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## Tariff Authority for Major Ports

**G.No. 468** **New Delhi,** **05 November 2020**

## NOTIFICATION

In exercise of the powers conferred under Section 48 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal received from International Seaports (Haldia) Pvt. Limited (ISHPL) for general revision of its Scale of Rates (SOR) under Tariff Guidelines, 2019. Considering the time involved for notifying the (Speaking) Order along with the Scale of Rates approved by this Authority, this Authority decided to notify only the revised Scale of Rates immediately. Accordingly, the Scale of Rates approved by this Authority on 08 September 2020 was notified in the Gazette of India on 06 October 2020 vide Gazette No.414. It was stated in the said Notification that this Authority will notify the Speaking Order, in due course of time. Accordingly, this Authority hereby notifies the Speaking Order disposing of the proposal of the ISHPL for general revision of its Scale of Rates as in the Order appended hereto.

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

# Tariff Authority for Major Ports

**Case No. TAMP/07/2020-ISHPL**

**International Seaports (Haldia) Pvt. Limited …** **Applicant**

**QUORUM**

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

## O R D E R

(Passed on this 08th day of September 2020)

This case relates to a proposal received from International Seaports (Haldia) Pvt. Limited (ISHPL) for general revision of its Scale of Rates (SOR).

2. The existing Scale of Rates (SOR) of the ISHPL was last revised by this Authority vide Order no. TAMP/13/2017-ISHPL dated 15 September 2017 with a tariff validity upto 31 March 2019. This Order was notified in the Gazette of India on 12 October 2017 vide Gazette No. 397.

3.1. The MOS, in exercise of powers conferred on it by Section 111 of the Major Port Trusts Act, 1963, has vide its letter No.PR-14019/20/2009- PG (Pt-IV) dated 5 March 2019 issued Tariff Guidelines, 2019, for BOT operators who were previously governed by 2005 Tariff Guidelines. The Tariff Guidelines, 2019, has been notified in the Gazette of India on 7 March 2019 vide Gazette No.92. The Tariff Guidelines, 2019 has come into effect from 7 March 2019. The said Tariff Guidelines 2019 was forwarded to all the BOT operators who are previously governed under Tariff Guidelines, 2005 including ISHPL vide our letter TAMP/61/2018-Misc dated 08 March 2019.

3.2. Thereafter, as per Clause 1.7 of the Tariff Guidelines, 2019, Working Guidelines to operationalize the Tariff Guidelines, 2019, has been notified in the Gazette of India on 11 July 2019, vide Gazette No.244. A communication with regard to notification in the Gazette of India was sent to all BOT operators who were previously governed under Tariff Guidelines, 2005 including ISHPL vide our letter No TAMP/61/2018-Misc. 15 July 2019.

3.3. Given that the tariff validity of the ISHPL was over on 31 March 2019, and since the ISHPL had not submitted any proposal for review of its tariff, the ISHPL was reminded vide letter no. TAMP/13/2017-ISHPL dated 20 August 2019 to file its proposal for general Revision of its Scale of Rates, following Tariff Guidelines, 2019, read with the Working Guidelines issued to operationalize the Tariff Guidelines, 2019, immediately.

3.4. Subsequently, ISHPL was again reminded to file its proposal vide our letter no. TAMP/13/2017-ISHPL dated 1 January 2020. Vide the said letter the ISHPL was also informed that levy of the rates fixed vide the Order dated 15 September 2017 for the period beyond 31 March 2019, without the specific approval of this Authority, would be at the risk and responsibility of ISHPL.

3.5. In response to letter dated 1 January 2020, the ISHPL vide its email dated 2 January 2020 stated that they are in process of finalization of the proposal of General Revision of SOR and that it will take some extra time to understand and finalize the proposal based on new Guidelines.

4.1. In this backdrop, the ISHPL vide its letter no. ISHPL/Kol/2019-20 dated 15 January 2020 has filed its proposal for general revision of its scale of rates under Tariff Guidelines, 2019.

4.2. The main points as seen from the proposal filed by the ISHPL vide its letter dated 15 January 2020 are summarized below:

(i). The proposal is based on the Tariff Guidelines, 2019 and Working Guidelines, 2019, for fixation of tariff with the validity period of three years.

(ii). The ISHPL has updated the Forms based on the actual results for the years 2016-17, 2017-18 and 2018-19. Based on the average of actual volume handled during the last

3 years, the Annual Revenue Requirement (ARR) has been estimated for the current year and next financial years.

(iii). The Indexed ARR is calculated after considering the applicable inflation factor of 4.26% for the year 2019 as per TAMP Circular.

(iv). The capital expenditure to be incurred by ISHPL during next financial year has not been taken into account, in line with Tariff Guidelines, 2019.

(v). Considering the past performance, no coastal cargo has been assumed during the current/ next financial year. However, Coastal movement cannot be denied in near future, which is always having a bearing on ARR due to various government policies to promote coastal movements.

(vi). Royalty has been considered as per license agreement based on the SOR prevailing at HDC.

(vii). In Working Capital computation,

(a). Dues less than 30 days has been considered as Sundry Debtors from SAIL and from KOPT, HDC for parking and double banking charges.

(b). ₹. 121.33 lakh paid to KOPT, HDC as security Deposit for leased land at Haldia for providing port related services to port users has been considered. Further, ₹1000 lakh as advance against Royalty payable to KOPT, since this amount was encashed by KOPT earlier, has also been considered.

(c). ISHPL receives only 30% as advance after discharging full vessel and the balance payment is received after the material is fully dispatched and invoice is raised. In view of above, conservatively the outstanding debtors have been considered by ISHPL. There is delay in getting the Debtors liquidated in time primarily due to the difficult time to the Steel sector. This position may be considered.

(d). Inventories have been taken based on the actual consumption for the past few years.

(e). Cash and other debtors has been considered based on the newly notified Tariff Guidelines, 2019.

(viii). During the initial fixation of tariff, the preliminary expenses of ₹. 22 lakhs was earmarked for amortization over remaining license period and accordingly, ₹0.76 lakhs was considered as annual amortization amount. This amount of ₹0.76 lakhs per annum towards amortization of preliminary expenses has been considered to calculate the Total expenditure for the years 2016-17 to 2018-19 vis-à-vis ARR.

(ix). In line with the Tariff Guidelines, 2019, the insurance premium pertaining to loss of profit policy paid to the Oriental Insurance Co. Ltd, has not been taken into account, while calculating the ARR.

(x). From Form-1, it can be seen that on the basis of the existing tariff the terminal will be in a deficit even after adjustment made as per TAMP guidelines. Even with the proposed increase, the estimated Revenue of the Company is within the figure of “Adjusted Ceiling Indexed ARR” warranting the minimum increase that the company has sought from TAMP.

4.3. The ISHPL has furnished detailed computation of Annual Revenue Requirement (ARR) under Form-1. A summary position of ARR computation furnished by ISHPL is tabulated below:

| 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) | 7072.37 | 7966.56 | 8429.27 |
| (ii). | Finance and Miscellaneous expenses (FME) | 4.47 | 36.49 | 2.69 |
| | **Total Expenditure 1=(i)+(ii)** | **7076.84** | **8003.05** | **8431.96** |
| **(2).** | **Adjustments in respect of items where there is variation in figures reported as per INDAS (as per Audited Accounts) and IGAAP** | | | |
| (i). | Depreciation | 0 | 0 | 0 |
| (ii). | Preliminary Expenses | 0.76 | 0.76 | 0.76 |
| (iii). | Other expenditure items, if any to be listed | 0 | 0 | 0 |
| | **Total of Adjustments 2=(i)+(ii)+ (iii)** | **0.76** | **0.76** | **0.76** |
| **(3).** | **Less Adjustments:** | | | |
| (i). | Actual Royalty / Revenue share paid to the port | 1841.75 | 2669.81 | 2974.77 |
| (ii). | Interest on loans | 1.98 | 1.07 | 0.12 |
| (iii). | Insurance Premium on loss of Profit Policy | 2.42 | 2.19 | 2.31 |
| (iv). | Provision for bad and doubtful debts | 0 | 0 | 0 |
| (v). | Provision for slow moving inventory | 0 | 0 | 0 |
| (vi) | Other provisions, if any | 0 | 0 | 0 |
| | **Total of 3 = [3(i)+3(ii)+3(iii)+3(iv)+3(v)+3(vi)]** | **1846.15** | **2673.07** | **2977.20** |
| **(4).** | **Add: Admissible Royalty/ Revenue Share as per Clause 2.2. of the Tariff Guidelines, 2019** | **1682.07** | **2438.34** | **2716.86** |
| **(5).** | **Total Expenditure after Total Adjustments (5 = 1+2+4-3)** | **6913.52** | **7769.08** | **8172.38** |
| **(6).** | **Average Expenses of Sl. No.5 = [ Y1 + Y2 + Y3 ] / 3** | **7618.33** | | |
| **(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) | 13813.58 | | |
| | (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) | | | |
| | (iii). Add: Working Capital as per norms prescribed in clause 2.6 of the Tariff Guidelines, 2019 | | | |
| | (a). Inventory | 279.06 | | |
| | (b). Sundry Debtors | 1680.89 | | |
| | (c). Cash | 679.17 | | |
| | (d).Sum of (a)+(b)+(c) | 2639.12 | | |
| | **(iv). Total Capital Employed [(i)+(ii)-(iii)]** | **16452.70** | | |
| **(8).** | **Return on Capital Employed 16% on Sl. No.7(iv)** | **2632.43** | | |
| **(9).** | **Annual Revenue Requirement (ARR) as on 31 March 2019 as applicable [(6)+ (8)]** | **10250.76** | | |
| **(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)** | **10687.44** | | |
| **(11).** | **Ceiling Indexed Annual Revenue Requirement (ARR)** | **10687.44** | | |
| | **50% of the remaining additional Surplus / Deficit to be adjusted in Celling Indexed ARR estimated as in Sr. no. 9 of From 8** | **(266.06)** | | |
| | **Adjusted Ceiling Indexed ARR** | **10953.51** | | |

| Sl. No. | Description | Y1- 2016-17 | Y2- 2017-18 | Y3- 2018-19 |
|---|---|---|---|---|
| **(12).** | **Revenue Estimation at the Proposed indexed SOR within the Ceiling indexed ARR estimated at Sl. No.11 above** | **10950.31** | | |

4.4. The ISHPL has furnished in Form 4, the 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 2016-17, 2017-18 and 2018-19. As per the said form, the total revenue estimated at the proposed level of tariff is ₹ 10950.31 lakhs.

