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Tariff Authority for Major Ports

G.No. 36

New Delhi, 22 February 2011

NOTIFICATION

In exercise of the powers conferred by Section 48 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal received from the Visakhapatnam Port Trust for fixation of a levy for deployment of labour of the Cargo Handling Division as in the Order appended hereto.

(Rani Jadhav)
Chairperson

Tariff Authority for Major Ports
Case No. TAMP/26/2010-VPT

Visakhapatnam Port Trust

Applicant

ORDER

(Passed on this 18th day of January 2011)

This case relates to a proposal dated 4 May 2010 received from the Visakhapatnam Port Trust (VPT) for fixation of a levy to be levied as a percentage of Time Rate Wages for deployment of labour of the Cargo Handling Division (CHD).

2.1. The VPT has in its proposal dated 4 May 2010 stated that Visakhapatnam Dock Labour Board (VDLB) has been merged with Visakhapatnam Port Trust with effect from 26 September 2008 in accordance with the Gazette Notification issued by the Ministry of Shipping, Road Transport and Highways. In this connection, a Memorandum of Settlement was entered between the management of the Visakhapatnam Dock Labour Board, its workers union and the VPT under Section 12 (3) of Industrial Dispute Act in September 2008.

2.2. The main points made by the VPT in its proposal dated 4 May 2010 are given below:

- (i). Prior to merger of VDLB with VPT, the procedure of collection of levy as percentage of time rate wages paid to the workers for the work chances provided was in operation as per the Dock Workers Regulation of Employment Act, under which Registered scheme and Unregistered scheme are approved. The VDLB decided the percentage of levy to be collected from time to time. Accordingly, the levy was collected periodically by raising claims on the stevedores.
- (ii). A consolidated levy @ 189% of prevailing highest time rate wage of the category of worker was being collected. Apart from this collection of levy, the Time Rate Wages and Piece rate payments made to the workers for the work chances at actual is also collected from the stevedore who engage the workers of Cargo Handling Division.
- (iii). The Ministry vide their letter dated 24 June 2009 has directed that stevedoring levy may be calculated on tonnage basis instead of percentage of wages of labour, by taking into account the wage cost of full complement deployed presently which could be tapered off in the long run.

In this direction, meetings were held with the Trade and the Trade has requested to continue the existing pattern of collection of levy of time rate wages and piece rate at actual for some more period.

- (iv). On the date of merger, the total strength of VDLB was 1228 which has reduced to 1165 due to voluntary retirements / super annuations and deaths. The projected staff strength of the CHD division for the 3 years 2010-11 and 2011-12 to 2013-14 is 1165, 1015, 981 and 974 respectively.
- (v). The basic concept of collection of levy is to meet the administrative expenditure of the organization in full with no loss – no profit. However, the percentage of levy being collected is insufficient to meet the administrative and welfare expenditure fully and in this process the VDLB and the present Cargo Handling Division have incurred losses and accumulated financial deficit as on 31 March 2009 was Rs.21.78 crores. The anticipated loss during the year 2009-10 is Rs.24.40 crores based on provisional figures.
- (vi). In the meeting between the VPT and the trade representatives on 18 March 2010 it was informed to the trade about the financial losses being incurred in respect of CHD. The trade representatives agreed in the meeting for the increase in the levy from the existing 189% to 250% with effect from 1 April 2010 for a period of 3 months and to 350% on time rate wages with effect from 1 July 2010 onwards. They also agreed to enhance the levy pending approval of TAMP.

- (vii). The VPT Board in their meeting held on 30 March 2010 has accorded sanction to the proposal of VPT.
- (viii). A stevedore has to pay 100% of the amount estimated for handling of a vessel in advance to be adjusted in the final bill to be raised on completion of the vessel. If the stevedore fails to clear the dues within the stipulated period, then it has to pay interest calculated as per State Bank of India PLR plus two percent thereon.
- (ix). The VPT has furnished consolidated Balance Sheet and Income and Expenditure of the Cargo Handling Division as on 25 September 2008 and as on 31 March 2009 and for the financial year 2009-10. It has also furnished cost statement for Cargo Handling Division giving the actuals for 2008-09 and 2009-10 and estimates for the years 2010-11 to 2013-14. A summary of the cost position reflected in the cost statement filed by VPT is given below:

(Rs. in lakhs)

