0.37		0.43	INR/GT/Hour		-	-	15%
	At Berth 6								
	Foreign vessels								
	Upto 30,000 GT	0.0303		0.0348	USD/GT/Hour		-	-	15%
	30,001 GT and above	0.0358		0.0412	USD/GT/Hour		6,945,954	6,459	15%
	Coastal vessels								
	Upto 30,000 GT	0.83		0.95	INR/GT/Hour		-	-	15%
	30,001 GT and above	0.96		1.10	INR/GT/Hour		1,400,249	514	15%
	Wharfage								
	Coal	38.34	Section A of Part - II of Wharfage Charges	48.00	INR/MT	Section A of Part - II of Wharfage Charges	6,651,185	3,193	24%
	Coal (coastal)	23.00		29.00			350,062	102	24%
	Coke	57.51		71.00	INR/MT		588,879	418	24%
	Limestone	12.78		16.00	INR/MT		756,077	121	24%
	Steel products	38.34		48.00	INR/MT		854,126	410	24%

Sl. No.	Description	Existing tariff	Reference to the schedule and Sl. No. in existing SOR	Proposed Tariff	Unit of levy	Reference to the schedule and Sl. No. in proposed SOR	Average of the actual traffic handled by the BOT operator during the years Y1, Y2 and Y3	Revenue estimation at the proposed tariff (Rs. in lakhs)	% increase over the existing tariff
	Cargo handling charges								
	Coal	128.69	Section B of Part - II of Cargo Related Charges	160.00	INR/MT	Section B of Part - II of Cargo Related Charges	6,651,185	10,642	24%
	Coal (coastal)	77.19		96.00	INR/MT		350,062	336	24%
	Coke	182.88		227.00	INR/MT		588,879	1,337	24%
	Limestone	169.34		210.00	INR/MT		756,077	1,588	24%
	Steel products	203.20		252.00	INR/MT		854,126	2,152	24%
	Storage income								
	(First 5 days after free period)								
	Coal	10.00	Section C of Part - II of Ground Rent Charges	12.00	INR/MT	Section C of Part - II of Ground Rent Charges	1,400,249	168	24%
	Coke	15.00		19.00	INR/MT		117,776	22	24%
	Limestone	10.00		12.00	INR/MT		151,215	18	24%
	Any other dry bulk	15.00		19.00	INR/MT		-	-	24%
	(Rate for sixth day to tenth day)								
	Coal	25.00	Section C of Part - II of Ground Rent Charges	31.00	INR/MT	Section C of Part - II of Ground Rent Charges	700,125	217	24%
	Coke	40.00		50.00	INR/MT		58,888	29	24%
	Limestone	25.00		31.00	INR/MT		75,608	23	24%
	Any other dry bulk	40.00		40.00	INR/MT		-	-	
	(Rate for eleventh day to twentieth day)								
	Coal	50.00	Section C of Part - II of Ground Rent Charges	62.00	INR/MT	Section C of Part - II of Ground Rent Charges	-	-	24%
	Coke	75.00		93.00	INR/MT		-	-	24%
	Limestone	50.00		62.00	INR/MT		-	-	24%
	Any other dry bulk	75.00		93.00	INR/MT		-	-	24%
	(Rate for twenty first day onwards)								
	Coal	100.00	Section C of Part - II of Ground Rent Charges	124.00	INR/MT	Section C of Part - II of Ground Rent Charges	-	-	24%
	Coke	150.00		186.00	INR/MT		-	-	24%
	Limestone	100.00		124.00	INR/MT		-	-	24%
	Any other dry bulk	150.00		186.00	INR/MT		-	-	24%
	(First 5 days after free period)								
	Iron pellets	10.00	Section C of Part - II of Ground Rent Charges	12.00	INR/MT	Section C of Part - II of Ground Rent Charges	-	-	24%
	Metal products, Steel Coils, Slabs and other general bulk cargo	5.00		6.00	INR/MT		427,063	26	24%

Sl. No.	Description	Existing tariff	Reference to the schedule and Sl. No. in existing SOR	Proposed Tariff	Unit of levy	Reference to the schedule and Sl. No. in proposed SOR	Average of the actual traffic handled by the BOT operator during the years Y1, Y2 and Y3	Revenue estimation at the proposed tariff (Rs. in lakhs)	% increase over the existing tariff
	(Rate for sixth day to tenth day)								
	Iron pellets	25.00	Section C of Part -	31.00	INR/MT	Section C of Part -	-	-	24%
	Metal products, Steel Coils, Slabs and other general bulk cargo	10.00	II of Ground Rent Charges	12.00	INR/MT	II of Ground Rent Charges	256,238	31	24%
	(Rate for eleventh day to twentieth day)								
	Iron pellets	50.00	Section C of Part -	62.00	INR/MT	Section C of Part -	-	-	24%
	Metal products, Steel Coils, Slabs and other general bulk cargo	25.00	II of Ground Rent Charges	31.00	INR/MT	II of Ground Rent Charges	170,825	53	24%
	(Rate for twenty first day onwards)								
	Iron pellets	100.00	Section C of Part -	124.00	INR/MT	Section C of Part -	-	-	24%
	Metal products, Steel Coils, Slabs and other general bulk cargo	50.00	II of Ground Rent Charges	62.00	INR/MT	II of Ground Rent Charges	-	-	24%
	Dust Suppression								
	Coal	2.75	Section D of Part -	3.40	INR/MT	Section D of Part -	7,001,247	238	24%
	Coke	2.75	II of Dust	3.40	INR/MT	II of Dust	588,879	20	24%
	Limestone	2.75	Suppresssion	3.40	INR/MT	Suppresssion	756,077	26	24%
	Total estimated Revenue at the proposed tariff							28,750	

Annex-III (b)

Form - 4

Revenue Estimation at the proposed Scale of Rates furnished by SWPL and Modified by TAMP