4.5. The ISHPL has furnished a copy each of the Audited Annual Accounts for the years 2016-17, 2017-18 and 2018-19.

4.6. ISHPL has sought increase of about 18% in cargo related charges viz. Supply of Manpower and Mobile equipment, Shore Handling Charges and delivery charges, 17% increase in Wharfage charges and Status Quo is proposed to be maintained in berth charges and miscellaneous charges including Ground rent/ storage charges. The ISHPL is also seen to have introduced a new section in the proposed SOR with regard to prescription of shore handling charges for various types of cargo. This section is reported to have been prescribed by ISHPL, to bring similarity with Licensor port SOR. A comparative statement showing percentage increase/ decrease and status quo sought by ISHPL is as follows:

| Sl. No. | Description | Unit of levy | Reference to the schedule and Sl. No. in existing/ Proposed SOR | Existing tariff | Proposed Tariff | % increase over the existing tariff |
|---|---|---|---|---|---|---|
| **(1)** | **(2)** | **(3)** | **(4)** | **(5)** | **(6)** | **(7) = [(6) – (5)] / (5) x 100** |
| A. | **Tariff Items** | | | | | |
| (i) | **VESSEL REALTED CHARGES** | | | | | |
| | Berth Hire Charges (USD) | GRT | PART - II, Section 3, Clause 2.2 | 0.0030 | 0.0030 | 0.00% |
| (ii) | **CARGO RELATED CHARGES** | | | | | |
| (a) | Supply of Manpower and Mobile Equipment | Metric Tonne | PART - III, Section A, Clause 3.1 | 11.70 | 13.81 | 18.03% |
| (b) | Wharfage Charges | Metric Tonne | PART - III, Section B, Clause 3.2 | 102.50 | 119.93 | 17.00% |
| (c ) | Shore Handling Charges | Metric Tonne | PART - III, Section C, Clause 3.3 | 119.65 | 141.19 | 18.00% |
| (d) | Delivery Charges | Metric Tonne | PART - III, Section D, Clause 3.4 | 39.85 | 47.02 | 17.99% |
| (e) | Ground Rent / Storage Charges | Metric Tonne | PART - III, Section E, Clause 3.6 | 50.00 | 50.00 | 0.00% |
| (iii) | **MISCELLANEOUS (OPTIONAL SERVICES)** | | | | | |

| Sl. No. | Description | Unit of levy | Reference to the schedule and Sl. No. in existing/ Proposed SOR | Existing tariff | Proposed Tariff | % increase over the existing tariff |
|---|---|---|---|---|---|---|
| **(1)** | **(2)** | **(3)** | **(4)** | **(5)** | **(6)** | **(7) = [(6) – (5)] / (5) x 100** |
| (a) | Weighment charges for in-motion weigh bridge empty and loaded including weighment certificate | Metric Tonne | PART - III, Section F, Sr. No. (i) | 5.50 | 5.50 | 0.00% |
| (b) | Loading, unloading & restacking of cargo | Metric Tonne | PART - III, Section F, Sr. No. (ii) | 22.00 | 22.00 | 0.00% |
| (c ) | Taking Photograph of loaded wagons converting into CD and supplying 2 CDs wagon wise / rake wise. | Per Wagon | PART - III, Section F, Sr. No. (iii) | 120.00 | 120.00 | 0.00% |
| (d) | Siding Charges | Metric Tonne | PART - III, Section F, Sr. No. (iv) | 6.00 | 6.00 | 0.00% |
| (e) | Retrieving cargo which spills over in transit to the conveyor system/stack yard to minimize loss | Metric Tonne | PART - III, Section F, Sr. No. (v) | 5.50 | 5.50 | 0.00% |
| (f) | Charges for On-line Sampling for Moisture analysis of Receipt and Despatch Cargo | Metric Tonne | PART - III, Section F, Sr. No. (vi) | 5.50 | 5.50 | 0.00% |
| (g) | Despatch related services for rail bound cargo through Berth No. 4A, including trimming, cleaning, labeling & lime spraying | Metric Tonne | PART - III, Section F, Sr. No. (vii) | 12.00 | 12.00 | 0.00% |
| (h) | Quarterly Survey of Stock by approved surveyor | Metric Tonne | PART - III, Section F, Sr. No. (viii) | 3.60 | 3.60 | 0.00% |

5. In accordance with the consultative procedure prescribed, a copy of the ISHPL proposal dated 15 January 2020 was forwarded to the Licensor Port Syama Prasad Mookerjee Port (SPMP) [Erstwhile Kolkata Port Trust (KOPT)] and the concerned users/ user organizations vide letters dated 3 February 2020, seeking their comments. None of the users/ user organizations have furnished their comments, till the case was finalized. The KOPT has furnished its comments, which is being brought out in the subsequent paragraph.

6.1. Based on a preliminary scrutiny of the proposal, the ISHPL was requested to furnish additional information/ clarification vide letter dated 19 February 2020 on few points. After reminders dated 16 June 2020 and 01 July 2020, the ISHPL vide its e-mail dated 27 July 2020 has furnished the additional information/ clarification. The information/ clarification sought and response furnished by ISHPL are tabulated below:

| Sr. No. | Information / clarifications sought from ISHPL | Reply furnished by ISHPL |
|---|---|---|
| **(i).** | **General** | |
| | The ISHPL to execute a Separate Agreement with the Licensor port, Kolkata Port Trust (KOPT) as stipulated at Clause 1.9 of the Tariff Guidelines, 2019 and to forward a copy of the said Agreement duly signed by ISHPL and KOPT. | The draft separate agreement has been sent to HDC KOPT (Licensor) for vetting. Once the agreement is vetted by the licensor, the same will be signed by ISHPL and KOPT and sent to TAMP. |

| | | |
|---|---|---|
| **(ii).** | **<u>Annual Revenue Requirement (ARR) Computation (Form - 1)</u>** | |
| (a) | The audited Annual Accounts of ISHPL for each of the years 2016-17 to 2018-19 reflect Finance Cost towards 'Other Borrowing Costs' under the head of Finance Costs. The said expenditure has not been excluded by ISHPL from the total expenditure in Form – 1. The ISHPL to exclude said expenditure from the total expenditure for computation of ARR. | Instruction complied with and revised expenditure has been shown in Form 1 after excluding the borrowing cost. |
| (b) | The ISHPL to clarify whether the amortization considered in the ARR is exclusive of the amortized preliminary expenses of ₹0.76 lakhs considered by ISHPL in the ARR. | During the initial fixation of tariff, the preliminary expenses of ₹22 lakhs was earmarked for amortization over the remaining license period by TAMP and accordingly, ₹0.76 lakhs has been considered as annual amortization amount. Apart from this amount no other amount has been considered as amortizations in the ARR submitted by ISHPL. ISHPL has considered said amount of ₹0.76 lakhs per annum towards amortization of preliminary expenses to calculate the Total expenditures for the years 2016-17 to 2018-19 vis-à-vis Annual Revenue Requirement (ARR). It is remaining amount of preliminary expenses, which is exclusive of the amortized preliminary expenditure. |
| (c) | An amount of ₹279.06 lakhs has been considered as inventory under Working Capital in Form-1. This includes ₹277.73 lakhs towards Capital spares and ₹1.33 lakhs towards other inventory excluding fuel and customized spares. The ISHPL to furnish workings in support of each of the value of inventory considered under working capital. The actual consumption of inventory and Capital spares for the year 2018-19 also to be furnished. | Total Inventory of ISHPL consists of the following as on 31.03.2019:<br><br>Capital Spares ₹453.69, Lakhs Other inventory (excluding fuel and customized spares) ₹2.68 Lakhs, Fuel, Consumable and Customized Spares ₹8.12 Lakhs aggregating to ₹464.49 Lakhs. During the Financial year 2018-19, Inventory has been consumed in following manner: Capital Spares ₹ 277.73 Lakhs, Other inventory (excluding fuel and customized spares) ₹2.66 Lakhs, Fuel, Consumable and Customized Spares ₹ 12.89 Lakhs aggregating to ₹293.27 Lakhs.<br><br>As per Tariff Guideline, 2019, ISHPL has only considered the Inventory as per actual consumption during the year 2018-19, though the Total Inventory as on 31.03.2019 is ₹464.49 Lakhs, which is much more than the actual consumption of the Inventory during the year 2018-19. |
| (d) | The ISHPL has considered an amount of ₹10 crores towards advance paid to HDC against Royalty as part of Sundry debtors. From the past tariff Orders of ISHPL, it can be seen that the KOPT had encashed the Security Deposit Bank Guarantee worth ₹10 crores due to a reported dispute between the ISHPL and the KOPT on the Royalty amount. Since the issue is between the KOPT and the ISHPL, the ISHPL to exclude the said component from the sundry debtors, as | Since, this amount was encashed by KOPT against their alleged and illegal claim of Royalty, we feel that this should be considered as Advance paid to HDC, KOPT against Royalty and accordingly should be allowed to be considered as Sundry Debtors. |

| | | |
|---|---|---|
| | the Tariff guidelines, 2019, do not provide for the same for consideration of working capital. | |
| (e) | Payment of Security Deposit by ISHPL to KOPT cannot be taken as part of sundry debtors since the payment was not made during the year 2016-17 to 2018-19. The ISHPL to exclude the said component from the sundry debtors. | Although the subject payment was not made during the years 2016-17 to 2018-19, yet we feel that this amount should be considered as sundry debtors as the same is required to be maintained as security deposit with HDC, KOPT throughout the license period. |
| (f) | 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, the advance payment of Revenue Share / royalty to the landlord port flowing from the contractual obligations and 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. However, the ISHPL has also considered an amount of ₹5.60 crores towards sundry debtors for 30 days. The ISHPL to note that the sundry debtors considered by ISHPL does not arise on account of contractual obligation with KOPT and hence, not admissible as an item of Sundry debtors. | ISHPL has considered ₹5.60 crore towards sundry debtors for 30 days as per the provision of the contract with the user of berth no. 4A. Since this is a contractual provision, TAMP may kindly consider the same as sundry debtors. |
| (g) | Accordingly, the ISHPL to rework and revise the ARR and furnish a revised Form - 1, taking into account various points, as discussed in the preceding paragraphs. | Revised Form - 1 with Revised ARR after taking into accounts the above observations of ISHPL are attached herewith. |
| **(iii).** | **<u>Revenue Estimation (Form – 4)</u>**<br>The ISHPL is seen to have not estimated any income from the charges proposed to be levied in respect of the following, as indicated in the proposed SOR: | Although ISHPL has not earned any income from the above mentioned services, yet it is desired that the charges against these items may be notified so that in future if required the said charges can be levied against the specific services. |
| (a) | Visitor Entry Pass at Section 4.1 under Part – IV – Charges for Other Services. | |
| (b) | Vehicle Entry Pass at Section 4.2 under Part – IV – Charges for Other Services. | |
| (c) | Photography at Section 4.3 under Part – IV – Charges for Other Services. | |
| (d) | The ISHPL to consider the income estimated in from the above said services and revise the Form-4 accordingly. | |
| **(iv).** | **<u>Scale of Rates</u>** | |
| (a) | In the proceedings relating to the general revision of SOR of KOPT, the KOPT had conveyed that it has given new nomenclature to all the existing & proposed berths/ jetties of Haldia Dock Complex (HDC). In this connection, the KOPT had, *interalia*, indicated that Berth no. 4A will be called Berth no. 4. In this regard, since the ISHPL has retained the mention of Berth no. 4A in its proposed SOR, the ISHPL to confirm whether it would like to continue to mention Berth | It is desired that the relevant berth under BOT Agreement may be mentioned as Berth No. 4 (old Berth no. 4A) in the revised SOR to avoid any ambiguity. |

| | | |
|---|---|---|
| | no. 4A or Berth no. 4 in its revised SOR to be approved by the Authority. | |
| (b) | In the proposed SOR, the ISHPL is seen to have deleted the prescription of berth hire charges for coastal vessels as well as the cargo related charges for coastal coking coal, though the ISHPL has not ruled out coastal movement. Therefore, proposed deletion of charges for coastal vessels/ cargo in the proposed SOR to be restored capturing its impact on Revenue Estimation. | Since no costal movement has been envisaged during the current period while estimating the revenue impact of costal movement has not been considered and accordingly no separate rate for costal vessels/cargo has been proposed by ISHPL. However the general terms and condition of the SOR has already taken care for the rates for coastal movement of vessels/ cargo. It is requested that TAMP may kindly consider the same in the revised SOR. |
| (c) | In Sl. No. (iii) under Section F – Miscellaneous (Optional Services) under Part – III, instead of existing provision of supplying 2 CDs, the ISHPL has proposed supply of 1 CD. The reason for the proposed modification to be explained. Form – 5 furnished by ISHPL does not capture the proposed change. | Since, 1 CD suffices the purpose, provision for supplying 1 CD has been proposed. However erroneously the proposed change has not been reflected in Form 5 which is regretted. Revised Form 5 incorporating the proposed change is enclosed herewith which may kindly be considered by TAMP. |
| **(v).** | **<u>Past Period Surplus:</u>**<br>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:<br><br>*"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."*<br><br>The ISHPL 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%. The Form-8 submitted by the ISHPL is relevant only for the next revision of its Scale of Rates. | Since the subject proposal for revision of SOR has been submitted as per Tariff guideline 2019 as advised by TAMP, we feel Past period adjustment as per tariff guideline 2005 is not relevant. Since, this will be the first SOR as per 2019 guidelines, the past period adjustment will be relevant for subsequent revision of SOR as per 2019 guidelines. Accordingly, it is submitted before TAMP not to consider the "past period adjustment" in the ARR submitted by ISHPL. |

6.2. While furnishing additional information/ clarifications, the ISHPL vide its letter dated 27 July 2020 has also made the following submissions:

(i). The original proposal of ISHPL was submitted to TAMP on 15 January 2020, based on the Tariff Guidelines, 2019, wherein the projections for next periods was primarily based on the mathematical average of traffic/ cargo handled during the years 2016-17 to 2018-19, which stands at 29,56,592 MT. Incidentally, the actual traffic handled during the year 2019-20 was 31.74 lakhs MT.