Sl. No.	Particulars	Actuals		Estimates at existing tariff			
		2008-09	2009-10	2010-11	2011-12	2012-13	2013-14
(i).	Total Income	4424.26	3173.10	4529.38	4492.21	4628.99	4778.22
(ii).	Expenditure (excluding ROCE)	5172.36	5594.06	5951.71	6095.31	6814.93	7018.44
(iii).	Capital Employed	--	209.03	185.99	163.86	141.74	119.61
(iv).	ROCE:						
	16% on Business Assets	--	10.31	9.04	7.91	6.78	5.65
	6.35% on Business Related Assets	--	9.18	8.22	7.27	6.31	5.35
(v).	Total Expenditure + ROCE (ii + iv)	5172.36	5613.55	5968.97	6110.48	6828.02	7029.44
(vi).	Excess of Expenditure over Income (i - v)	(748.10)	(2440.45)	(1439.59)	(1618.27)	(2199.03)	(2251.22)

2.3. In this backdrop, and as the adhoc rate is mutually agreed by the trade for collection of levy, the VPT has sought approval of the following rates:

- (i). To collect levy on the daily wage rate made to workers @ 250% for a period of 3 months w.e.f. 1 April 2010 and 350% from 1 July 2010 onwards to meet the cost of Management and other welfare activities.
- (ii). To collect time rate wages and piece rate payments at actual and PR levy on thermal coal will also be collected as per the existing procedure.
- (iii). To collect the percentage of levy as decided from time to time on all the operations without any exception.

2.4. Accordingly, VPT has proposed to insert the following in the Scale of Rates of the port:

- (i). Definitions of Cargo Handling Division, Dock Work, Dock Worker, Rate of levy, Time Rate Wage and Piece Rate are proposed to be included in the existing Section-1 of proposed Scale of Rates of VPT.
- (ii). Insert the following under Section 4 – Cargo Related Charges Schedule 4.7.4.:-

Levy on Cargo Handling Services:

Sl. No.	Description	Levy
(i).	Levy to be collected from Trade on daily wage rate made to the workers for the work chance provided	250% for a period of 3 months with effect from 1 April 2010 and 350% with effect from 1 July 2010 on daily wage rate
(ii).	Collection of Time rate wages and Piece rate payments (PR levy on Thermal Coal will also be collected as per the existing procedure)	At actuals

3. With reference to our advice to furnish the workings of the proposed percentage of levy, the VPT vide letter dated 2 June 2010 has made the following submission:

- (i). The income from CHLD levy was Rs.44.24 crores in 2008-09 and for the year 2009-10 it is anticipated at Rs.31.73 crores. However, the expenditure for the year 2008-09 was Rs.51.72 crores with a deficit of Rs.7.48 crores. For the year 2009-10 the anticipated operating expenditure is Rs.55.94 crores, and considering the return on capital employed of Rs.0.19 crores, the total expenditure was estimated at Rs.56.13 crores with a deficit of Rs.24.40 crores.
- (ii). As on 31.3.2009, the CHD is having an accumulated deficit of Rs.21.78 crores and a shortfall in the pension fund of Rs.27.09 crores. As per the pre-merged scheme, the entire expenditure including the shortfall towards social responsibility is also to the account of stevedores. Accordingly, the shortfall in the pension fund and the accumulated deficit as on 31.3.2009 was also considered as deferred expenditure for a term of 5 years.
- (iii). Considering the above-deferred expenditure of Rs.9.77 crores per annum, the total expenditure per annum is arrived at Rs.65.90 crores, whereas the anticipated income is estimated at Rs.31.73 crores. Considering the income and expenditure as mentioned above it was proposed to enhance the existing levy of 189% to 350% effective from 1.4.2010.
- (iv). Consequent to implementation of pay revision for Group C and D employees, the daily wages have also increased. As the levy is a percentage on daily wages, there is additional contribution in levy on account of this. By considering the enhanced levy of 161% there will be an additional collection in levy by Rs.12.79 crores.
- (v). When the said proposal for enhancement of levy was placed before the stevedores, after having detailed discussion the stevedores have consented to enhance the levy to 250% w.e.f. 1.4.2010 and watch for one year. After detailed discussion and persuasion they had agreed to enhance to 250% from 1.4.2010 and 350% from 1.7.2010.
- (vi). The stevedores have further stated that the existing contracts with most of their principals will expire by end of June 2010 and new contracts will commence from July 2010 onwards. In this context they made a request for consideration of 250% levy which they can bear from the present contract rates for a period of 3 months commencing from 1.4.2010 and thereafter are they are going to enter into a new contract, the proposed 350% levy can be brought to the notice of their principals and accordingly new contracts could be finalised.
- (vii). In view of the said justification though it was proposed to 350% levy from 1.4.2010 onwards, the levy was considered at 250% for a period of 3 months from 1.4.2010 and 350% from 1.7.2010 onwards.