(A). Traffic details

Sl. No.	Description	Actual Traffic			Total	Average
		Y1 (2016-17)	Y2 (2017-18)	Y3 (2018-19)		
(1).	**Total Actual Traffic handled (in Metric Tonnes/ TEUs)**	11,747,065	10,605,899	5,248,022	27,600,986	9,200,329
(2).	**Actual Vessel Traffic**					
(i).	Number of vessels handled	193	156	107	456	152
(ii).	Total Gross Registered Tonnage (GRT)	8,457,161	8,162,571	4,174,285	20,794,017	6,931,339

(B). Revenue Estimation

Sl. No.	Description	Existing tariff	Reference to the schedule and Sl. No. in existing SOR	Proposed Tariff	Unit of levy	Reference to the schedule and Sl. No. in proposed SOR	Average of the actual traffic handled by the BOT operator during the years Y1, Y2 and Y3	Revenue estimation at the proposed tariff (Rs. in lakhs)	% increase over the existing tariff (corrected for cargo handling charges due to arithmetic error)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9) = 5*8	(10) = (5-3)/3
A.	Tariff Items								
	Berth hire charges								
	at Berth 5								
	Foreign vessels	0.0138	Section C of Part - I of Vessel Related Charges	0.01550	USD/GT/Hour	Section C of Part - I of Vessel Related Charges	854,126	593	12.50%
	Coastal vessels	0.37		0.42	INR/GT/Hour		-	-	12.50%
	At Berth 6								
	Foreign vessels								
	Upto 30,000 GT	0.0303		0.0341	USD/GT/Hour		-	-	12.50%
	30,001 GT and above	0.0358		0.0403	USD/GT/Hour		6,945,954	6,318	12.50%
	Coastal vessels								
	Upto 30,000 GT	0.83		0.93	INR/GT/Hour		-	-	12.50%
	30,001 GT and above	0.96		1.08	INR/GT/Hour		1,400,249	504	12.50%
	Wharfage								
	Coal	38.34	Section A of Part - II of Wharfage Charges	48.00	INR/MT	Section A of Part - II of Wharfage Charges	6,651,185	3,193	25.20%
	Coal (coastal)	23.00		28.80			350,062	101	25.22%
	Coke	57.51		71.00	INR/MT		588,879	418	23.46%
	Limestone	12.78		16.00	INR/MT		756,077	121	25.20%
	Steel products	38.34		48.00	INR/MT		854,126	410	25.20%
	Cargo handling charges								
	Coal	128.69	Section B of Part - II of Cargo Related Charges	160.00	INR/MT	Section B of Part - II of Cargo Related Charges	6,651,185	10,642	24.33%
	Coal (coastal)	77.19		96.00	INR/MT		350,062	336	24.37%
	Coke	182.88		227.00	INR/MT		588,879	1,337	24.13%
	Limestone	169.34		210.00	INR/MT		756,077	1,588	24.01%
	Steel products	203.20		252.00	INR/MT		854,126	2,152	24.02%

	Storage income								
	(First 5 days after free period)								
	Coal	10.00	Section C of Part -	12.00	INR/MT	Section C of Part -	1,400,249	168	20.00%
	Coke	15.00	II of Ground Rent	19.00	INR/MT	II of Ground Rent	117,776	22	26.67%
	Limestone	10.00	Charges	12.00	INR/MT	Charges	151,215	18	20.00%
	Any other dry bulk	15.00		19.00	INR/MT		-	-	26.67%
	(Rate for sixth day to tenth day)								
	Coal	25.00	Section C of Part -	31.00	INR/MT	Section C of Part -	700,125	217	24.00%
	Coke	40.00	II of Ground Rent	50.00	INR/MT	II of Ground Rent	58,888	29	25.00%
	Limestone	25.00	Charges	31.00	INR/MT	Charges	75,608	23	24.00%
	Any other dry bulk	40.00		40.00	INR/MT		-	-	0.00%
	(Rate for eleventh day to twentieth day)								
	Coal	50.00	Section C of Part -	62.00	INR/MT	Section C of Part -	-	-	24.00%
	Coke	75.00	II of Ground Rent	93.00	INR/MT	II of Ground Rent	-	-	24.00%
	Limestone	50.00	Charges	62.00	INR/MT	Charges	-	-	24.00%
	Any other dry bulk	75.00		93.00	INR/MT		-	-	24.00%
	(Rate for twenty first day onwards)								
	Coal	100.00	Section C of Part -	124.00	INR/MT	Section C of Part -	-	-	24.00%
	Coke	150.00	II of Ground Rent	186.00	INR/MT	II of Ground Rent	-	-	24.00%
	Limestone	100.00	Charges	124.00	INR/MT	Charges	-	-	24.00%
	Any other dry bulk	150.00		186.00	INR/MT		-	-	24.00%
	(First 5 days after free period)								
	Iron pellets	10.00	Section C of Part -	12.00	INR/MT	Section C of Part -	-	-	20.00%
	Metal products, Steel Coils, Slabs and other general bulk cargo	5.00	II of Ground Rent Charges	6.00	INR/MT	II of Ground Rent Charges	427,063	26	20.00%
	(Rate for sixth day to tenth day)								
	Iron pellets	25.00	Section C of Part -	31.00	INR/MT	Section C of Part -	-	-	24.00%
	Metal products, Steel Coils, Slabs and other general bulk cargo	10.00	II of Ground Rent Charges	12.00	INR/MT	II of Ground Rent Charges	256,238	31	20.00%
	(Rate for eleventh day to twentieth day)								
	Iron pellets	50.00	Section C of Part -	62.00	INR/MT	Section C of Part -	-	-	24.00%
	Metal products, Steel Coils, Slabs and other general bulk cargo	25.00	II of Ground Rent Charges	31.00	INR/MT	II of Ground Rent Charges	170,825	53	24.00%
	(Rate for twenty first day onwards)								
	Iron pellets	100.00	Section C of Part -	124.00	INR/MT	Section C of Part -	-	-	24.00%
	Metal products, Steel Coils, Slabs and other general bulk cargo	50.00	II of Ground Rent Charges	62.00	INR/MT	II of Ground Rent Charges	-	-	24.00%
	Dust Suppression								
	Coal	2.75	Section D of Part -	3.40	INR/MT	Section D of Part -	7,001,247	238	23.64%
	Coke	2.75	II of Dust	3.40	INR/MT	II of Dust	588,879	20	23.64%
	Limestone	2.75	Suppresssion	3.40	INR/MT	Suppresssion	756,077	26	23.64%
	Total estimated Revenue at the proposed tariff							28,584	

Annex-IV

SOUTH WEST PORT LIMITED

SCALE OF RATES

1. **DEFINITIONS - GENERAL**

In this Scale of Rates unless the context otherwise requires, the following definitions shall apply:

(i). ***"Per Day"*** means per calendar day unless other wise stated.