(ii). However, due to enforcement of 'Lockdown' throughout the country since 22 March 2020 to contain the spread of COVID-19 pandemic, the cargo volumes at Major Ports across India have substantially reduced during the 1st Quarter of current financial year.

(iii). At ISHPL's Berth no. 4A, the quantity of cargo handled during April 2020 to July 2020 was approx. 5.95 lakh MT as compared to approx. 12.02 lakh MT during the same period in the preceding financial year, which tantamount to around 50% less traffic during the 1st four months in the current fiscal.

(iv). As per the indication available, cargo to the extent of 1.5 to 1.8 lakh tonnes is likely to arrive in August 2020 and additional cargo may be programmed in September/ October 2020 depending on the revival of the market demand and improvement in the economy in general.

(v). As per the indication of WHO as well as ICMR and GOI, Covid-19 pandemic is likely to spread further and there is no indication of immediate relief against the same. Therefore, the ongoing Economic Recession is likely to continue throughout the world and there is hardly any chance for recovery from the same in the current fiscal and it may have consequential effect in next fiscal also. The Logistic sector including Import/Export activity has been worst affected due to Economic Recession and thus the past performance cannot be an indication for the future projection in this unprecedented situation.

(vi). Therefore, it is fairly obvious that during the current fiscal, ISHPL will not be able to achieve the projected Volume of 2.96 MMT which was mathematical average based on the actual cargo handled during 2016-17, 2017-18 and 2018-19 as per Tariff Guidelines 2019.

(vii). In view of the above, ISHPL is likely to handle 2.3 MMT cargo during the current fiscal i.e.2020-21 and the same may continue in next fiscal also as economic recession is likely to continue.

6.3. Thus, TAMP is requested to consider the estimated traffic of 2.3 MMT for the year 2020-21 and 2021-22 although there is no specific provision in the Tariff Guidelines 2019, for considering the unprecedented situation due to COVID - 19 pandemic.

6.4. Accordingly, the ISHPL has furnished the revised Forms incorporating the changes. The revised ARR computation furnished by ISHPL is given 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) | 7072.37 | 7966.56 | 8429.27 |
| (ii). | Finance and Miscellaneous expenses (FME) | 4.47 | 36.49 | 2.69 |
| | **Total Expenditure 1=(i)+(ii)** | **7076.84** | **8003.05** | **8431.96** |
| **(2).** | **Adjustments in respect of items where there is variation in figures reported as per INDAS (as per Audited Accounts) and IGAAP** | | | |
| (i). | Depreciation | 0 | 0 | 0 |
| (ii). | Preliminary Expenses | 0.76 | 0.76 | 0.76 |
| (iii). | Other expenditure items, if any to be listed | 0 | 0 | 0 |
| | **Total of Adjustments 2=(i)+(ii)+ (iii)** | **0.76** | **0.76** | **0.76** |
| **(3).** | **Less Adjustments:** | | | |

| Sl. No. | Description | Y1- 2016-17 | Y2- 2017-18 | Y3- 2018-19 |
|---|---|---|---|---|
| (i). | Actual Royalty / Revenue share paid to the port | 1841.75 | 2669.81 | 2974.77 |
| (ii). | Interest on loans | 4.47 | 36.49 | 2.69 |
| (iii). | Insurance Premium on loss of Profit Policy | 2.42 | 2.19 | 2.31 |
| (iv). | Provision for bad and doubtful debts | 0 | 0 | 0 |
| (v). | Provision for slow moving inventory | 0 | 0 | 0 |
| (vi) | Other provisions, if any | 0 | 0 | 0 |
| | **Total of 3 = [3(i)+3(ii)+3(iii)+3(iv)+3(v)+3(vi)]** | **1848.64** | **2708.49** | **2979.77** |
| **(4).** | **Add: Admissible Royalty/ Revenue Share as per Clause 2.2. of the Tariff Guidelines, 2019** | **1682.07** | **2438.34** | **2716.86** |
| **(5).** | **Total Expenditure after Total Adjustments (5 = 1+2+4-3)** | **6911.03** | **7733.66** | **8169.81** |
| **(6).** | **Average Expenses of Sl. No.5 = [ Y1 + Y2 + Y3 ] / 3** | **7604.83** | | |
| **(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) | 13813.58 | | |
| | (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) | | | |
| | (iii). Add: Working Capital as per norms prescribed in clause 2.6 of the Tariff Guidelines, 2019 | | | |
| | (a). Inventory | 279.06 | | |
| | (b). Sundry Debtors | 1680.89 | | |
| | (c). Cash | 679.17 | | |
| | **(d).Sum of (a)+(b)+(c )** | **2639.12** | | |
| | **(iv). Total Capital Employed [(i)+(ii)-(iii)]** | **16452.70** | | |
| **(8).** | **Return on Capital Employed 16% on Sl. No.7(iv)** | **2632.43** | | |
| **(9).** | **Annual Revenue Requirement (ARR) as on 31 March 2019 as applicable [(6)+ (8)]** | **10237.26** | | |
| **(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)** | **10673.37** | | |
| **(11).** | **Ceiling Indexed Annual Revenue Requirement (ARR)** | **10673.37** | | |
| | **50% of the remaining additional Surplus / Deficit to be adjusted in Celling Indexed ARR estimated as in Sr. no. 9 of From 8** | **-** | | |
| | **Adjusted Ceiling Indexed ARR** | **10673.37** | | |
| **(12).** | **Revenue Estimation at the Proposed indexed SOR within the Ceiling indexed ARR estimated at Sl. No.11 above** | **10673.28** | | |

6.5. Based on the above, the ISHPL has requested that its revised proposal be accepted without any change as any reduction in proposed SOR would put them in acute financial difficulty on both the counts of rates and lower revenue from reduced volume of traffic.

7. A comparative position reflecting statement of the existing tariff, tariff proposed as per the proposal dated 15 January 2019 and revised tariff as proposed in revised proposal of July 2020, is given below:

| Sl. No. | Description | Reference to the schedule and Sl. No. in existing/ Proposed SOR | Existing tariff | Tariff as per the proposal dated 15.01.2019 | Proposed tariff as per revised proposal dated 30.07.2020 | % increase over the existing tariff |
|---|---|---|---|---|---|---|
| (1) | (2) | (3) | (4) | (5) | (6) | (7) = [(6) – (5)] / (5) x 100 |
| A. | **Tariff Items** | | ₹. | ₹. | ₹. | |
| (i) | **VESSEL REALTED CHARGES** | | | | | |
| | Berth Hire Charges (USD) (Per GRT Per Hour) | PART - II, Section 3, Clause 2.2 | 0.0030 | 0.0030 | 0.0030 | 0.00% |
| (ii) | **CARGO RELATED CHARGES** | | | | | |
| (a) | Supply of Manpower and Mobile Equipment (Per Metric Tonne) | PART - III, Section A, Clause 3.1 | 11.70 | 13.81 | 13.50 | 15.38% |
| (b) | Wharfage Charges (Per Metric Tonne) | PART - III, Section B, Clause 3.2 | 102.50 | 119.93 | 116.85 | 14.00% |
| (c) | Shore Handling Charges (Per Metric Tonne) | PART - III, Section C, Clause 3.3 | 119.65 | 141.19 | 136.40 | 14.00% |
| (d) | Delivery Charges (Per Metric Tonne) | PART - III, Section D, Clause 3.4 | 39.85 | 47.02 | 45.83 | 15.01% |
| (e) | Ground Rent / Storage Charges (Per Metric Tonne) | PART - III, Section E, Clause 3.6 | 50.00 | 50.00 | 50.00 | 0.00% |
| (iii) | **MISCELLANEOUS (OPTIONAL SERVICES)** | | | | | |
| (a) | Weighment charges for in-motion weigh bridge empty and loaded including weighment certificate (Per Metric Tonne) | PART - III, Section F, Sr. No. (i) | 5.50 | 5.50 | 5.50 | 0.00% |
| (b) | Loading, unloading & restacking of cargo (Per Metric Tonne) | PART - III, Section F, Sr. No. (ii) | 22.00 | 22.00 | 22.00 | 0.00% |
| (c) | Taking Photograph of loaded wagons converting into CD and supplying 2 CDs wagon wise / rake wise. (Per Wagon) | PART - III, Section F, Sr. No. (iii) | 120.00 | 120.00 | 120.00 | 0.00% |
| (d) | Siding Charges (Per Metric Tonne) | PART - III, Section F, Sr. No. (iv) | 6.00 | 6.00 | 6.00 | 0.00% |
| (e) | Retrieving cargo which spills over in transit to the conveyor system/stack yard to minimize loss (Per Metric Tonne) | PART - III, Section F, Sr. No. (v) | 5.50 | 5.50 | 5.50 | 0.00% |
| (f) | Charges for On-line Sampling for Moisture analysis of Receipt and Despatch Cargo (Per Metric Tonne) | PART - III, Section F, Sr. No. (vi) | 5.50 | 5.50 | 5.50 | 0.00% |

| Sl. No. | Description | Reference to the schedule and Sl. No. in existing/ Proposed SOR | Existing tariff | Tariff as per the proposal dated 15.01.2019 | Proposed tariff as per revised proposal dated 30.07.2020 | % increase over the existing tariff |
|---|---|---|---|---|---|---|
| (1) | (2) | (3) | (4) | (5) | (6) | (7) = [(6) – (5)] / (5) x 100 |
| (g) | Despatch related services for rail bound cargo through Berth No. 4A, including trimming, cleaning, labeling & lime spraying (Per Metric Tonne) | PART - III, Section F, Sr. No. (vii) | 12.00 | 12.00 | 12.00 | 0.00% |
| (h) | Quarterly Survey of Stock by approved surveyor (Per Metric Tonne) | PART - III, Section F, Sr. No. (viii) | 3.60 | 3.60 | 3.60 | 0.00% |

8. In view of the outbreak of COVID-19 and in pursuance of the Ministry of Shipping (MOS) letter No. 11053/30/2020-Coord. dated 16 April 2020, a joint hearing in this case was held on 19 June 2020 thorough Video conferencing. At the joint hearing, the ISHPL, KOPT and one of the users i.e. SAIL have made their submissions.