4.1. The Tamil Nadu Electricity Board (TNEB) vide letter dated 17 April 2010 has informed that the VPT vide letter dated 30 March 2010 has intimated that the levy for engaging the labourers is proposed to be increased from the present levy of 184% to 250% with effect from 1 April 2010 and to 350% with effect from 1 July 2010. The VPT was, therefore, vide our letter dated 27 April 2010 requested to furnish its comments on the point made by TNEB and also furnish authorization on basis of which such enhanced levy was being collected by the port.

4.2. The VPT, vide its letter dated 27 May 2010 responded to the points made by the TNEB mainly reiterating its proposal. The main points made by VPT are summarised below:

- (i). Since the CHD is foreseeing a financial loss to the tune of 23.00 crores for the financial year 2009-2010 the Management reportedly with the consensus arrived in the presence of Trade Members has decided to enhance the levy from the existing 189% to 250% for a span of three months i.e., w.e.f. 1.4.2010 till 30.6.2010 and thereafter 350%.

- (ii). It has stated that consensus was arrived with the trade while enhancing the proposed percentage of levy, the Handling Agent of the M/s.TNEB also attended the meeting. The port has furnished a copy of the minutes of its meeting held with the trade on 18.3.2010 in this regard.

4.3. With reference to the points made by the VPT, it was pointed out to the VPT vide our letter dated 9 August 2010 that this Authority has not approved any levy for deployment of labour from Cargo Handling Division in the Scale of Rates of VPT. As per the Section 48 of Major Port Trusts Act, 1963, Major Port Trust is not empowered to levy a tariff without the approval of this Authority for the services listed therein. The decision, if any, taken by the VPT to levy the proposed rate will be only at the risk and consequences of the port.

5. In accordance with the consultation process prescribed, the proposal dated 4 May 2010 received from the VPT was circulated to the concerned users / organisation bodies seeking their comments. The comments received from the users / organisation bodies were forwarded to the VPT as feedback information. The VPT has furnished its remarks on the comments made by the users / organisation bodies.

6.1. Based on the preliminary scrutiny of the proposal, the VPT was requested to furnish information/clarifications on various points vide our letter dated 9 September 2010. The VPT has furnished its reply vide letter dated 22 October 2010. A summary of the queries raised by us and the clarifications furnished by the VPT are tabulated below:

Sl. No.	Queries raised by us	Reply furnished by VPT
(i).	It is reported that the Visakhapatnam Dock Labour Board (VDLB) was merged with Visakhapatnam Port Trust (VPT) w.e.f. 26 September 2008 and the operations post-merger would come under the purview of MPT Act. But, the proposal for fixation of levy has been filed only in May 2010. The reason for delay of almost a year and a half in filing the proposal may be explained.	In the Memorandum of Settlement entered into under Section 12 (3) of Industrial Dispute Act, at the time of merger of the then VDLB with VPT, it was proposed to continue the collection of levy as per the existing pattern on the time rate wages from the Stevedores. Accordingly, the collection of levy was continued on percentage basis. As the matter stands above, a letter dated 24.6.2009 on Stevedoring Policy for Major Ports – collection of levy on the tonnage basis instead of percentage of wages of labour was received from the Ministry on 13.7.2009. As per the Ministry's directions, the levy is to be collected on tonnage basis and accordingly the agenda was placed in the Board Meeting held on 3.8.2009, wherein the Board resolved to approve in principle collection of levy on tonnage basis instead of percentage of wages of labour as directed by the Ministry subject to approval of TAMP. As resolved by the Board, a Committee was constituted to work out modalities for collection of levy on tonnage basis and thereafter the Committee had ascertained the information from the other Major Ports where the levy on tonnage basis was implemented. After firming up the proposal, the Stevedores were invited for a meeting convened on 13.2.2010 and subsequent meetings were also held on 24.2.2010 and 3.3.2010. In the meeting held on 18.3.2010, the Stevedores made a request for continuation of percentage levy for some more time instead of tonnage basis. In the said meeting a consensus was reached for collection of enhanced levy at the rate of 250% for a period of 3 months commencing from 1.4.2010 and 350% from 1.7.2010 onwards and thereafter to introduce the levy on tonnage basis. As per the consensus arrived, the Board of Trustees of VPT in the meeting held on 31.3.2010 resolved for collection of levy on percentage basis and to submit a proposal to the TAMP. Under these circumstances, there was a delay of 1 ½ years in filing the proposal to the TAMP.