(ii). ***"SWPL"*** means South West Port Limited a company incorporated in India, its successors and assigns.

(iii). ***"Port"*** means the Mormugao Port Trust (MOPT) whereas "Terminal" means South West Port Limited (SWPL), now or hereafter operated by South West Port Limited.

(iv). ***"Coastal Vessel"*** means any vessel exclusively employed in trading between any port or place in India to any other port or place in India having a valid coastal license issued by the competent authority.

(v). ***"Coastal Cargo"*** means any cargo, which the vessel discharges at one Indian port after shipment from another Indian port or vice versa irrespective of its actual origin or destination.

(vi). ***"Foreign Cargo"*** means any cargo other than coastal cargo.

(vii). ***"Foreign–going Vessel"*** means any vessel other than a coastal vessel.

(viii). ***"Tonne"*** or ***"MT"*** means one Metric Tonne of 1,000 kilograms or one cubic metre.

2. **GENERAL TERMS AND CONDITIONS**

(i). The Status of the vessel, as borne out by its certification by the Customs or the Director General of Shipping, is the relevant factor to decide whether vessel is *'coastal' or 'foreign-going'* category for the purpose of levying vessel related charges; and, the nature of cargo or its origin will not be of any relevance for this purpose.

(ii). System of classification of vessel for levy of Vessel Related Charges (VRC)

(a) A foreign going vessel of Indian flag having a General Trading Licence can convert to coastal run on the basis of a Customs Conversion Order. Such vessel that converts into coastal run based on the Customs Conversion Order at her first port of call in Indian Port, no further custom conversion is required, so long as it moves on the Indian Coast.

(b) A foreign going vessel of foreign flag can convert to coastal run on the basis of a License for Specified Period or Voyage issued by the Director General of Shipping and Custom Conversion order.

(iii). Criteria for levy of vessel related charges (VRC) at Concessional Coastal rate and foreign rate

(a) In cases of such conversion, coastal rates shall be chargeable by the load port from the time the vessel starts loading coastal goods.

(b) In cases of such conversion coastal rates shall be chargeable till the vessel completes discharging operations at the last call of Indian Port;

immediately thereafter, foreign going rates shall be chargeable by the discharge ports.

(c) For dedicated Indian coastal vessels having a Coastal licence from the Director General of Shipping, no other document will be required to be entitled to coastal rates.

(iv). Criteria for levy of Cargo Related Charges (CRC) at Concessional Coastal rate:

(a) Foreign going Indian vessel having General Trading License issued for 'worldwide and coastal' operation should be accorded applicable coastal rates with respect to Handling Charges (HC) i.e. ship to shore transfer and transfer from/ to quay to/ from storage yard including wharfage in the following scenario:-

(i). Converted to coastal run and carrying coastal cargo from any Indian Port and destined for any other Indian Port.

(ii). Not Converted* to coastal run but carrying coastal cargo from any Indian Port and destined for any other Indian Port.

*The Central Board of Excise & Customs - Circular No 15/2002-Cus dated 25th February 2002 allows carriage of coastal cargo from one Indian Port to another Indian Port in India, in Indian flag foreign going vessels without any Custom Conversion.

(b). In case of Foreign flag vessels converted to coastal run on the basis of a License for Specified Period or Voyage issued by the Director General of Shipping and a Custom Conversion Order, the coastal cargo/ container loaded from any Indian Port and destined from any other Indian Port should be levied at the rate applicable for coastal cargo / container.

(v). Wherever rates of vessel related charges have been denominated in US dollar terms the charges shall be recovered in Indian Rupees after conversion of US currency to its equivalent Indian Rupees at the market-buying rate notified by the Reserve Bank of India, State Bank of India or its Associates or any other Public Sector Banks as may be specified from time to time. The date of entry of the vessel into the port shall be reckoned with as the day for such conversion.

(vi). A regular review of exchange rate shall be made once in thirty days from the date of arrival of the vessels in cases of vessels staying in the port for more than thirty days. In such cases, the basis of billing shall change prospectively with reference to the appropriate exchange rate prevailing at the time of the review.

(vii). (a). The cargo related charges for all coastal cargo other than thermal coal, POL including crude oil, iron ore and iron ore pellets should not exceed 60% of the normal cargo / container related charges.

(b). In case of cargo related charges, the concessional rates should be levied on all the relevant handling charges for ship-shore transfer and transfer from / to quay to / from storage yard including wharfage.

(c). Cargo from a foreign port, which reaches an Indian Port 'A' for subsequent transhipment to Indian Port 'B' will be, levied the concessional charges relevant for its coastal voyage. In other words, cargo from / to Indian ports carried by vessel permitted to undertake coastal voyage will qualify for the concession.

(d). The charges for coastal cargo / vessels shall be denominated and collected in "Indian Rupee".

(viii). For the purpose of calculating the dues the unit by weight shall be 1 tonne or 1000 kilograms, the unit by volume measurement shall be 1 cubic metre and the unit by capacity measurement for liquids in bulk shall be 1000 litres.

(ix). In calculating the gross weight or measurement by volume or capacity of any individual item, fractions upto 0.5 shall be taken as 0.5 unit and fractions of 0.5 and above shall be treated as one unit, except where otherwise specified.

(x). Interest on delayed payments / refunds:

(a). The user shall pay penal interest on delayed payments under this Scale of Rates. Likewise, the SWPL shall pay penal interest on delayed refunds.