9.1. The KOPT was also requested vide letter dated 19 February 2020 to furnish its specific comments on few points. After reminders dated 16 June 2020 and 01 July 2020, the KOPT has responded vide its e-mail dated 28 July 2020. The comments of KOPT was forwarded to ISHPL vide e-mail dated 31 July 2020 for feedback comments of ISHPL. The ISHPL vide its email dated 17 August 2020 has furnished its response on the comments of KOPT. The specific comments sought by us, response furnished by KOPT and the response of ISHPL thereon are tabulated below:

<table>
<tr><th>Sr. No.</th><th>Specific comments sought by TAMP from KOPT on</th><th>Comments furnished by KOPT</th><th>Comments of ISHPL</th></tr>
<tr><td>(i).</td><td>Computation of ARR as furnished by ISHPL in its Form no. 1.</td><td>(a). There is mis-match of royalty amount paid and shown in audited accounts of SMPK vis-à-vis the same now disclosed in Form - 1 by ISHPL during following fiscal years as tabulated below:
<table>
<tr><th>Sr. No.</th><th>Year</th><th>Royalty amount as per Audited Accounts of SPMP</th><th>Royalty amount shown in Form-I by ISHPL</th><th>Difference</th></tr>
<tr><td></td><td></td><td colspan="3">(₹in Lakhs)</td></tr>
<tr><td>1.</td><td>2016-17</td><td>1833.00</td><td>1841.75</td><td>8.75</td></tr>
<tr><td>2.</td><td>2017-18</td><td>2665.93</td><td>2669.81</td><td>3.88</td></tr>
</table>
However, Royalty paid for 2018-19 amounting to ₹2974.77 lakhs, as shown in Form-I, matched with the amount booked in the audited accounts of SMPK pertaining to the said period.</td><td>The SMPK has themselves confirmed that the Royalty for the year 2018-19 as shown by ISHPL has matched with their Audited Accounts, but there are some minor variations in the years 2016-17 and 2017-18, which may be due to rounding off of Vessel wise / Royalty.</td></tr>
</table>

| | | | |
|---|---|---|---|
| | | The reason for such discrepancy in royalty shown for the fiscal year 2016- 17 and 2017-18 to be clarified by the operator.<br><br>(b). ISHPL has considered ₹121.33 lakhs towards security Deposit paid to SMPK as part of Sundry Debtors. Composition of debtors has been elaborated under clause 2.6 of the Tariff Guideline for BOT Operators 2019. The said clause 2.6 does not provide that Security deposit paid can be considered as part of Sundry Debtors. The reason for including Security Deposit as part of Sundry Debtors may be clarified by the BOT operator.<br><br>(c). It has been observed that 50% of the remaining Additional Surplus/ Deficit is being adjusted and added back to arrive at Adjusted Ceiling Indexed Annual Revenue Requirement. As no back-up statements have been furnished in this respect, the BOT operator is requested to provide details on this adjustment resulting in increase in ARR by ₹266.06 lakhs due to the same. | <br><br><br><br><br>(b). ISHPL has already replied this to TAMP vide its letter dated 27 July 2020. TAMP may consider the same.<br><br>(c). ISHPL has already replied this to TAMP vide its letter dated 27 July 2020. TAMP may consider the same. |
| (ii). | In Form 4, the ISHPL has indicated the average traffic at 29.57 Lakh tonnes for the years 2016-17 to 2018-19. The said average traffic to be confirmed by KOPT. | The average of the actual traffic handled by ISHPL during 2016-17 to 2018-19 comes to 29,56,592 MT and hence traffic shown by ISHPL at Form-4 appears to be in order and acceptable. | Covid-19 pandemic, as per the indication, is likely to spread further and there is no indication of immediate relief against the same. Therefore, the ongoing Economic Recession is likely to continue throughout the world and there is hardly any chance for recovery from the same in the current fiscal and it may have consequential effect in next fiscal also. The Logistic sector including Import/Export activity has been worst affected due to Economic Recession and thus the past performance cannot be an indication for the future projection in this unprecedented situation. Therefore, it is fairly obvious that during the current fiscal, ISHPL will not be able to achieve the projected Volume of 2.96 MMT which was mathematical average based on |

| | | | |
|---|---|---|---|
| | | | the actual cargo handled during 2016-17, 2017-18 and 2018-19 as per Tariff Guidelines 2019.<br><br>In view of the above, ISHPL is likely to handle 2.3 MMT cargo during the current fiscal i.e.2020-21 and the same may continue in next fiscal also as economic recession is likely to continue.<br><br>Thus, TAMP is requested to consider the estimated traffic of 2.3 MMT for the year 2020-21 and 2021-22 although there is no specific provision in the Tariff Guidelines 2019, for considering the unprecedented situation due to COVID – 19 pandemic. |
| (iii). | The estimation of revenue at the proposed level of tariff as furnished by ISHPL in its Form no. 4. | (a). Estimation of income has been done considering vessel and cargo to be 'foreign' exclusively. However, there is possibility that coastal vessel with cargo may also call at the berth owned and operated by ISHPL for which no estimation of income has been done in absence of rates for handling such vessels in the proposed SOR. The BOT operator is requested to clarify reasons behind non-inclusion of rates applicable for handling coastal vessels in proposed SOR. We feel that rates for coastal vessel should be prescribed as per tariff policy.<br><br>(b). Part – III Cargo Related Charges: This section covers charges for supply of Manpower and Mobile Equipment, Wharfage charges, Shore Handling charges, Delivery charges and Ground rent/ Storage charges. Although, the permissible cargo to be handled at Berth No.4 (Ex Berth No.4A) includes various commodities viz. fertilizer, fertilizer raw materials, soda ash and other dry bulk cargo, ISHPL has proposed rate for coking coal only and estimation of income is being done accordingly which is objected to, as it reflects their intention of handling a single | (a). Since no costal movement has been envisaged during the current period while estimating the revenue impact of costal movement has not been considered and accordingly no separate rate for costal vessels/cargo has been proposed by ISHPL. However, the general terms and condition of the SOR has already taken care for the rates for costal movement of vessels/cargo. It is requested that TAMP will kindly consider the same in the revised SOR.<br><br>(b). The capacity of the Berth No. 4A, Haldia Dock Complex has been certified as 3 million tonnes per annum and the same has suitably been incorporated in TAMP's Order dated 25.01.2007. ISHPL has handled cargo during F.Y. 2017-18 - 2.92 MMT, F.Y. 2018-19 - more than 3 MMT and also during F.Y. 2019-20 - more than 3MMT. Since, ISHPL is handling cargo around to its full capacity, so, question of handling other cargo does not arise. |

| | | | |
|---|---|---|---|
| | | commodity only, which is not in consonance with the provisions of the License Agreement as well as leaves scope for under utilization of the Berth. The ISHPL to clarify the above point. It is felt that rates for other dry bulk cargo should also be prescribed.<br><br>(c). As per Form-5, charges for supply of Manpower and Mobile Equipment, Wharfage charges, Shore Handling charges and Delivery charges has been proposed with an increase by about 18%, whereas no enhancement in the Ground rent/ Storage charges is noticed in the proposal.<br><br>The reason for such variation in the proposed rates in comparison to the existing tariff may be clarified by the BOT Operator. Further, relevant page containing Section E – Ground Rent / Storage Charges, Section-F – Miscellaneous (Optional Services) and Part –IV – Charges for Other Services of the proposed Scale of Rates is missing. The BOT operator is asked to clarify the position if the free time for levy of ground rent/ storage charges has been | Further, TAMP in its Order dated 15 September 2017 stated that:<br><br>"The KOPT has made a mention about ISHPL handling coking coal cargo under the License Agreement, thereby causing underutilization of the berth. In this connection, it is relevant to mention here that considering the capacity of Berth no. 4A at 3 MMTPA and taking into the account the cargo projections for the years 2016-17 to 2018-19, the average capacity utilisation is about 82%. In this scenario, it is not clear how the facility of ISHPL lies underutilised as stated by the KOPT."<br><br>It is evident from the record that ISHPL is always trying to utilise the Berth No. 4A at its full capacity.<br><br>However, in future, if ISHPL may have to handle other bulk cargo to utilise its capacity, it will suitably propose the rates of other bulk commodities.<br><br>(c). In the revised proposal, ISHPL has sought an increase of 14% / 15% only to cover cost.<br><br><u>Regarding Ground Rent:</u><br>ISHPL do not want and expect that cargo to remain on its premises for prolonged period after the free period as this will hamper the smooth operations. Rate for storage charges has, however, been prescribed so that a deterrent is available to deal with the situation where cargo remains in the transit area after the free period.<br>Further to above, if due to reduction in draught and consequential effect on cargo volume, in case new client/port users are to be serviced, for whom it will be necessary to have such deterrents.<br>Further, TAMP has taken an initiative to forward the proposal of ISHPL for revision in SOR |

| | | | |
|---|---|---|---|
| | | changed in the proposed Scale of Rates. | directly to Port, ISHPL feels that TAMP has not missed to send the relevant pages to the Port as this has never happened in the past. ISHPL has submitted the relevant details about Ground Rent to Port on their specific verbal request and they were free to request for other details also either from TAMP or ISHPL. |
| (iv). | Comparative statement furnished by ISHPL in Form no. 5, highlighting the changes/ amendments proposed by ISHPL in its proposed Scale of Rates vis-a-vis the existing Scale of Rates. | ISHPL has mentioned in Form-5 that rates in some items have been proposed for increase to cover cost. Changes made in Conditionalities of service, if any, in proposed SOR vis-à-vis existing SPR have not been indicated in the above Form. | The ISHPL reiterate that it has proposed for increase in some rates to cover cost, which TAMP may like to verify from the detailed workings submitted to TAMP. There is no change in conditionalities of any services. |
| (v). | To coordinate with ISHPL to enter into a Separate Agreement as per the stipulation contained in Clause 1.9 of the 2019 Guidelines. The copy of the Agreement to be entered by ISHPL with KOPT, duly signed by both the parties to be furnished. | At Section E, the charges for storage / ground rent may not be linked to the royalty payable to SMPK, which may be realised in terms of SMPK's SOR/ Schedule of Rent. | Against the above comments of KOPT, ISHPL would like to submit that Royalty against Ground Rent / Storage charges is not payable at all as Port is already collecting monthly Lease Rent from ISHPL for the Berth No. 4A at Haldia Dock Complex and the back-up area, apart from collecting one time Upfront fee / Lease Premium at the time of signing of Agreement with ISHPL. Infact, the entire area allotted to ISHPL is under lease and Port cannot claim any further royalty for utilisation of said land for storage of cargo.<br>In view of the above, linking of storage / ground rent with Royalty never arises, as it is never payable to the Port for whatsoever.<br>However, ISHPL agrees with the contention of the Port that Royalty is payable by ISHPL to Port on the basis of applicable Cargo Handling Charges, for mechanized cargo handling, as per Port's SOR / Schedule of Rent as notified by TAMP from time to time, since Appendix VII of the License Agreement states that the Royalty is to be paid as a percentage of applicable Cargo Handling Charges as per prevailing Scale of Rates of the Port (Licensor) for mechanized cargo handling at Haldia. |

9.2. In addition to the above response, the ISHPL has also furnished the following details regarding consumption of Inventory and Capital Spares.

(₹ in Lakhs)

| Particulars | 2016-17 | 2017-18 | 2018-19 |
|---|---|---|---|
| Capital Spares | 216.85 | 186.28 | 277.73 |
| Other inventory (excluding fuel and customized spares) | 0.56 | 0.51 | 2.66 |
| Fuel, Consumable and Customized Spares | 13.95 | 12.08 | 12.89 |
| Total | 231.36 | 198.87 | 293.27 |

9.3. Further, the ISHPL has stated that it has considered an amount of ₹5.60 crores as actual sundry debtors due (total invoices raised during March 2019 reduced by the amount received within March 2019) for 30 days as on 31.03.2019, which has arisen on account of contractual terms with the Port User. The ISHPL also requested us to consider sundry debtors at one month's average of estimated lease rent payable by ISHPL to KOPT, HDC, as was done during the previous revision of tariff of ISHPL.

10. The proceedings relating to joint hearing held in this case are available on records at the office of this Authority. An excerpt of the arguments made by the parties will be sent separately to the relevant parties. These details will also be made available at our website http://tariffauthority.gov.in.

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

(i). The Scale of Rates of International Seaports (Haldia) Private limited (ISHPL) was last revised by this Authority vide its Order No. TAMP/13/2017-ISHPL dated 15 September 2017. Vide the said Order, the proposal of ISHPL seeking increase ranging from 6% to 31% in various cargo items was approved by this Authority. The said Order prescribed a tariff validity period upto 31 March 2019.

(ii). 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 Ministry of Shipping (MOS), the tariff fixation exercise in respect of the ISHPL is to be governed by the stipulations contained in the Tariff Guidelines, 2019 and the Working Guidelines issued to operationalize the Tariff Guidelines, 2019.

(iii). In this backdrop, the ISHPL has come up with its proposal dated 15 January 2020 for general revision of its SOR under the Tariff Guidelines, 2019 and Working Guidelines to operationalize the Tariff Guidelines, 2019. The said proposal of ISHPL alongwith the information/ clarification furnished by ISHPL during the processing of the case is considered in this analysis.

(iv). (a). Clause 2.1 of the Tariff Guidelines, 2019, requires each BOT Operator to assess the Annual Revenue Requirement (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 31$^{st}$ March Y3, duly certified by a practicing Chartered Accountant/ Cost Accountant.

(b). The ISHPL 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. The total operating expenditure considered by ISHPL for the years 2016-17, 2017-18 and 2018-19 for arriving at the average sum of the Actual Expenditure for the respective years is seen to be as per the Audited Annual Accounts of ISHPL for the respective years.

(c). Clause 2.3.2 stipulates that in case there is variation in the expenditure reported under IND AS and IGAAP, then necessary adjustments is to be done in the ARR computation by excluding IND AS figures and considering figures as per IGAAP.