(ii).	(a).	The objective of the merger of the erstwhile Visakhapatnam Dock Labour Board with the VPT as highlighted in the Memorandum of Settlement is to ensure regularity of employment, higher labour productivity, quicker turn round of vessel and cost effectiveness in the cargo handling. Please explain the steps taken to achieve the objectives set out in Memorandum of Settlement.	In order to achieve the objectives of the merger of the erstwhile VDLB with VPT as highlighted in the Memorandum of Settlement, towards cost effectiveness in the cargo handling operations the Port Trust had implemented the National Tribunal Award on manning scales and accordingly the manning scales were revised for various activities of cargo handling. This resulted in reduction in manpower per hook per shift and also economy in per ton cost as per the existing tariff as on 31.3.2010 is furnished. The details furnished by VPT is given below: Cost per tonne in cargo handling operations before National Industrial Tribunal Act and afterwards <table><tr><th colspan="4">Rs. per tonne</th></tr><tr><th>Name of the cargo</th><th>Before implementation of Manning Scales</th><th>After implementation of National Tribunal</th><th>After implementation of Union Agreement</th></tr><tr><td>Ores</td><td>20.00</td><td>6.00</td><td>21.00</td></tr><tr><td>Iron & Steel</td><td>44.00</td><td>59.00</td><td>233.00</td></tr><tr><td>Coking Coal</td><td>16.00</td><td>6.00</td><td>16.00</td></tr><tr><td>General Cargo</td><td>54.00</td><td>134.00</td><td>121.00</td></tr><tr><td>All Cokes</td><td>22.00</td><td>9.00</td><td>27.00</td></tr><tr><td>Bulk Cargo</td><td>37.00</td><td>8.00</td><td>24.00</td></tr></table> In addition to the above to ensure higher labour productivity, the Port had proposals to replace the existing electrical wharf cranes with higher capacity wharf cranes and also to increase the existing grabs capacity to higher capacity. All these factors put together will ensure quicker turn-round of vessel on long term basis and thus it can be stated the Port had taken efforts to meet the objectives stipulated in the Memorandum of Settlement.	Rs. per tonne				Name of the cargo	Before implementation of Manning Scales	After implementation of National Tribunal	After implementation of Union Agreement	Ores	20.00	6.00	21.00	Iron & Steel	44.00	59.00	233.00	Coking Coal	16.00	6.00	16.00	General Cargo	54.00	134.00	121.00	All Cokes	22.00	9.00	27.00	Bulk Cargo	37.00	8.00	24.00
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(b).	A comparative position of the productivity of the cargo handling workers in terms of average output per hook per shift commodity-wise, vessel turn around of the vessel, may be furnished for the two years 2006-07, 2007-08 prior to the merger and for the post merger period till August 2010.	A comparative position of the productivity of the cargo handling workers in terms of average difference per hook per shift, commodity-wise, vessel turn around of the vessel for the years 2006-07, 2007-08 i.e. prior to the merger and for the post merger period till 31.8.2010 is furnished.																																	
(iii).	The Government of India vide letter no LB-13018/4/05-L-II dated 24 June 2009 (as forwarded by the VPT) has formulated a new Stevedoring policy wherein it has directed all the port trusts to calculate the stevedoring levy on tonnage basis instead of percentage of wages of labour. The VPT has not given any valid reasons for not complying with the directions of the Government in this regard except stating that the Stevedores have requested to continue with the existing system of levy on percentage of wage cost. The VPT is requested to explain the reasons for not complying with the Government direction. It may be clarified whether the VPT has approached the Government seeking exemption for not complying with the government direction for per tonne levy for stevedoring activity and has obtained	As clarified at Sl. No.(i). above, the Stevedores made a request in the meeting held in February 2010 for continuation of the existing pattern of collection of levy on percentage basis for some more time and accordingly it was resolved in the Board Meeting of the VPT to continue the collection of levy on percentage basis. In support of the decision taken in the meeting with the Stevedores, the minutes of the meeting is furnished.																																	