(b). The rate of penal interest will be 15.00%. The penal interest rate will apply to both the SWPL and the port users equally.

(c). The delay in payments by the users will be counted only 10 days after the date of raising the bills by the SWPL. This provision shall, however, not apply to the cases where payment is to be made before availing the services as stipulated in the Major Port Trusts Act and / or where payment of charges in advance is prescribed in this Scale of Rates.

(d). The delay in refunds will be counted only 20 days after the date of completion of services or on production of all the documents required from the users, whichever is later.

(xi). All charges worked out shall be rounded off to the next higher rupee on the grand total of each bill.

(xii). (a). The rates prescribed in the Scale of Rates are ceiling levels, likewise, rebates and discounts are floor levels. The SWPL may, if it so desires, charge lower rates and / or allow higher rebates and discounts.

(b). The SWPL may also, if they so desire, rationalise the prescribed conditionalities governing the application of rates prescribed in the Scale of Rates if such rationalisation gives relief to the user in rate per unit and the unit rates prescribed in the Scale of Rates do not exceed the ceiling level.

(c). The SWPL should notify the public such lower rates and / or rationalisation of the conditionalities governing the application of such rates and continue to notify the public any further changes in such lower rates and / or in the conditionalities governing the application of such rates provided the new rates fixed shall not exceed the rates notified by the TAMP.

(xiii). Users will not be required to pay charges for delays beyond reasonable level attributable to the SWPL.

(xiv). Coastal goods transported between an Indian port on east coast and another Indian port on west coast or vice versa, by a vessel through the territorial waters of Sri Lanka, whether or not calling any port in Sri Lanka in between and without change of vessel in terms Notification No.38/2018-Customs (N.T.) dated 11 May 2018 of Central Board of Indirect Taxes and Customs shall be eligible for concession in vessel related charges and cargo related charges.

(xv). Coastal goods transported between an Indian port on east coast and a river port in India or vice versa, by a vessel through a route passing through the Bangladeshi waters and without change of vessel in terms Notification No.38/2018-Customs (N.T.) dated 11 May 2018 of Central Board of Indirect Taxes and Customs shall be eligible for concession in vessel related charges and cargo related charges.

(xvi). The SOR is subject to automatic annual indexation to inflation to the extent of 60% of the variation in Wholesale Price Index (WPI) announced by the Authority occurring between 1st January to 31st December of the relevant year. The next annual indexation will be from 1 May, 2020. The indexed SOR by the SWPL to be intimated by the SWPL to the MOPT, concerned users and to the Authority.

PART I - VESSEL RELATED CHARGES

SECTION – A – PORT DUES and SECTION – B – PILOTAGE FEES

These services will be rendered to the vessels entering the SWPL's berth numbers 5A and 6A by the Mormugao Port Trust as per their approved Scale of Rates. The charges shall be payable directly to the Mormugao Port Trust by masters / owners / agents of the vessel.

SECTION - C - BERTH HIRE CHARGES

Berth Hire Charges at Berth numbers 5A and 6A shall be payable to SWPL by masters / owners / agents of the vessel at the following rates.

BERTH NO.5A
(Maximum LOA of Vessel 190 mtrs. in conjunction with another vessel of LOA 225 mtrs. at Berth No.6A)

Sl. No.	Class of Vessel	Rate per GRT per hour or part thereof	
		Foreign going Vessel (in US $)	Coastal Vessels (in ₹)
1.	All Vessels	0.0155	0.42

BERTH NO.6A
(Under Mechanised Operation system)

Sl. No.	Class of Vessel	Rate per GRT per hour or part thereof	
		Foreign going Vessel (in US $)	Coastal Vessels (in ₹)
1.	Upto 30,000 GRT	0.0341	0.93
2.	30,001 GRT and above	0.0403	1.08

Notes:

(1). Berth Hire charges includes charges for services rendered and facilities provided at the Berth, such as occupation of berth, overtime at berth, removal of rubbish collected on board by the vessel and delivered on the wharf, cleaning of Berths, fire watch, etc.

(2). The above charges are leviable against Masters, Owners or Agents of vessels and other floating craft approaching or lying at or alongside berths per GRT per hour or part thereof.

(3). The Berth hire charges leviable per vessel is subject to a minimum of US$ 662.00 in case of foreign going vessel and ₹17,717/- in case of coastal vessel.

(4). The period of berth hire shall be calculated from the time the vessel occupies the berth.

(5). No berth hire charges shall be payable for the period when loading / unloading operations cannot be carried out due to non-availability of the shore cranes / mechanical handling system of SWPL, due to breakdown or any other reason attributable to SWPL.

(6). (i). Berth hire shall stop 4 hours after the time of vessel signaling its readiness to sail.

(ii). The time limit of 4 hours prescribed for the cessation of berth hire shall exclude the ship's waiting time for want of favorable tide conditions, inclement weather, and due to lack of night navigation.

(iii). The master / agent of the vessel shall signal readiness to sail only in accordance with favorable tidal and weather conditions.

(iv). The Penal Berth hire shall be equaled to one-day's (24 hours) berth hire charge for a false signal.

"False signal" would be when the vessel signals readiness and asks for a pilot in anticipation even when she is not ready for un-berthing due to engine not being ready or cargo operation not completed or such other reasons attributable to the vessels. This excludes the signaling readiness when a vessel is not able to sail due to unfavorable tide, lack of night navigation or adverse weather conditions."

(7). The de-ballasting time allowed at berth numbers 5A and 6A shall be 3 hours and beyond that penal berth hire charges shall be levied at five times the normal berth hire charges, the incidence being reduced to per hour or part thereof, that may be applicable to the vessel. This will be in addition to the normal berth hire charges applicable for the entire duration of the vessel's stay at the berth.

(8). Vessels banked on offside of another vessel at these berths, berth hire charges shall be 50% of normal charges payable by such vessels.

(9). The provisions of the License Agreement shall govern priority Berthing and charges on it, if any. Whenever the priority berthing is granted to a vessel, a fee equivalent to Berth Hire charges for a single day (24 hours) or @ 75% of the Berth Hire charges calculated for the total period of actual stay at the Berth, whichever is higher, shall be levied.