Since the depreciation figures reflected in the Audited Annual Accounts are reported to be as per IGAAP, the ISHPL has not indicated any variation due to change in accounting system i.e. from IGAAP to IND AS in Form 6A.

However, the ISHPL has considered an expenditure to the tune of ₹ 0.76 lakhs towards Preliminary Expenses for computation of ARR. In this regard, it is to state that during the initial fixation of tariff of ISHPL, the preliminary expenses to the tune of ₹ 22 lakhs was earmarked for amortization over remaining license period and accordingly, an amount of ₹0.76 lakhs is considered as annual amortization amount during each of the past general revision Orders of ISHPL. Thus, an amount of ₹0.76 lakhs per annum has been considered by ISHPL towards amortization of preliminary expenses to calculate the total expenditure for the years 2016-17 to 2018-19. If not considered, this amount will remain unrecovered during the license period of ISHPL. Therefore, this Authority is inclined to consider this into account for calculation of ARR.

(d). While assessing the ARR, the ISHPL 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 ISHPL 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.

ISHPL is a BOT operator, who falls in the pre-July 2003 era. Thus, in case of ISHPL, the Revenue share paid by ISHPL to the Licensor port SPMP is admissible as an item of cost to the extent of the next highest bidder. Accordingly, 91.33% of the Revenue share as reflected in the Audited Annual Accounts of ISHPL i.e. ₹1841.75 lakhs for the year 2016-17, ₹2669.81 lakhs for the year 2017-18 and ₹2974.77 lakhs for the year 2018-19 has been considered by the ISHPL in the computation of ARR, in line with the clause 2.2 of the tariff guidelines of 2019, which was also followed when the tariff of ISHPL was being fixed under 2005 Tariff Guidelines.

(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 ISHPL has not reported any expenditure on account of provision for bad and doubtful debts, and provision for slow moving inventory in its Audited Annual Accounts for the respective years in reference.

(iii). As regards to the expenditure on account of Interest, the Audited Annual Accounts of ISHPL reflects the Interest expenses under the three sub-heads viz. Interest of Borrowing cost, Interest on Cash Credit and Interest on Term Loans under broad head ‘Finance Cost’, aggregating to ₹4.47 lakhs, ₹36.49 lakhs and ₹2.69 lakhs for the years

2016-17, 2017-18 and 2018-19 respectively, which has been considered for exclusion in the computation of ARR, in line with Clause 2.3.1 (ii) of the Tariff Guidelines, 2019.

(iv). The ISHPL has also excluded the expenses booked under the head "Insurance Premium on Loss of Profit Policy" to the tune of ₹2.42 lakhs and ₹2.19 lakhs and ₹2.31 lakhs as reflected in the Annual Accounts, in Form-1 for arriving at the Average Annual Expenses. In this regard, it is recalled that in the past general revisions also the Insurance cost on Loss of profit policy has not been allowed as an item of cost, on the ground that the Insurance Policy is not as per the provisions of the Licence Agreement. It is noteworthy that Clause 7.1 (y) of LA requires the ISHPL to purchase and maintain insurance to cover against loss, damage, destruction of the berth, the terminal area and the ancillary facilities on the terminal for replacement at market value and that the Insurance cover taken for loss of profit is not as per the LA.

(e). 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 ISHPL has arrived at average expenses for the years 2016-17 to 2018-19 at ₹ 7604.83 lakhs, as per the stipulation prescribed in clause 2.4 of the Tariff Guidelines, 2019.

(v). (a). Based on the stipulation contained in Clause 2.5 of the Tariff Guidelines of 2019, Capital employed comprises of Gross Fixed assets considered to the tune of ₹13813.58 lakhs (₹138.14 crores) as on 31 March 2019 which is in line with the Gross Fixed Assets as on 31 March 2019 reflected in the Audited Annual Accounts of ISHPL for the year 2018-19. The capital work in progress has been reported to be Nil in the Annual Accounts for the year 2018-19. The ISHPL has furnished the Fixed assets statement as per IGAAP in Form 7, which has been certified by a Chartered Accountant.

(b). (i). Clause 2.6. of the Tariff Guidelines, 2019 prescribes the norms for determining the working capital comprising of Inventory, Sundry debtors and Cash balances. Limit on inventory for capital spares will be one year's average consumption and in case of other items of inventory the limit will be six months' average consumption of stores excluding fuels. Limit on cash balance will be one month's cash expenses. Advance payment of Revenue Share/ royalty and lease rental / license fee to the landlord port flowing from the contractual obligations is to be treated as sundry debtors.

(ii). The ISHPL has considered an amount of ₹279.06 lakhs as inventory under Working Capital in Form-1. This includes ₹277.73 lakhs towards inventory of Capital spares and ₹1.33 lakhs towards other inventory excluding fuel and customized spares. The aggregate value of the stores consumed in the year 2018-19 is seen to be as per the stores consumption figures reported in the Audited Annual Accounts for the year 2018-19. Further, it is seen that ISHPL has rightfully considered six months average consumption of other inventory (excluding fuel and customized spares) and one year consumption of Capital Spares.

(iii). The ISHPL has considered an amount of ₹121.33 lakhs (₹1.21 crores) towards Security Deposit with SPMP, as one of the components of Sundry Debtors in Working Capital. In this regard, even though the security deposit was not made during the years 2016-17 to 2018-19, but considering that the Security Deposit is still being maintained by ISHPL with SPMP and is to be maintained with SPMP throughout the license period, the ISHPL has considered the said amount of security deposit as a part of Sundry Debtors.

Since the payment of Security Deposit by ISHPL to SPMP has not been specifically made during the years 2016-17 to 2018-19, the said amount of Security deposit is not being considered as a component of sundry debtors for arriving at the working capital.

(iv). The ISHPL has considered an amount of ₹1000.00 Lakhs towards Advance against Royalty made to SPMP, as a part of Sundry Debtors in Working Capital. The ISHPL has reported that the said amount was encashed by SPMP against its alleged and illegal claim of Royalty, which has been considered by ISHPL as an advance against royalty made to SPMP and; hence, it has considered it as a component of Sundry debtor.

In this regard, it is to state that, the issue has arisen due to dispute between the ISHPL and SPMP and not related to contractual obligation of the Concession agreement. Thus, the said amount cannot form part of the Sundry Debtors, Accordingly, the said amount of ₹10.00 crores is excluded as a component of sundry debtors for arriving at the working capital.

(v). An amount of ₹559.56 lakhs has been considered by ISHPL as Other Sundry Debtors. The said amount is actually the Trade Receivables, which are reported to be as per the provisions of the contracts entered by ISHPL with others.

In this regard, it is to state that as per Section 58 of the Major Port Trusts Act, 1963, rates in respect of goods to be landed shall be payable immediately on the landing of the goods and rates in respect of goods to be removed from the premises of a Board, or to be shipped for export, or to be transshipped, shall be payable before the goods are so removed or shipped or transshipped. The contractual provisions appear to have been made by the ISHPL at its discretion. Hence, the same is not considered as part of Sundry Debtors. Such an approach has been adopted while determining the ARR in respect of other BOT operators viz., Chennai International Container Terminal Limited (CITPL), Gateway Terminals India Private Limited (GTIPL), Visakha Container Terminal Private Limited (VCTPL) etc. In view of the above statutory provision, this Authority is not in a position to accede to the request made by the ISHPL to include the trade receivables a part of sundry debtors.

(vi). However, the prepayments and advance to be made by the BOT operators as per the license agreement to the respective licensor port is recognized as the limit for sundry debtors to the extent they are otherwise permissible as pass through. In the last general revision of ISHPL, one month's average lease rent based on the annual lease rent actually paid by the ISHPL was allowed. The same position is maintained in this analysis also. Thus, the Sundry Debtors to the tune of ₹49.40 Lakhs [Land Lease Rentals as per audited annual accounts (₹592.77 Lakhs) / 12 months = ₹49.40 Lakhs] has been considered in the analysis.

(vii). The cash balances to the tune of ₹ 679.17 Lakhs (₹6.79 crores) as considered by ISHPL has been slightly moderated to ₹657.26 lakhs, based on one month`s average allowable expenditure excluding depreciation and amortization amount as reflected in the Form-1 for the year 2018-19 [(₹8169.81 Lakhs – ₹281.91 Lakhs – 0.76 lakhs)/ 12 = ₹657.26 Lakhs)].

(d). Thus, based on the above, the Working Capital has been considered at ₹985.72 Lakhs instead of ₹2639.12 Lakhs as considered by ISHPL.

(e). As explained above, the total capital employed comprising of Gross Fixed Assets and working capital works out to ₹14799.30 Lakhs as against ₹16452.70 Lakhs as worked out by ISHPL.

(vi). As per Clause 2.7 of the Tariff Guidelines, 2019, Return on Capital Employed (ROCE) at 16% is worked out on the Capital Employed, which works out to ₹2367.89 Lakhs, which is considered in the ARR computation.

(vii). The ARR comprises of the average of the expenditure for the three financial years 2016-17 to 2018-19 plus 16% ROCE. Accordingly, the ARR has been worked out to ₹9972.72 Lakhs. Thereafter, 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%. Further, since the financial year 2020-21 has already commenced, the ISHPL is entitled for the WPI indexation applicable for the year 2020-21 as well, which is 1.88%. In view of this position, this Authority is inclined to consider an additional escalation factor of 1.88% over the indexed ARR of 2019-20, in the computation of ARR. After applying both the above said indexation factors, the ceiling indexed ARR works out to ₹10593.03 Lakhs, as against the ceiling indexed ARR worked out by ISHPL at ₹10673.37 Lakhs.

(viii). 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 tariff of ISHPL was last fixed vide tariff Order no. TAMP/13/2017-ISHPL dated 15 September 2017, by relying upon the estimates for the years 2016-17 to 2018-19. Thus, the estimates as relied upon in the last revision Order dated 15 September 2017 for the years 2016-17 to 2018-19 vis-à-vis actuals for the corresponding period are to be analyzed to assess the surplus/ deficit, to comply with clause 3.1.2. of the Tariff Guidelines, 2019.

(ix). Inspite of a specific request, the ISHPL has not furnished any past period analysis. An exercise has been undertaken to analyse the past period, which is discussed as given below:

(a). The actual traffic handled by ISHPL during the years 2016-17 to 2018-19 is reported to be 26.78 lakhs tonnes, 29.24 lakhs tonnes and 32.68 lakhs tonnes respectively, aggregating to 29.57 lakhs tonnes, as against the aggregate traffic of 24.60 MMTPA as estimated in the tariff Order of September 2017 for the corresponding period. The KOPT has confirmed that the average traffic as considered by ISHPL in its workings is in order. The positive variation in traffic is seen to be about 20%.

(b). 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 of ISHPL for the years 2016-17 to 2018-19 is considered.

Also, estimated operating Income as relied upon in the Order of September 2017 has been increased so as to capture the effect of increase in tariff allowed by this authority vide the Order of September 2017, to have a like to like comparison between actual income and estimated income.

(c). The Expenses have been considered as reflected in the audited Annual Accounts of ISHPL for the years 2016-17 to 2018-19, except for the following:

(i). In line with the stipulation contained in clause 2.8.1 of the tariff guidelines of 2005 and in line with the approach adopted in the last tariff Order, Revenue share has been considered as a cost item by ISHPL to the extent of the revenue share quoted by the second highest bidder. Such an approach was adopted in the last Order of September 2017 also.

(ii). As against the Insurance expenses of ₹117.62 lakhs, ₹115.90 lakhs and ₹.113.88 lakhs reflected in the Annual Accounts for the years 2016-17 to 2018-19, the Insurance amount at ₹115.20 lakhs, ₹113.71 lakhs and ₹111.57 lakhs has been considered, after excluding the Insurance cost on Loss of profit policy. Such an approach was adopted in the last Order of September 2017 also.

(iii). Also, in line with the approach adopted during the last review of tariff of ISHPL based on 2005 Guidelines, the interest income on fixed deposits under Other Income has not been considered. Similarly, the expenditure on account of interest on Cash credit & term loans, other borrowing cost reported as Finance Cost in the Audited Annual Accounts have not been considered in the Cost statement relating to the Past Period Analysis.