	any exemption from the Government in this regard. If so, relevant documents may be furnished.	
(iv).	The proposal filed by VPT is for levy at 350% on the daily wage rate from 1.7.2010 onwards. The Minutes of the meeting held with the trade members with reference to proposed levy for deployment of labour from Cargo Handling Division, however, shows that the trade had requested to continue with the existing system of levy on percentage basis for some more period. It is not clear upto what time period the VPT proposes to continue with the proposed percentage system of levy before switching over to tonnage based rates, as mandated by the Government instructions.	The VPT proposes for collection of levy at the rate of 350% till such time the accrued financial loss of Rs.21.78 crores as on 31.3.2009 and with further accruals of Rs.41.74 crores till 31.3.2010 (as per audited) and also till fulfilling the shortfall in the pension fund of Rs.166 crores are met. It is anticipated that it may take a period of 5 years with the proposed levy rate, at 350%, to wipe off the accrued financial loss as well as shortfall in the pension fund. However, if the same is fulfilled in less than 5 years, the Management will take necessary steps to switchover to collection of levy on tonnage basis as per the Ministry's instructions.
(v).	The cargo-wise performance assurance by the VPT with reference to the productivity of the labour deployed from the CHD may be stated explicitly which will be included as a conditionality in the Scale of Rates. The VPT may show how the improvement in productivity of the cargo handling workers port merger is considered while arriving at the proposed rate.	Based on the forecast indicated in the Business Plan, the existing cargo profile may continue in future. In order to provide work chance to the labour of CHD it is anticipated that the handling of bulk cargos will continue in future also and thus there will be reasonable employment to the workers of CHD. With this assurance, the Port had proposed for collection of levy on percentage basis in future. The improvement in productivity of CHD in the post merger is furnished.
(vi).	(a). The proposal states that the levy @ 189% of time rate wage being collected by the port is based on the approval of Tripartite Body constituted by the Ministry constituting of members from management, union and stevedore. Please furnish a copy of the sanction of the existing levy and copy of gazette notification if the same has been notified in the gazette.	The Tripartite body consisting of members of Union, representative of Stevedores and Management for resolved to collect levy at 189% of time rate wages. Further, it is to state that there is no practice of notifying these levy rates in the Dock Labour Board in the Gazette and, therefore, no Gazette Notification is available for the same.
	(b). Briefly explain the basis on which the existing levy of 189% was determined in the past.	The existing levy of 189% is the combination of various percentages of levies i.e. general levy at the rate of 95%, the special levy at the rate of 39% and additional levy at the rate of 50% and productivity linked reward levy at the rate of 5% on the time rate wages. The general levy is proposed to meet the administrative expenses of the Organization, the special levy is to meet the expenditure on arrears on account of wage revision for Class I & II Officers and Class 'C' & 'D' employees, the additional levy is to meet the deficit of financial loss that which is being accumulated and 5% levy is to pay PLR to the workers only since this being the responsibility of the Stevedores as per the schemes prevailed in Dock Workers Regulations and Employment Act.
(vii).	The proposal states that time rate wages and piece rate payments will be collected on thermal coal at actuals. In this regard the following information may be furnished:	
	(a). Justify the reasons for proposing a different methodology of collecting levy based on actuals only for this cargo item.	Thermal Coal is being received at this Port in bulk in large scale and the cargo handling operations are being done through dockworkers. In this process as the Stevedores have to make all the payments