(10). (i). For providing ousting priority to a vessel, a fee equivalent to berth hire charges for a single day (24 hours) or @100% of the berth hire charges calculated for the total period of actual stay of the vessels at berth, whichever is higher, shall be levied.

(ii). In addition, shifting out / in charges of the vessels shall be levied on the vessels, which are provided ousting priority.

(iii). Ousting priority at berth no.6A will be accorded only when a discharge / load rate of 25,000 MT of cargo per weather working day cannot be achieved due to restrictions placed by the vessels.

PART - II CARGO RELATED CHARGES

SECTION – A

WHARFAGE CHARGES AT BERTH NOS. 5A AND 6A

Wharfage on the cargo handled at berths numbers 5A and 6A shall be payable directly to SWPL, at the rates specified below, by importer or exporter of cargo, on the manifested quantity of cargo, which is declared in the Bill of entry filed with the Customs:

Sl. No.	Particulars of Commodity	Unit	Rate for Import / Export (in ₹)	
			Foreign Cargo	Coastal Cargo
1.	Coal (except thermal coal)	MT	48.00	28.80
2.	Thermal coal	MT	48.00	48.00
3.	Metallurgical Coke / Coke / Charcoal	MT	71.00	42.60
4.	Limestone	MT	16.00	9.60
5.	Iron Ore Pellets	MT	48.00	48.00
6.	Metal products, Steel Coils, Slabs	MT	48.00	33.60
7.	Any other bulk cargo not specified above	MT	48.00	33.60

Before classifying any cargo under "unspecified" category under the wharfage schedule, the relevant custom classification should be referred to find out whether the cargo could be classified under any of the specified categories mentioned in the wharfage schedule.

SECTION – B

CARGO HANDLING CHARGES

Cargo Handling Charges at Berth numbers 5A and 6A shall be payable on the manifested cargo directly to SWPL by importer or exporter of cargo at the rates specified below:

At Berth No.5A

Sl. No.	Particulars of Commodity	Unit	Rate for Import / Export (in ₹)	
			Foreign Cargo	Coastal Cargo
1.	Iron Ore Pellets	MT	252.00	252.00
2.	Metal products, Steel Coils, Slabs	MT	252.00	151.20
3.	Any other bulk cargo not specified above	MT	241.00	144.00

At Berth No.6A

Sl. No.	Particulars of Commodity	Unit	Rate for Import / Export (in ₹)	
			Foreign Cargo	Coastal Cargo
1.	Coal (except thermal coal)	MT	160.00	96.00
2.	Thermal coal	MT	160.00	160.00
3.	Metallurgical Coke / Coke (all types) / Charcoal	MT	227.00	136.20
4.	Limestone	MT	210.00	126.00
5.	Iron Ore Pellets	MT	252.00	252.00
6.	Metal products, Steel Coils, Slabs	MT	252.00	151.00
7.	Any other bulk cargo not specified above	MT	238.00	143.00

Notes:

(1). At the berth number 5A, Cargo Handling Charges shall cover the following services:
- Unloading of cargo from ship to the berth or vice versa,
- Movement of cargo from the berth to SWPL stackyard or vice versa,
- Movement within the SWPL stackyard,
- Unloading from railway wagons or vice versa.

(2). At the berth number 6A Cargo Handling Charges shall cover the following services:
- Unloading of cargo from ship to the berth or vice versa,
- Movement of cargo from the berth to SWPL stackyard or vice versa,
- Movement within the SWPL stackyard,
- Loading on railway wagons for rail delivery or vice versa.

(3). Covering of Wagons by tarpaulin / plastic cover is not included in above handling charges prescribed in the schedule.

(4). The dunnaging and lashing (inclusive suitable labour & material) will have to be arranged by the users at their costs to the satisfaction of the Master of the vessel.

(5). 50% of the Cargo Handling Charges shall be payable before the cargo is received for handling. Balance 50% of the Cargo Handling charges shall be payable before the clearance / shipment of the cargo.

SECTION – C

GROUND RENT / STORAGE CHARGES

The storage charges for cargo stored in the stackyard of SWPL shall be as follows:

I. Ground rent / storage charge for import / inward cargo

(in ₹ per MT per day for the balance cargo in SWPL)

Sl. No.	Particulars of Commodity	Rate for first Five days remaining after the free period	Rate for Sixth day to Tenth day	Rate for Eleventh day to Twentieth day	Rate for Twenty-first day onwards
1.	Coal (all types)	12.00	31.00	62.00	124.00
2.	Metallurgical Coke / Coke (all types) / Charcoal	19.00	50.00	93.00	186.00
3.	Limestone	12.00	31.00	62.00	124.00
4.	Any Other dry bulk cargo not specified above	19.00	40.00	93.00	186.00

Notes:

(1). *SEVEN Free Days* shall be allowed, after complete discharge of vessel's cargo or when the last package is discharged. For the purpose of calculation of free period, Sundays, Customs notified holidays and Terminal's non- working days shall be excluded.

(2). *Ground rent / storage charges* shall be payable for all days including Sundays and Customs notified holidays for stay of cargo beyond the prescribed free days.

(3). After 21 days beyond Free Days, the balance cargo shall be liable to be shifted to other place out of SWPL area at the sole cost and consequences to the importer / exporter.

(4). For levy of ground rent / storage 'Day' shall be reckoned as from 7.00 a.m. to 7.00 a.m. of the following day.

II. Ground rent / Storage charges for Export / Outward cargo

(in ₹ per MT per day for the balance cargo in SWPL)

Sl. No.	Particulars of Commodity	Rate for first Five days remaining after the Free Period	Rate for Sixth day to Tenth day	Rate for Eleventh day to Twentieth day	Rate for Twenty-first day onwards
1.	Iron Pellets	12.00	31.00	62.00	124.00
2.	Metal products, Steel Coils, Slabs and other general bulk cargo	6.00	12.00	31.00	62.00

Notes:

(1). In case of export cargo, Seven Free Days shall be allowed from the day the first lot of cargo / consignment has been received. For the purpose of calculation of free period Sundays, Customs notified holidays and Terminal's non-working days will be excluded.