(d). (i). In line with the approach adopted during the last review based on 2005 Guidelines, the Capital employed has been considered as Net Fixed Assets plus working capital as per the norms prescribed in the 2005 Guidelines.

(ii). The Net Fixed Assets as reflected in the audited Annual Accounts is reported based on IGAAP. The workings as made available by ISHPL to arrive net fixed assets as per IGAAP for the years 2016-17 to 2018-19, duly certified by the Chartered Accountant is in line with Audited Annual Accounts. Accordingly the value of Net Fixed Assets to the tune of ₹2152.25 lakhs, ₹1437.05 and ₹1310.09 lakhs for the years 2016-17 to 2018-19 respectively has been considered for arriving at the capital employed.

(iii). The working capital has been considered in line with the stipulation at Clause 2.9.9 of the tariff guidelines of 2005, as discussed below:

(a). Sundry debtors has been considered as NIL, since there is no estate income or railway terminal handling charges, as has been done during the last review of tariff of ISHPL. However, the prepayments and advance to be made by the private operators as per the license agreement to the respective licensor port is recognized as the limit for sundry debtors to the extent they are otherwise permissible as pass through, based on a Common Order of September 2008 passed by this Authority. In the last general revision of ISHPL, one month's average lease rent based on the annual lease rent actually paid by the ISHPL was allowed. The same position is maintained in this analysis also.

(b). The value of capital spares consumed during the each year as reported by ISHPL and six months average consumption of other inventory (excluding fuel and customized spares) during the each of the year have been considered for arriving the inventory values for the years 2016-17 to 2018-19 as per the clause 2.9.9. of the Tariff Guidelines, 2005.

(c). The cash balance is considered at one month`s allowable expenses less depreciation line with the approach adopted during the last review based on 2005 Guidelines.

(d). Tariff Guidelines, 2005 do not prescribe any norm for current liabilities. Therefore, the value of current liabilities as reflected in the audited annual accounts of ISHPL for the years 2016-17 to 2018-19 are considered, as was done in the last general revision of ISHPL.

(iv). Thus, the Net Capital Employed works out to at ₹25.31 crores, ₹17.63 crores and ₹.17.91 crores for the years 2016-17 to 2018-19 respectively.

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

| **Particulars** | **Aggregate for the years 2016-17 to 2018-19 (₹ in crores)** | | **Variation in %** |
|---|---|---|---|
| | **Estimates as per tariff Order** | **Actuals** | |
| Traffic (in Lakh tonnes) | 73.80 | 88.70 | 20% |
| Total Operating Income | 214.18 | 287.72 | 34% |
| Total Expenditure including FME less FMI, Depreciation and overheads | 193.35 | 228.15 | 18% |
| Surplus/ deficit before Return | 20.83 | 59.57 | 186% |
| Capital Employed (Average) | 21.22 | 20.29 | -4% |
| 16% Return on Capital Employed | 10.19 | 9.74 | -4% |
| Net Surplus after ROCE (before adjustment of past surplus) | 10.64 | 49.83 | 368% |

The details regarding the Actual Return earned by ISHPL on the Capital Employed are given in the following table:

(₹ In Crores)

| **Sr. no.** | **Particulars** | **2016-17** | **2017-18** | **2018-19** | **Average** |
|---|---|---|---|---|---|
| (i). | Actual Surplus before Return earned by ISHPL | 10.84 | 19.86 | 28.87 | 19.86 |

| | | | | | |
|---|---|---|---|---|---|
| (ii). | Actual Capital Employed | 25.31 | 17.64 | 17.91 | 20.29 |
| (iii). | Actual Return on Capital Employed as a percentage. | 43% | 113% | 161% | 98% |
| (iv). | Variation in Return on Capital Employed @ 16% | 169% | 606% | 906% | 512% |

(f). As per clause 2.13 of the tariff guidelines read with the opinion of AG, if review of actual physical as well as the financial performance for the previous tariff cycle shows a variation of more than + 20%, then the question of past period adjustment arises.

It can be seen from the above analysis that though the variation in the financial performance in terms of return on capital employed is positive and the same is more than 20%, the variation in the physical performance in terms of actual traffic handled is at about 20%. Hence, there is no case for adjustment of past period surplus of ISHPL for the years 2016-17 to 2018-19.

As per Clause 3.1.2 of the Tariff Guidelines, 2019, surplus/ deficit upto the period of first tariff fixation is to be dealt with as per Clause 2.13 of the Tariff Guidelines, 2005. The period covered for analysis of past performance is 3 years i.e. 2016-17 to 2018-19.

The financial and physical performance of ISHPL for the year 2019-20 could not be analysed due to non-availability of audited accounts for the year 2019-20 due to Covid-19 pandemic. Hence, the performance of ISHPL for the year 2019-20 and upto the period in 2020-21 when the revised tariff comes into effect will be analysed during the fixation of tariff for next tariff cycle, and the surplus if any, over and above the admissible cost and permissible return of 16% be adjusted in the ratio of 60:40 borrowing the opinion of Attorney General of India, as obtained by MOS on clause 2.13 of the Tariff Guidelines, 2005.

(x). Accordingly, the revised ceiling indexed ARR works out to ₹105.93 crores. The detailed ARR calculation is attached as **Annex – II**. A summary of the ceiling indexation ARR furnished by the ISHPL and revised ceiling indexed ARR after adjustment of the past period surplus as considered in the analysis is given below:

(**₹ in crores**)

| **Sr. No.** | **Particulars** | **ARR computation as furnished by the ISHPL** | **ARR computation as considered in the analysis** |
|---|---|---|---|
| 1 | Average admissible Expenses for the years 2016-17, 2017-18 and 2018-19 | 76.05 | 76.05 |
| 2 | Capital employed as on 31.03.2019 including capital work in progress as on 31.03.2019 and working capital as per norms | 164.53 | 147.99 |
| 3 | Return on capital employed @ 16% | 26.32 | 23.68 |
| 4 | ARR as on 31 March 2019 (4=1+3) | 102.37 | 99.73 |
| 5 | Indexation in the ARR @ 100% of the WPI applicable for the year 2019-20 (4.26% for the year 2019-20) | 106.73 | 103.98 |
| 6 | Indexation in the ARR @ 100% of the WPI applicable for the year 2020-21 (1.88% for the year 2020-21) | - | 105.93 |

| | | | |
|---|---|---|---|
| 7 | Less- Adjustment of past period additional surplus for the years 2016-17 to 2018-19 in the ARR computation. | - | - |
| 8 | Ceiling Indexed Annual Revenue Requirement (ARR) | 106.73 | 105.93 |

(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 ISHPL at 29.57 lakhs tonnes. The SPMP has confirmed that the traffic figures as considered by ISHPL are in order.

In this regard, it is relevant here to mention that though the ISHPL has considered the average traffic for the years 2016-17 to 2018-19 as the base to draw its Scale of Rates, the ISHPL has stated that due to COVID-19 pandemic the cargo volumes have substantially reduced and is not likely to stabilize in the recent months. Thus, the ISHPL has stated that ISHPL will not be able to achieve the projected Volume of 2.96 MMT during the current fiscal as well as in the next year also as economic recession is likely to continue. Thus, given that the past performance cannot be an indication for the future projection in this unprecedented situation, the ISHPL has requested to consider its traffic at 2.3 MMT for the years 2020-21 and 2021-22.

In this regard, it is relevant here to mention that the reduction in volumes on account of the COVID-19 pandemic is not unique only to ISHPL, but it has had impact on all the Major Port Trusts as well as the BOT operators. While determining tariff based on the Tariff Guidelines, 2019, in respect of BOT operators including the ones disposed of recently, the average traffic for the years 2016-17 to 2018-19 has been considered as the base to draw their Scale of Rates, based on the stipulation contained in Clause 2.10 of Tariff Guidelines, 2019. In view of the above, this Authority is not in a position to take a different stand in respect of ISHPL alone.

However, in this context, it is noteworthy that Clause 2.14. of the Tariff Guidelines stipulates that for good and sufficient reasons, the BOT operator may propose revision ahead-of-schedule either for general revision or partial revision of its SOR. Accordingly, based on the stipulation contained in Tariff Guidelines, 2019, the ISHPL may, if it so desires, approach this Authority, for an ahead of schedule review of its tariff, if there is substantial variation in its traffic.

(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 SOR within the ceiling of indexed ARR, duly certified by a practicing Chartered Accountant.

While drawing up the proposed SOR, the ISHPL is seen to have proposed an increase of about 15% in Supply of Manpower & Mobile equipment and delivery charges, 14% increase in Wharfage charges and Shore Handling Charges and Status Quo is proposed to be maintained in berth hire charges, miscellaneous charges and Ground rent/ storage charges. The overall impact of the proposed different percentage of increase in various tariff items, is seen to be an average increase of 12.07% in income to ISHPL over the income at the existing level of tariff being levied by the ISHPL.

The ISHPL 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 estimated revenue realizable at the proposed rates works out to ₹10673.28 lakhs. The said revenue estimation statement as assessed by the ISHPL has been duly certified by a Chartered Accountant.

(c). As per the ARR computation as brought out in an earlier paragraph, the ceiling indexed ARR works out to ₹105.93 crores. However, the revenue estimated by the ISHPL at the proposed level of tariff is ₹106.73 crores. Therefore, there is a need to reduce the tariff proposed by ISHPL by ₹0.80 crores in such a manner that the estimated revenue to be earned by ISHPL is restricted to ₹105.93 crores.

To enable the ISHPL to earn revenue to the maximum of the ceiling indexed ARR of ₹105.93 crores, it is felt appropriate to grant an increase of 13% in the existing rates of supply of manpower & mobile equipment, delivery charges, wharfage charges and shore handling charges instead of the increase of 14% and 15% in the cargo items as sought by ISHPL. By this exercise, the ISHPL would be in a position to earn revenue to the tune of ₹ 105.75 crores, leaving a revenue gap of ₹0.18 crores.

(xii). Like in the earlier general revision of ISHPL, the SPMP has stated that, although, the permissible cargo to be handled at Berth No. 4 (Ex Berth no. 4A) includes various commodities viz. fertilizers, fertilizers raw materials, soda ash and other dry bulk cargo, ISHPL has proposed rate for coking coal only and revenue estimation has been done accordingly. The SPMP has objected to intention of handling single commodity i.e. Coking coal, as handling of only single commodity is not in consonance with the provisions of License Agreement and will leave a scope for underutilization of the Berth. In view of the above, the SPMP has requested ISHPL to prescribe rates for other dry bulk cargo. In this regard, the ISHPL has responded that it has handled cargo of 2.92 MMT during the year 2016-17 and more than 3 MMT during the years 2018-19 and 2019-20 at Berth no. 4A as against its capacity of 3 MMTPA. Thus, since the berth is being utilized at its full capacity, it leaves no gap to handle other dry bulk cargo.

Based on the submissions made by ISHPL, it is not clear how the facility of ISHPL would lie underutilised as indicated by the SPMP. Nevertheless, the ISHPL is advised to take steps to handle the cargo of other users also at its facility so as to ensure more utilisation of its facility. In this connection, ISHPL may come up with a proposal for prescription of rates for handling of other bulk cargo, as and when such cargo is envisaged to be handled, in terms of clause 5.6.1 to 5.6.5 of the Tariff Guidelines, 2019.

(xiii). The comparative statement giving the existing conditionalities and the conditionalities wherever the ISHPL has proposed modification in the existing conditionalities or has proposed introduction of new provisions, along with remarks/ reasoning as furnished by ISHPL for the proposed modification and with the reasoning furnished for recommending acceptance or refusal to the proposed amendments is attached as **Annex - III**. The proposed modification/ deletion in the existing conditionalities is approved taking into consideration the remarks/ reasoning furnished by the ISHPL and our remarks/ analysis thereon given in the said Annex-III.

(xiv). 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$^{st}$ December of the relevant year. Such adjusted SOR is to come into force from 1$^{st}$ May of the relevant year to 30$^{th}$ April of the following year. It is relevant here to state that in the instant case indexation for the year 2020-21 is already considered in the ARR and for drawing the SOR. The next annual indexation in SOR is applicable from 01 May 2021. 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 for the year 2021-22. The annual indexed SOR will come into force from 1$^{st}$ May of the relevant year to 30$^{th}$ April of the following year. The indexed SOR shall be intimated by the ISHPL to the SPMP, users and to this Authority.