		including time rate wages, piece-rate payments and levy percentage in addition to other expenditure of overtime, etc., and in order to attract more cargo at this Port, it was proposed to have cost effectiveness for Thermal Coal. Keeping this in view it was proposed to collect the time rate wages and piece-rate payment on actuals on Thermal Coal.																				
(b).	Please indicate the actual income and the actual expenditure related to the deployment of labour for handling thermal coal separately in the cost statement for the period prior to merger and post merger.	The details of actual income and actual expenditure related to deployment of labour for handling of Thermal Coal furnished for the period prior to merger and post merger is furnished. A summary of the cost statement for thermal coal furnished by VPT is given below: (Rs. in lakhs) <table><tr><th>Sl. No.</th><th>Particulars</th><th>26.09.08 to 31.03.09</th><th>2009-10</th><th>01.04.10 to 31.08.10</th></tr><tr><td>(i).</td><td>Income</td><td>469.47</td><td>1009.96</td><td>1500.35</td></tr><tr><td>(ii).</td><td>Expenditure</td><td>757.41</td><td>1544.48</td><td>1039.71</td></tr><tr><td>(iii).</td><td>Surplus/ Deficit</td><td>(-)287.94</td><td>(-)534.52</td><td>460.64</td></tr></table>	Sl. No.	Particulars	26.09.08 to 31.03.09	2009-10	01.04.10 to 31.08.10	(i).	Income	469.47	1009.96	1500.35	(ii).	Expenditure	757.41	1544.48	1039.71	(iii).	Surplus/ Deficit	(-)287.94	(-)534.52	460.64
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(iii).	Surplus/ Deficit	(-)287.94	(-)534.52	460.64																		
(c).	Please show how the indirect cost like overheads etc, allocable to handling thermal coal is considered for the purpose of levy.	The collection of indirect cost like overheads, etc., for the purpose of levy rate is considered on the basis of ratio between thermal coal and other cargo quantities.																				
(d).	Confirm and show that there is no cross subsidy received by this cargo from the other cargo.	It is to confirm that there is no cross subsidy received by this cargo and in support of the same the cost statement is enclosed.																				
(e).	Explain the term PR levy on thermal coal. Explain the existing procedure for collecting such levy from thermal coal.	In addition to the general levy i.e. 95%, a separate levy is being collected in the name of P.R. levy on thermal coal operations at the rate of 95% of time rate wages of the workers employed for the operations of thermal coal on wagons unloading and this is termed as P.R. levy and the present percentage of levy is at 300% whereas for the period from 1.4.2010 to 30.6.2010 the same was at 250%.																				
(viii).	Furnish the following details for the years 2007-08 and 2008-09 till 25 September 2009 and from 26 September 2009 to 31 March 2009 upto 2010-11 (upto August 2010) subsequent to merger of VDLB with VPT and also with reference to the estimates for the years 2010-11 to 2013-14. The details for thermal coal may also be furnished:																					
(a).	Composition of on-board workers per hook/ per gang.	The composition of on-board workers per hook/per gang for the years 2007-08 and 2008-09 till 25.9.2009 and from 26.9.2009 to 31.3.2009 upto 2010-11 (upto August 2010) subsequent to merger of VDLB with VPT and also with reference to the estimates for the years 2010-11 to 2013-14 is furnished.																				
(b).	Furnish cargo-wise actual traffic handled and cargo which has availed stevedoring service from CHD. This details may also be furnished for estimated cargo throughput for the years 2010-11 to 2013-14.	The cargo wise actual traffic handled and cargo which availed the Stevedores services from CHD is furnished for the years 2007-08 upto 31.3.2010 along with the projections for the years 2010-11 upto 2013-14.																				
(ix).	As per Clause 2.6.2 of the revised tariff guidelines it is necessary to regularly adjust manning scales / datum after due process of law. Further, the Memorandum of Settlement stipulates that the deployment of workers will be subject to the outcome of the Writ																					