(2). After the prescribed free days, ground rent / storage charges shall be payable for all days including Sundays and Customs notified holidays as stated above.

(3). After 21st day beyond free days, the balance cargo shall be liable to be shifted to other place out of SWPL area at the sole cost and consequences to the exporter.

(4). For levy of ground rent / storage 'Day' shall be reckoned as from 7.00 a.m. to 7.00 a.m. of the following day.

(5). If the entire cargo accumulated is not within the free period and the balance cargo is earmarked / linked to the next ship, further free period will be allowed from the date of production of documentation in support of this claim. Otherwise, penal ground rent at the appropriate rate applicable as per the rates prescribed in the above schedule shall be payable.

General Note to Section C:

(1). Storage charges / ground rent on cargo shall not accrue for the period when the SWPL is not in a position to deliver / ship the cargo when requested by the user due to reasons attributable to SWPL.

SECTION – D

DUST SUPPRESSION CHARGES

The Dust Suppression Charges for water sprayed for suppression of dust for effective pollution control shall be levied on manifested quantity on Coal, Coke and Limestone at the following rates:

For Coal, Limestone and Coke: ₹3.40 per MT

This shall be levied from the stage of unloading from the vessel till the cargo is loaded onto railway wagons including storage at SWPL stackyard.

Part- III

OTHER SERVICES

1. VISITOR ENTRY PASS

		Yearly	Monthly	Daily
(a).	Per Application	₹255.60	₹63.90	₹25.56
(b).	Per Replacement	₹63.90	₹63.90	₹25.56

2. VEHICLE ENTRY PASS

Per Entry ₹95.85

Note: The vehicle entry fee will not be levied on vehicles entering / leaving the SWPL berths for delivery / dispatch of cargo.

3. PHOTOGRAPHY

(a).	Film Shooting and Photography	₹10863.00 per day
(b).	Taking Photographs of Goods handled	₹639.00 per day
(c).	Taking Photographs of Crews and Others	₹319.50 per day
(d).	Videography (related to operational activities)	₹3195.00 per day

4. CRANE HIRE CHARGES

The hire charges for the SWPL's cranes installed at berth nos.5A and 6A shall be payable directly to SWPL for use for the purposes other than for cargo handling as per following rates:

(a).	For 110/42 MT capacity mobile harbour cranes	₹31950.00 per hour
(b).	For others cranes	₹19170.00 per hour

- - - - -

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/38/2019-SWPL - Proposal received from the South West Port Limited (SWPL) for revision of its Scale of Rates for Berth 5A and 6A in the Mormugao Port Trust.

A summary of the comments received from the users/ user organizations and reply furnished by South West Port Limited (SWPL) thereon is tabulated below:

Sl. No.	Comments of the users / user organisations	Reply furnished by SWPL
1.	**Goa Chamber of Commerce and Industry (GCCI)**	
(i).	We request that the rates as approved / modified by TAMP should be effective 30 days from the date of notification by TAMP as per the prevailing TAMP guidelines.	Though the proposal is prepared considering revenue and expense from 1 April 2019 we are agreeable to accept that the tariff may be applicable from the date of notification by TAMP.
(ii).	The rates cannot be applied retrospectively as it would not be possible for various agencies involved to recover the same from their Principal (on whose behalf these agencies pay the berth hire) as the disbursement account are closed soon after the vessel sails. Even for direct receivers, it would not be possible to bear supplementary expenses once the bills that have been raised and settled.	
2.	**Hiralal & Co (H&C)**	
	The Hiralal & Co has reiterated the comments furnished by GCCI comments at point nos.1 (i) to (ii) above and hence not reiterate.	

2. A summary of comments received from MOPT and comments of the SWPL thereon are juxtaposed below:

Sl. No.	Comments of the Mormugao Port Trust (MOPT)	Reply furnished by SWPL
1.	SWPL is requested to furnish following information:	
(i).	Direct expenditure under cargo handling activity and vessel related activity.	Under Tariff Guideline 2019, there is no provision for activity wise costing. Only annual revenue requirement needs to be ascertained.
(ii).	Basis of allocation of expenditure for cargo handling activity and vessel related activity.	
(iii).	Activity wise net surplus	
2.	SWPL is requested to confirm whether royalty would be paid to the Port on revenue generated from the new tariff category under section D- supply of water to vessels and miscellaneous services.	Revenue share would be done based on License Agreement.
3.	It is informed that the Actual traffic handled and Actual vessels traffic details in the Form - 4 does	For tariff proposal, cargo traffic considered is based on actual cargo handled whereas the