(xv). Based on the stipulation contained in Clause 1.9 of the Tariff Guidelines, 2019, the ISHPL and the Licensor port SPMP have already been requested to enter into a Separate Agreement. From the submissions made by ISHPL, it is understood that they are in correspondence with SPMP for executing the same. The ISHPL and SPMP are to execute the Separate Agreement within one month from the date of notification of the Order passed in the Gazette of India and forward a copy of the same to this Authority for our records.

(xvi). The existing SOR of the ISHPL was valid till 31 March 2019. By the time the Order comes into effect, it would be around October 2020. The validity of the existing SOR of ISHPL is deemed to have been extended from 01 April 2019 till the revised SOR comes into effect to avoid vacuum in tariff in the intervening period.

(xvii). (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 ISHPL 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 ISHPL 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.

11.1. In the result, and for the reasons give above, and based on a collective application of mind, this Authority approves the SOR and conditionalities of the ISHPL which have been notified separately. The effective date of the revised Scale of Rates and conditionalities governing the application of revised Scale of Rates will remain the same as already indicated in the separate Order dated 08 September 2020 and shall be in force for a period of 3 years from the date of effect of revised SOR, subject to annual indexation. The approval accorded will automatically lapse thereafter unless specifically extended by this Authority.

11.3. As per clause 7 of the Tariff Guidelines, 2019, the ISHPL shall furnish to this Authority, annual reports on cargo traffic handled and ship berth day output. The annual reports shall be submitted by the ISHPL within 90 days following the end of each of the year. Any other information which is required by this Authority from time to time shall also be furnished.

11.4. An analysis of variation in the tariff and revenue will also be made at the time of the next general review of tariff of ISHPL at the end of the tariff validity period and adjustment of additional surplus will be made in the tariff to be fixed for the next cycle, subject to the provisions contained in Clauses 3.2.1 and 3.2.2 of the Tariff Guidelines, 2019.

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

**INTERNATIONAL SEAPORTS (HALDIA) PRIVATE LIMITED**
**Income & Cost statement for the Past Period Analysis for the years 2016-17 to 2018-19**

₹ in lakhs

| Sr. No. | Particulars | Estimates as considered in the last revision Order no. TAMP/13/2017-ISHPL dated 15 September 2017 | | | Actuals | | |
|---|---|---|---|---|---|---|---|
| | | 2016-17 | 2017-18 | 2018-19 | 2016-17 | 2017-18 | 2018-19 |
| | **Traffic (In lakh Tonnes)** | 26.80 | 24.00 | 23.00 | 26.78 | 29.24 | 32.68 |
| | | | | | | | |
| **I** | **Total Operating Income** | **6895.99** | **7476.81** | **7044.76** | **7995.04** | **9720.12** | **11056.63** |
| | | | | | | | |
| **II** | **Operating Costs (excluding depreciation)** | | | | | | |
| | Maintenance Labour | 309.94 | 316.14 | 322.46 | 752.22 | 782.92 | 959.70 |
| | Equipment Running Cost | 823.14 | 780.21 | 780.66 | 473.84 | 502.29 | 550.33 |
| | Royalty / revenue share | 1789.26 | 1926.65 | 1807.90 | 1682.07 | 2438.34 | 2716.86 |
| | Equipment Hire Charges | 1705.06 | 1490.71 | 1457.17 | 1607.60 | 1722.64 | 2065.94 |
| | Lease Rentals | 536.44 | 563.79 | 592.55 | 539.35 | 564.96 | 592.77 |
| | Insurance | 115.20 | 117.50 | 119.85 | 115.20 | 113.71 | 111.57 |
| | Other Expenses | 34.93 | 38.84 | 37.41 | 9.73 | 15.77 | 4.98 |
| | **Total** | **5313.97** | **5233.84** | **5118.01** | **5180.01** | **6140.63** | **7002.15** |
| | | | | | | | |
| **III** | **Depreciation** | 745.64 | 415.64 | 415.64 | 1003.32 | 718.05 | 281.92 |
| | | | | | | | |
| **IV** | **Overheads** | | | | | | |
| | Management & Administration overheads | 682.92 | 696.57 | 710.51 | 727.0 | 874.21 | 884.98 |
| | Preliminary expenses write-off | 0.76 | 0.76 | 0.76 | 0.76 | 0.76 | 0.76 |
| | **Total** | **683.68** | **697.33** | **711.27** | **727.71** | **874.97** | **885.74** |
| | | | | | | | |
| **V** | **Operating Surplus / (Deficit) (I) - (II) - (III) - (IV)** | 152.70 | 1130.00 | 799.84 | 1084.00 | 1986.47 | 2886.82 |
| | | | | | | | |
| **VI** | **Finance & Miscellaneous Income (FMI)** | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| | | | | | | | |
| **VII** | Finance & Miscellaneous Expenses (FME) | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| | | | | | | | |
| **VIII** | FMI Less FME (VI) - (VII) | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| | | | | | | | |
| **IX** | **Surplus Before Interest and Tax (V) + (VIII)** | 152.70 | 1130.00 | 799.84 | 1084.00 | 1986.47 | 2886.82 |
| | | | | | | | |
| **X** | **Capital Employed** | 2393.49 | 2114.60 | 1857.87 | 2531.35 | 1763.49 | 1790.67 |
| | | | | | | | |
| **XI** | **Return on Capital Employed @ 16%** | 382.96 | 338.34 | 297.26 | 405.02 | 282.16 | 286.51 |
| | | | | | | | |
| **XII** | Capacity Utilization | 89% | 80% | 77% | - | - | - |
| | | | | | | | |
| **XIII** | RoCE adjusted for capacity utilization | 382.96 | 338.34 | 297.26 | 405.02 | 282.16 | 286.51 |
| | | | | | | | |
| **XIV** | **Net Surplus / (Deficit) (IX) - (XIII)** | (230.25) | 791.66 | 502.58 | 678.98 | 1704.31 | 2600.31 |
| | | | | | | | |
| **XVI** | **Net Surplus / (Deficit) as a % of operating income (XVII/I in %)** | -3.34% | 10.59% | 7.13% | 8.49% | 17.53% | 23.52% |
| | | | | | | | |
| **XVII** | **Average Net Surplus / (Deficit) as a % of operating income** | **4.79%** | | | **16.51%** | | |

| | 16-17 | 17-18 | 18-19 |
|---|---|---|---|
| **Net fixed assets** | **2152.25** | **1437.05** | **1310.09** |
| **Working capital** | | | |
| - Debtors | 44.95 | 47.08 | 49.40 |
| - Inventory | 217.13 | 186.54 | 279.06 |
| - Cash | 492.25 | 584.57 | 657.32 |
| | 754.32 | 818.19 | 985.78 |
| | | | |
| Less: Current liabilities | 0 | 0 | 0 |
| (a). Long Term Provisions - Employees Benefits | 69.06 | 126.78 | 169.92 |
| (b). Outstanding Creditors - Supplies / Services | 113.21 | 113.21 | 113.21 |
| (c). Other Current Liabilites | 406.06 | 639.55 | 549.98 |
| (d). Short Term Provisions / Borrowings | 1.87 | 0.46 | 0.51 |
| (e). Provision for Taxation | -214.98 | -388.25 | -328.42 |
| Total | **375.22** | **491.75** | **505.20** |
| | | | |
| Working capital | **379.10** | **326.44** | **480.58** |
| | | | |
| **Capital employed** | **2,531.35** | **1,763.49** | **1,790.67** |

**Annex-II**

## Computation of Annual Revenue Requirement under Tariff Policy, 2019 for Determination of Tariff for BOT operators operating at Major Port Trusts.

| | | | | | | | ₹. in lakhs |
|---|---|---|---|---|---|---|---|
| | | As per ISHPL | | | As Modified by TAMP | | |
| **Sl. No.** | **Description** | **2016-17** | **2017-18** | **2018-19** | **2016-17** | **2017-18** | **2018-19** |
| **(1).** | **Total Expenditure (As per Audited Annual Accounts)** | | | | | | |
| **(i).** | Operating expenses (including depreciation) | 7072.37 | 7966.56 | 8429.27 | 7072.37 | 7966.56 | 8429.27 |
| **(ii).** | Finance and Miscellaneous expenses (FME) | 4.47 | 36.49 | 2.69 | 4.47 | 36.49 | 2.69 |
| | **Total Expenditure 1=(i)+(ii)** | **7076.84** | **8003.05** | **8431.96** | **7076.84** | **8003.05** | **8431.96** |
| | | | | | | | |
| **(2).** | **Adjustments in respect of items where there is variation in figures reported as per INDAS (as per Audited Accounts) and IGAAP** | | | | | | |
| **(i).** | Depreciation | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| **(ii).** | Preliminary Expenditure | 0.76 | 0.76 | 0.76 | 0.76 | 0.76 | 0.76 |
| **(iii).** | Other expenditure items, if any, to be listed | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| | **Total of Adjustments 2=(i)+(ii)+(iii)** | **0.76** | **0.76** | **0.76** | **0.76** | **0.76** | **0.76** |
| **(3).** | **Less Adjustments:** | | | | | | |
| **(i).** | Actual Royalty / Revenue share paid to the port | 1841.75 | 2669.81 | 2974.77 | 1841.75 | 2669.81 | 2974.77 |
| **(ii).** | Interest on loans | 4.47 | 36.49 | 2.69 | 4.47 | 36.49 | 2.69 |
| **(iii).** | Insurance Premium on Loss of Profit Policy | 2.42 | 2.19 | 2.31 | 2.42 | 2.19 | 2.31 |
| **(iv).** | Provision for bad and doubtful debts | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| **(v).** | Provision for slow moving inventory | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| **(vi).** | Other provisions, if any | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| | **Total of 3 = [3(i)+3(ii)+3(iii)+3(iv)+3(v)+3(vi)]** | **1848.64** | **2708.49** | **2979.77** | **1848.64** | **2708.49** | **2979.77** |
| | | | | | | | |
| **(4).** | **Add: Admissible Royalty/ Revenue Share as per Clause 2.2. of the Tariff Guidelines, 2019** | **1682.07** | **2438.34** | **2716.86** | **1682.07** | **2438.34** | **2716.86** |
| | | | | | | | |
| **(5).** | **Total Expenditure after Total Adjustments (5 = 1+2-3+4)** | **6911.03** | **7733.66** | **8169.81** | **6911.03** | **7733.66** | **8169.81** |
| | | | | | | | |
| **(6).** | Average Expenses of Sl. No.5 = [ Y1 + Y2 + Y3 ] / 3 | | | **7604.83** | | | **7604.83** |
| | | | | | | | |
| **(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) | | | 13,813.58 | | | 13,813.58 |
| | (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) | | | - | | | - |
| | (iii). Add: Working Capital as per norms prescribed in clause 2.6 of the Tariff Guidelines, 2019 | | | | | | |
| | (a). Inventory | | | 279.06 | | | 279.06 |
| | (b). Sundry Debtors | | | 1,680.89 | | | 49.40 |
| | (c). Cash | | | 679.17 | | | 657.26 |
| | (d). Sum of (a)+(b)+(c ) | | | 2,639.12 | | | 985.72 |
| | **(iv). Total Capital Employed [(i)+(ii)-(iii)]** | | | **16,452.70** | | | **14,799.30** |
| | | | | | | | |
| **(8).** | **Return on Capital Employed 16% on Sl. No.7(iv)** | | | **2,632.43** | | | **2,367.89** |
| | | | | | | | |
| **(9).** | **Annual Revenue Requirement (ARR) as on 31 March Y3 or 31 December of Y3 as applicable [(6)+ (8)]** | | | **10,237.26** | | | **9,972.72** |
| | | | | | | | |
| **(10).** | **Indexation in the ARR @ 100% of the WPI applicable for the year 2019-20 @ 4.26%** | | | **10,673.37** | | | **10,397.56** |
| | | | | | | | |
| **(11).** | **Indexation in the ARR @ 100% of the WPI applicable for the year 2020-21 @ 1.88%** | | | **-** | | | **10,593.03** |
| | | | | | | | |
| **(12).** | **Ceiling Indexed Annual Revenue Requirement (ARR)** | | | **10,673.37** | | | **10,593.03** |
| | | | | | | | |
| **(13).** | **Adjustment of past period Surplus pertaining to the years 2016-17 to 2018-19 adjusted in Ceiling Indexed ARR** | | | **-** | | | **-** |
| | | | | | | | |
| **(14).** | **Adjusted Ceiling Indexed Annual Revenue Requirement (ARR)** | | | **10,673.37** | | | **10,593.03** |
| | | | | | | | |
| **(15).** | **Revenue Estimation at the Proposed indexed SOR within the Ceiling indexed ARR estimated at Sl. No.14 above** | | | **10,673.28** | | | **10,575.40** |
| | | | | | | | |