	Petition filed by the Unions on the National Tribunal Award. The High Court had vacated a stay on the Tribunal award and has ordered its implementation in all major ports in the country with immediate effect. The VPT is therefore to confirm whether the revised manning scales as per the National Tribunal Award is implemented with reference to the deployment of labour from CHD. In this regard, the VPT is requested to furnish the following:																																																																																															
	(a). A statement showing a comparative position of the manning scale for various commodities prior to the revised Manning scale notified by the National Tribunal Award and after revision of the manning scale.	The VPT has implemented the National Tribunal Award and accordingly the manning scales were also modified. The present deployment of manpower is as per the revised manning scales. As indicated in the letter a comparative position of the manning scales for various commodities prior to the revised manning scales notified by the National Tribunal Award and after revision of the manning scales is furnished.																																																																																														
	(b). Please clarify whether the time rate wage cost considered in the cost statement is based on the actual deployment of labour as per the revised manning scale and furnish a calculation in this regard for the years 2010-11 to 2013-14.	The time rate wage considered in the cost statement is based on the actual deployment of labour as per the revised manning scales. It has furnished the details of calculation considered for the relevant years 2010-11 to 2013-14.																																																																																														
	(c). The VPT has considered 313 number of casual workers in each of the year 2010-11 to 2013-14. Please indicate what is the treatment given in the cost statement with reference the cost of casual workers and indicate for which cargo handling activity they are proposed to be deployed. Please furnish working to show that the cost of casual workers estimated in the cost statement is based on the daily wage rate of Rs.250 per day as per Memorandum of Settlement.	313 casual workers considered in each of the years from 2010-11 to 2013-14 are being deployed after exhausting the regular DLB workers for shore and cargo handling operations. The treatment given for these casual workers while preparing the cost statement is shown separately.																																																																																														
	(d). Please indicate the average days of employment of the cargo handling workers (year-wise) for the post merger period and also for the years 2010-11 to 2012-13. Please show that after merger of the VDLB, there is no notional booking of labour from the CHLD.	A comparative statement of indicating the average days of employment of the CHD is furnished. A summary position is given below: Registered Workers: (Average employment in days) <table><tr><th rowspan="2">Category</th><th colspan="2">Actuals</th><th colspan="3">Estimates</th></tr><tr><th>2007-08</th><th>2009-10</th><th>2010-11</th><th>2011-12</th><th>2012-13</th></tr><tr><td>Tally Clerks</td><td>23</td><td>7</td><td>14</td><td>13</td><td>14</td></tr><tr><td>Tindals</td><td>23</td><td>7</td><td>14</td><td>14</td><td>14</td></tr><tr><td>Winch Drivers</td><td>18</td><td>10</td><td>13</td><td>14</td><td>15</td></tr><tr><td>T/Signalman</td><td>21</td><td>17</td><td>20</td><td>21</td><td>23</td></tr><tr><td>Mazdoors</td><td>22</td><td>12</td><td>19</td><td>20</td><td>21</td></tr></table> Unregistered Workers: (Average employment in days) <table><tr><th rowspan="2">Category</th><th colspan="2">Actuals</th><th colspan="3">Estimates</th></tr><tr><th>2007-08</th><th>2009-10</th><th>2010-11</th><th>2011-12</th><th>2012-13</th></tr><tr><td>W/UL Maistries</td><td>23</td><td>13</td><td>--</td><td>--</td><td>--</td></tr><tr><td>I&S Tindals</td><td>17</td><td>13</td><td>16</td><td>20</td><td>20</td></tr><tr><td>I&S Maistries</td><td>22</td><td>--</td><td>20</td><td>20</td><td>21</td></tr><tr><td>G K Maistries</td><td>22</td><td>--</td><td>--</td><td>--</td><td>--</td></tr><tr><td>W/S Sweepers</td><td>24</td><td>--</td><td>--</td><td>--</td><td>--</td></tr><tr><td>Mazdoors</td><td></td><td></td><td></td><td></td><td></td></tr><tr><td>Casual Workers</td><td>--</td><td>7</td><td>13</td><td>13</td><td>14</td></tr></table>	Category	Actuals		Estimates			2007-08	2009-10	2010-11	2011-12	2012-13	Tally Clerks	23	7	14	13	14	Tindals	23	7	14	14	14	Winch Drivers	18	10	13	14	15	T/Signalman	21	17	20	21	23	Mazdoors	22	12	19	20	21	Category	Actuals		Estimates			2007-08	2009-10	2010-11	2011-12	2012-13	W/UL Maistries	23	13	--	--	--	I&S Tindals	17	13	16	20	20	I&S Maistries	22	--	20	20	21	G K Maistries	22	--	--	--	--	W/S Sweepers	24	--	--	--	--	Mazdoors						Casual Workers	--	7	13	13	14
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		In the post merger scenario, it is to state that there is no notional booking of labour from the CHD and the same is to be treated as NIL.