<table>
<tr>
<td></td>
<td>not confirm with the port’s records as shown below:
<table>
<tr><th>Sl. No.</th><th>Description</th><th>2016-17</th><th>2017-18</th><th>2018-19</th><th>Total</th><th>Average</th></tr>
<tr><td>1.</td><td colspan="6">Total Actual Traffic handled (in MT/TEUs)</td></tr>
<tr><td></td><td>SWPL data</td><td>1,17,47,065</td><td>1,06,05,899</td><td>52,48,022</td><td>2,76,00,986</td><td>92,00,329</td></tr>
<tr><td></td><td>MOPT data</td><td>1,17,66,389</td><td>1,06,26,971</td><td>52,53,464</td><td>2,76,46,824</td><td>92,15,608</td></tr>
<tr><td>2.</td><td colspan="6">Actual Vessels Traffic – Number of vessels Handled</td></tr>
<tr><td></td><td>SWPL data</td><td>190</td><td>162</td><td>107</td><td>456</td><td>152</td></tr>
<tr><td></td><td>MOPT data</td><td>193</td><td>157</td><td>107</td><td>457</td><td>152.33</td></tr>
<tr><td>3.</td><td colspan="6">Actual Vessels Traffic- Total Gross Registered Tonnage</td></tr>
<tr><td></td><td>SWPL data</td><td>84,57,161</td><td>81,62,571</td><td>41,74,285</td><td>2,07,94,017</td><td>69,31,339</td></tr>
<tr><td></td><td>MOPT data</td><td>84,83,082</td><td>81,17,165</td><td>41,55,956</td><td>2,07,56,203</td><td>69,18,734</td></tr>
</table>
As per the clause 2.10 of the Tariff Guidelines 2019, “For drawing the SOR, the traffic to be considered would be the average of the actual traffic handled by the BOT operators during years Y1, Y2 and Y3. The actual traffic should be duly verified by the concerned Major Port Trust within 10 days”. However, the Actual traffic handled for 2016-17, 2017-18 and 2018-19, considered in Form 4 has been sent to MOPT for certification.</td>
<td>Port Trust is considering based on documents filed with the Custom Officials. The difference is very minor and no bearing on the tariff proposal.</td>
</tr>
<tr>
<td>4.</td>
<td>Any increase in rates should be allowed only in PPP’s Cargo Handling Activity, as the vessel related Activity is estimated to be in huge surplus and also no royalty is shared with the port in respect of the berth hire charges. Any increase in Vessel related Activity charges shall result in windfall gains for M/s. SWPL under Vessel related Activity.</td>
<td>Tariff Guideline does not consider activity wise costing and hence it only considers return on total investment and not on activity wise investment and return. Therefore, for simplicity tariff on all the activity are proposed at the same rate.</td>
</tr>
<tr>
<td>5.</td>
<td>It was observed that under -2 General Terms and conditions of the proposed SOR, Clause (v) (a) states that – The Cargo related charges for all coastal cargo should not exceed 50% of the normal cargo / container related charges. This is deviation to the Working Guidelines, Clause 8.3 of II. Technical – “It is prescribed that the cargo / container related charges for all coastal cargo / containers other than thermal coal and POL including crude oil, iron ore and iron ore pellets should not exceed 60% of the normal cargo / container related charges.” The same should form part of the SOR.</td>
<td>SOR would be modified as per the norms of the Tariff Guideline whereas 60% discount on tariff given to eligible cargo only.</td>
</tr>
<tr>
<td>6.</td>
<td>It is proposed that the Thermal coal / Steam coal should be shown as separate commodity under Part II – Cargo Related Charges section A, B & C. In compliance to Clause 8.3 of II, Technical of the Working Guidelines, the Cargo related charges of Coastal cargo under Section A, B & C in respect of Thermal coal / Steam coal and Iron ore pellets will be equivalent to Foreign cargo charges.</td>
<td>SOR would be modified to show thermal coal/ steam coal separately.</td>
</tr>
<tr>
<td>7.</td>
<td>As per the Clause 2 (viii) (b) of the proposed SOR, the rate of Penal interest proposed is 14% p.a. whereas the penal interest rate prescribed under Clause 5.4.1 in the Tariff Guidelines, 2019 is 15% p.a. The reasons for charging lower penal interest rate may be furnished.</td>
<td>Penal interest may be revised to 15% as per the norms.</td>
</tr>
<tr>
<td>8.</td>
<td>The following note shall be incorporated under the schedule for wharfage charges at Berth nos.5A and 6A (Part-II Cargo Related Charges - Section-A):
“Before classifying any cargo under “Unspecified” category under the wharfage schedule, the</td>
<td>Modified SOR will include clause related with unspecified cargo related with schedule of wharfage charges.</td>
</tr>
</table>

	relevant custom classification should be referred to find our whether the cargo could be classified under any of the specified categories mentioned in the wharfage schedule".	

3. A joint hearing in this case was held on 27 September 2019 at the MOPT premises. The SWPL made a brief Power Point presentation of its proposal. A copy of Hard copy of the Power Point presentation is given by the SWPL. At the joint hearing, the MOPT, SWPL and the concerned users / user organizations have made the following submissions:

South West Port Limited (SWPL)

(i). The actual cargo handled was 11.76 MMT, 10.62 MMT, and 5.25 MMT for the last 3 years 2016-17 to 2018-19 respectively. Due to restriction imposed by Goa Pollution Control Board (GPCB) on coal handling through MOPT, our traffic has drastically dropped from 2016-17 to 2018-19. Our contribution has come down from ₹5,954 lakhs in 2016-17 to ₹250 lakhs in 2018-19.

(ii). Depreciation reported in the accounts under IND AS is high. But, as per the new Tariff Guidelines 2019 we have to take depreciation as per IGAAP. So, we have done the requisite adjustment in the ARR computation.

(iii). Revenue share is considered to the extent of second quote at 13.1% as per the policy of the Government.

(iv). For the working capital computation, we have taken inventory at 50% consumption, Sundry debtors as per actual receivable plus advance payment of royalty and cash expense at 1 month of previous year's expense.

(v). Capital employed is estimated as per the new Tariff Guidelines, of 2019 based on Gross block, capital work-in-progress and working capital. ROCE is estimated at 16%.

(vi). ARR estimated is indexed by 3.45% and indexed ARR is arrived at ₹292.18 crores.

(vii). We have proposed across the board 23% increase to meet the estimated ARR. We have not differentiated between berthing activity, cargo handling activity and storage activity.

(viii). As regards the point made by the MOPT seeking details of allocation of expenses between the berth and cargo related activities, we state that the new guidelines do not require activity wise allocation of expenses. The ARR and proposed tariff is based on total allowable expenses.

(ix). As regards Revenue share on income from water supply sought by MOPT, the SWPL is governed by the License Agreement entered with the port.

(x). As per the License Agreement, there is no revenue share payable by the SWPL on berth hire revenue. If we increase only cargo handling charges as sought by the MOPT, the increase required to meet estimated ARR works out 32% which is very high.

(xi). We already have restriction placed by GPCB on quantum of coal handling. If we increase the cargo handling charges further, cargo will shift to neighboring ports.

(xii). As regards slight difference in traffic figures given by MOPT vis-à-vis our traffic, it is because we consider quantity as per Bill of Lading. In any case, impact of difference is miniscule and does not impact the current tariff revision.