**Annex-III**

## Comparison of existing SOR and conditionalities vis-à-vis proposed tariff and conditionalities

| Sr. No. | Existing SOR | | Proposed SOR | | Reasons/ justification for amendments in conditionalities, if any, proposed by ISHPL | Analysis |
|---|---|---|---|---|---|---|
| | **Section No.** | **Tariff and Conditionalities** | **Schedule No.** | **Tariff and Conditionalities** | | |
| | **1.1 Definitions** | | | | | |
| **1** | 1.1 (ii) | “Berth” means the berth No 4A at Haldia Dock Complex, Kolkata Port Trust and the backup area. | 1.1 (ii) | “Berth” means the berth No 4A at Haldia Dock Complex, Kolkata Port Trust and the backup area. | - | The existing name of the "Kolkata Port Trust (KOPT) "has been renamed as "Syama Prasad Mookerjee Port, Kolkata". Further Berth No. also renumbered from 4A to 4 by KOPT. ISHPL has requested to modify berth No. as Berth No. 4 (Old Berth No. 4A) Accordingly, the following definitions in the Scale of Rates (SOR) of ISHPL was modified as follows:<br><br>(i).Definition at Clause 1.1(ii) - **“Berth” means the Berth No. 4 (old berth No 4A) at Haldia Dock Complex, Syama Prasad Mookerjee Port, Kolkata (SPMP) and the backup area**.<br><br>(ii). Definition at Clause 1.1(vii)- "**Port” means Syama Prasad Mookerjee Port, Kolkata (SPMP), the corporate entity, and will include** |
| **2** | 1.1 (vii) | “Port” means 'Kolkata Port Trust (KoPT)', the corporate entity, and will include Kolkata Dock System and Haldia Dock Complex. | 1.1 (vii) | “Port” means 'Kolkata Port Trust (KoPT)', the corporate entity, and will include Kolkata Dock System and Haldia Dock Complex. | - | |

| Sr. No. | Existing SOR | | Proposed SOR | | Reasons/ justification for amendments in conditionalities, if any, proposed by ISHPL | Analysis |
|---|---|---|---|---|---|---|
| | Section No. | Tariff and Conditionalities | Schedule No. | Tariff and Conditionalities | | |
| **3** | 1.1 (ix) | "ISHPL" means International Seaport (Haldia) Private Limited, a Special Purpose Company (SPV) incorporated under the Laws of India having its Registered Office presently at Flat No. 27, 5th Floor, 105, Park Street, Kohinoor Building, Kolkata - 700 016, its successors and permitted assignees, which has been granted license for construction, operation, management and maintenance of the berth No. 4A at Haldia Dock Complex of Kolkata Port Trust. | 1.1(ix) | "ISHPL" means International Seaport (Haldia) Private Limited, a Special Purpose Company (SPV) incorporated under the Laws of India having its Registered Office presently at Flat No. 27, 5th Floor, 105, Park Street, Kohinoor Building, Kolkata - 700 016, its successors and permitted assignees, which has been granted license for construction, operation, management and maintenance of the berth No. 4A at Haldia Dock Complex of Kolkata Port Trust. | - | **Kolkata Dock System and Haldia Dock Complex.**<br><br>(iii). Definition at Clause 1.1 (ix) –<br>**'"ISHPL" means International Seaport (Haldia) Private Limited, a Special Purpose Company (SPV) incorporated under the Laws of India having its Registered Office presently at Flat No. 27, 5th Floor, 105, Park Street, Kohinoor Building, Kolkata - 700 016, its successors and permitted assignees, which has been granted license for construction, operation, management and maintenance of the berth No. 4 (old Berth No. 4A) at Haldia Dock Complex of Syama Prasad Mookerjee Port, Kolkata (SPMP).**<br><br>(iv). Definition at Clause 1.1 (x) – |

| Sr. No. | Existing SOR | | Proposed SOR | | Reasons/ justification for amendments in conditionalities, if any, proposed by ISHPL | Analysis |
|---|---|---|---|---|---|---|
| | Section No. | Tariff and Conditionalities | Schedule No. | Tariff and Conditionalities | | |
| **4** | 1.1 (x) | "ISHPL Premises" means the area licensed to ISHPL including the back-up area allotted under the License Agreement with Kolkata Port Trust, Haldia Dock Complex (KoPT). | 1.1 (x) | "ISHPL Premises" means the area licensed to ISHPL including the back-up area allotted under the License Agreement with Kolkata Port Trust, Haldia Dock Complex (KoPT). | - | "**ISHPL Premises" means the area licensed to ISHPL including the back-up area allotted under the License Agreement with Syama Prasad Mookerjee Port, Kolkata (SPMP), Haldia Dock Complex (HDC).** |
| | **1.2 General Terms and Conditions** | | | | | |
| **3** | 1.2 (ix).(a) | (a). The user shall pay penal interest at the rate of **15.75%** per annum on delayed payments of any charge under this Scale of Rates. | 1.2 (ix).(a) | (a). The user shall pay penal interest at the rate of **15.00%** per annum on delayed payments of any charge under this Scale of Rates. | - | The change is as per the clause no. 5.4.1 of the Tariff Guidelines, 2019. Hence, approved. |
| **4** | 1.2 (ix).(a) | (b). Likewise, the ISHPL shall pay penal interest at the rate of **15.75%** per annum on delayed refunds. | 3 (x) | (b). Likewise, the ISHPL shall pay penal interest at the rate of **15.00%** per annum on delayed refunds. | - | The change is as per the clause no.5.4.1 of the Tariff Guidelines, 2019. Hence, approved. |
| **5** | 1.2 (xii). | -- | 1.2 (xii). | (a). The Vessel related charges for all Coastal vessels should not exceed 60% (or such percentage as may be modified as per Government of India notifications from time to time) of the corresponding charges for other | New Insertion. The said clause has reportedly been included to take care of the Coastal Rates as per the Coastal | The ISHPL has not prescribed the Coastal Rates for the vessel/ cargo related charges in the proposed SOR as per the Coastal Concession Policy issued by the Government of India. However, it has reported that in lieu of the separate coastal rates for each of |

| Sr. No. | Existing SOR | | Proposed SOR | | Reasons/ justification for amendments in conditionalities, if any, proposed by ISHPL | Analysis |
|---|---|---|---|---|---|---|
| | Section No. | Tariff and Conditionalities | Schedule No. | Tariff and Conditionalities | | |
| | | | | vessels and collected in Indian Rupee.<br>(b). The cargo related charges (as given in Clause 3.1, Clause 3.2 and Clause 3.3 only) for all Coastal cargo, other than thermal coal, POL including Iron Ore and Iron pallets, should not exceed 60% (or such percentage as may be modified as per Government of India notifications from time to time) of the normal cargo related charges.<br>(c). 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.<br>(d). For the purpose of this concession, cargo from a foreign port which reaches an Indian Port 'A' for subsequent transhipment to Indian Port 'B' will also qualify insofar as the charges relevant for its coastal voyage. In other words, cargo from/ to Indian Ports carried by vessels permitted to undertake coastal voyage will qualify for the concession. | Concession Policy issued by the Government of India. | service/ cargo, clause nos. 12 (xii) (a) to (d) are included in the proposed SOR.<br><br>The prescription of the said clause is seen to be in line with the Coastal Concession Policy issued by the Central Government of India, Hence, the same is approved.<br><br>However, to avoid ambiguity, the separate coastal rates in respect of vessel related charges as well as cargo related charges as per the Coastal Concession policy is restored for each of the service/ cargo, wherever, applicable. |

<table>
<tr><th rowspan="2">Sr. No.</th><th colspan="2">Existing SOR</th><th colspan="2">Proposed SOR</th><th rowspan="2">Reasons/ justification for amendments in conditionalities, if any, proposed by ISHPL</th><th rowspan="2">Analysis</th></tr>
<tr><th>Section No.</th><th>Tariff and Conditionalities</th><th>Schedule No.</th><th>Tariff and Conditionalities</th></tr>
<tr><td></td><td colspan="2">3.6 Section -E - Ground Rent / Storage Charges</td><td></td><td></td><td></td><td></td></tr>
<tr><td></td><td>3.6</td><td><table><tr><th>Sr. No.</th><th>Particulars of Commodity</th><th>Rate per metric tonne per day for the period beyond 21th day for the balance cargo (₹ )</th></tr><tr><td>(i).</td><td>Coking coal</td><td>50.00</td></tr></table></td><td>3.6</td><td><table><tr><th>Sr. No.</th><th>Particulars of Commodity</th><th>Rate per metric tonne per day for the period beyond 15th day for the balance cargo (₹ )</th></tr><tr><td>(i).</td><td>Coking coal</td><td>50.00</td></tr></table></td><td>--</td><td>Though the no. of free days has been retained by ISHPL at 21 days in the note forming part of the Storage charges Schedule, the ISHPL has proposed change in the period for levy of storage charges from 21 days to 15 in the proposed SOR. Since no specific reasons for the proposed charge has been brought out by ISHPL, the Authority has not inclined to approve the said change.</td></tr>
<tr><td></td><td colspan="2">Section F – Miscellaneous (Operational Services</td><td></td><td></td><td></td><td></td></tr>
<tr><td></td><td></td><td><table><tr><th>Sr. No.</th><th>Particulars</th><th>Rate per metric tonne (₹ )</th></tr><tr><td>(i).</td><td>Weighment charges for in-motion weigh bridge empty and loaded including weighment certificate</td><td>5.50</td></tr></table></td><td></td><td><table><tr><th>Sr. No.</th><th>Particulars</th><th>Rate per metric tonne (₹ )</th></tr><tr><td>(i).</td><td>Weighment charges for in-motion weigh bridge empty and loaded</td><td>5.50</td></tr></table></td><td></td><td>The words “including weighment certificate“ forming part of existing SOR have been deleted in the proposed SOR. The ISHPL has not provided the reason for deletion of the said words in the proposed SOR. Hence, the Authority has not inclined to approve the said change.</td></tr>
</table>

**SUMMARY OF THE ARGUMENTS MADE IN THIS CASE DURING THE JOINT HEARING BEFORE THE AUTHORITY.**

**F. No. TAMP/07/2020-ISHPL - Proposal from International Seaports (Haldia) Private Limited (ISHPL) for general revision of its Scale of Rates.**

A joint hearing in this case was held on 19 June 2020 thorough Video conferencing. At the joint hearing, the ISHPL, KOPT and one of the user i.e. SAIL have made the following submissions:

**ISHPL**

(i). Briefly explains the highlights of its proposal.

(ii). The proposal has been formulated strictly based on the TAMP guidelines 2019.

(iii). Though we have considered the annual average traffic of past 3 years at 2.9 MT as per the guidelines, we may not handle 2.9 MT during this year due to the current situation of Covid-19 pandemic. In fact we have already seen a reduction of about 35% in the current financial year as compared to the corresponding period of last year.

(iv). We have sought an increase ranging from 7% to 18% in the rates. The proposed rates are competitive.

(v). Certain clarification were sought on the proposal by TAMP. We will be sending our replies at the earliest.

**HDC, KOPT**

(i). TAMP has sought our comments. We will respond shortly.

(ii). We are preparing our comments. We have nothing to say as of now.

**SAIL**

(i). We have our contract with ISHPL. We do not have comments on the proposal.

(ii). We urge upon ISHPL to upgrade the facilities.

[ISHPL: We have upgraded our automated systems. We will upgrade our facilities as and when required]

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