(xiii). Existing Scale of Rates states coal excluding thermal coal. We have made coal as common category. If we increase rate for thermal coal, the cargo will go. We handle very less thermal coal.

(xiv). Rate of penal interest @ 14% is proposed. We agree with 15% penal interest prescribed in the guidelines.

(xv). We agree for increase with prospective effect.

(xvi). We have limited storage yard. We mainly have two customers. Our 100% cargo moves by rail. We do not handle cargo by road.

(xvii). We are pursuing with State Government and Ministry of Environment to remove the restriction by GPCB.

Mormugao Port Trust (MOPT)

(i). We have two limitation at our port. One is restriction on coal handling imposed by the GPCB and the other is the Railway line.

(ii). The SWPL has capacity to handle 10 to 12 MMTA per annum but is restricted to handle 4.8 MMTA at each terminals of SWPL and Adani Coal Terminal Limited due to restriction placed by GPCB to handle 4 lakh tonnes per month.

(iii). We have not paid revised salary for the last 3 years due to financial crunch in the port arising due to reduction on cargo volume of the port and the terminal operators due to the said restriction.

(iv). Goa city is ranked 11th in India as regards pollution. The terminal is clean.

(v). Additional railway line can improve further evacuation and add on to the volume.

(vi). With reference to the SWPL proposal, we have only two issues.

(vii). First - Thermal coal and iron ore pellets are not eligible for coastal concession in the cargo handling rate. The existing SOR also do not prescribe concession in the handling rate for thermal coal and iron ore as per the Govt's Policy. The SWPL, however, in its proposal has proposed concessional rate for these two cargo which is not as per the coastal concession policy of the Government.

[SWPL: We are ok with coastal concession Policy. Very little thermal coal is handled here. Our request is to keep the tariff schedule simple.]

(viii). We agree that the new Tariff Guidelines, 2019 gives flexibility to operator to fix rate within ARR. However, the operating expense of SWPL for vessel is 5.42% and for cargo it is 78%. Vessel related activity is in huge surplus. We do not mind if SWPL propose 48% increase in cargo. It is ₹258 per ton at Adani. Even if SWPL increases, it will not go to that extent.

[SWPL: If steep increase in cargo handling rate is proposed, the cargo will go to neighboring ports.]

(ix). The License Agreement entered with the SWPL stipulate revenue share is only on cargo handling and not on berth hire. In the Adani Coal Terminal Limited at MOPT, as per License Agreement, we earn revenue share on both vessel and cargo related revenue of the operator.

(x). The berth hire charge in neighboring terminal operated by Adani Coal Terminal Limited at MOPT is less compared to SWPL.

(xi). Since the beginning the berth hire income has been higher in SWPL. We object to increase proposed for berth hire.

[MOPT: Cargo is not going to go, as most of the SWPL cargo is captive cargo].

(xii). No increase be proposed in berth hire or consider reasonable increase of say 5% in berth hire. If VRC is not increased Lines will be happy. SWPL may recover the remaining ARR by proposing increase in cargo related charges.

South West Port Limited (SWPL)

(i). If we increase cargo handling from 23% to furthermore, it will have to be borne by cargo interests i.e. importers. Importer will get hit. Shipping contracts are entered for longer duration. The cargo may go to Krishnapatnam who is our competitor.

[SWPL:We will, however, go back and look into the matter.]

M/s.Hiralal & Co.

(i). We are agreeable to proposal of SWPL. We have no objection.

(ii). Efficiency of SWPL is very high. We have no problem for increase proposed in VRC.

4. Subsequently, the MOPT furnished additional comments vide its email dated 10 October 2019 which were forwarded to SWPL vide our letter dated 10 October 2019 as feedback information. The SWPL has, however, not responded. A summary of the additional comments of MOPT is given below:

(i). The concession agreement with M/s. South West Port Limited (SWPL) was governed by the 2005 Tariff Guidelines. In the said agreement, SWPL has to pay 18% royalty on cargo handling and storage charges. However, no revenue share is payable for berth hire charges. Subsequently, the PPP agreement signed with M/s. Adani Mormugao Port Terminal Limited (AMPTL) governed under the 2008 Tariff Guidelines and based on the Model Concession Agreement (MCA) stipulates payment of royalty on cargo handling and storage charges as well as berth hire charges at 20%.

(ii). As there is a migration from the 2005 Tariff Guidelines to the 2019 Tariff Guidelines wherein the charges are fixed in such a manner so as to recover the Annual Revenue Requirement (ARR) which in turn is based on the average of the last three years expenditure, after accounting for the relevant adjustments, there is a total flexibility in recovering the ARR from any service.

(iii). MOPT had requested for activity wise surplus in the above referred letter, which has not yet been furnished. In the joint hearing conducted by TAMP, it was stated by the officials of the SWPL that the furnishing of the activity wise surplus is not required as per the 2019 Tariff Guidelines.

(iv). It is informed that as per the actual figures for 2016 furnished by SWPL during their previous rate revision proposal, the operating ratio for cargo handling and vessel related activity were 78.39% and 5.42% respectively and the net surplus as percentage of operating income was 15.45% for cargo handling activity and 76.94% for vessel related activity. This has resulted in SWPL earning an operating surplus of ₹28.03 crores on an operating income ₹138.72 crores for the cargo related activity as against an operating surplus of ₹93.17 crores on an operating income of ₹102.81 crores for the vessel related activity on which no revenue is shared with the port. Hence, proposing a uniform 23% increase in both cargo related and vessel related activity will result in huge windfall gains for SWPL and denying the port its rightful revenue share.

(v). The port has no objection in increasing rates in any activity as long as there is revenue share to the port in line with the spirit of PPP argument including recovering the ARR through increase in cargo related charges without any increase in the vessel related charges.

(vi). Any increase in vessel related charges will tantamount to taking shelter of 2019 Tariff Guidelines to deny the port its rightful revenue share while reaping huge windfall gains for SWPL.

(vii). Hence, the port would like to place on record its very strong objection to any increase in vessel related charges while agreeing to increase the cargo related charges by any percentage for recovery of the ARR.

*****