	(e). The copy of the Memorandum of Settlement dated 8 September 2008 for merger of VDLB with the VPT in page no.7 states that the category of deck foremen is redundant categories as per the Manning Scale of National Tribunal Award and for the existing Deck Foremen, it was decided to consider after disposal of the court case. Indicate the present status of the said court case and clarify whether the said litigation has any impact on the existing tariff fixation proposal filed by the VPT for CHLD levy.	The accrued cost pertaining to Deck Foreman is presently referred back to Asst. Labour Commissioner (ALC) [Central] and the same is still pending with ALC. As the category of Deck Foremen is being classified as deck worker, the wages paid to this Deck Foremen will be recovered from the Stevedores and also the applicable levy component on these wages will also accrue to VPT. However, while doing the calculations the time rate wages paid to the Deck Foremen and recovered will be nullified and only the levy component rests with the administration to meet the other direct and indirect costs, contribution to statutory fund, etc. Under this category there are only 16 deck foremen in number, and it would not have considerable impact on the existing tariff fixation proposal.
(x).	(a). The payment of piece rate wages is stated to be as per the incentive scheme. Kindly furnish the details of the existing incentives scheme based on which the time rate wages are estimated for the years 2010-11 to 2013-14.	A copy of the incentive scheme made applicable to the dock workers of CHD is enclosed. The scheme is valid for a period of 5 years from the date of implementation. The present incentive scheme was finalized w.e.f. 1.5.2010 and the cost statement furnished along with the proposal is inclusive of the present incentive scheme.
	(b). Clause 4.7.3. of the revised tariff guidelines requires all the major ports to revise the datum and rates of piece rate scheme from time to time in terms of the national wage settlements. In respect of the existing piece rates, please indicate when the datum was last revised. Measures taken by VPT to rationalise the piece rate scheme post merger may please be informed.	As already mentioned in the preceding para the new incentive scheme was revised w.e.f. 1.5.2010 in which the datum was also revised. The periodicity of 5 years is parallel to the TAMP in terms of the National Wage Settlement and, therefore, the subsequent revision will be taken place after the term of 5 years. However, considering the productivity that may emerge in future may lead to revise the datum on need basis.
(xi).	Income:	
	(a). Please confirm the traffic recognized for estimating employment of workers and therefore, the Revenue, is in line with the Business Plan of the Port. Please furnish the detailed calculations of revenue from time rate, piece rate and levy.	Based on the traffic projections it is estimated that the dock workers will get full employment and accordingly the calculation of revenue is made. The detailed calculations of revenue from time rate, piece-rate and levy are appended in the cost statement is furnished to the TAMP.
	(b). Clarify the basis of the estimation of rental income from quarters, stalls and other buildings in the income estimation for the years 2010-11 to 2013-14.	The rental income from quarters was considered based on the present occupation and also the rates considered are as applicable to the respective categories. Rental income on stalls and other buildings is based on the monthly rental values presently being received by the Organization.
	(c). Explain the nature and basis of estimating income from Administration charges Deck foremen, hire charge – SSV and electricity and gas Charges SSV other receipts, interest on delayed payments, medical charges from retired employees, hire charges and electricity and gas charges and explain its relevance for determining the levy for deployment of labourers for stevedoring operations.	The income generating from administrative charges – Deck Foreman and interest on delayed payments are related to workers and cargo handling operations and, therefore, is to be considered for the purpose of fixation of levy. The other rates such as hire charges on SSV, electricity and cost charges on SSV, medical charges from retired employees, hire charges and electricity and cost charges was also considered while fixing the levy since the percentage of levy is to run the administrative charges of the Organization which includes the expenditure being incurred under the above heads. It is, therefore, to

		state that the income being generated on the above heads is having relevance in fixation of levy for deployment of labour for stevedoring operations since it is the responsibility of the Stevedores to meet all the administrative expenditure of the Organization including the welfare measures relating to workers.
	(d). The port has stated that the existing levy (prior to the proposed revision) is 189% of the time rate wages. As against this, based on the actual levy collected by the VPT for the period 1.4.2008 to 25 September 2008 and thereafter upto 31 March 2009 it works out to 87% and 123% of the time rate wages in terms of percentage. For the subsequent two years 2009-10 it is 143% of the actual time rate wages. Explain the reasons for the variation with reference to the existing levy reported at 189% and indicate the correct position.	As clarified at Sl.No. (vi)(b) above, the total levy of 189% is a combination of various levies of which the component of general levy is only being shown in the income and expenditure statements. The rest of the components are of specific nature and, therefore, being adjusted against the respective heads of accounts and, therefore, the variation in the percentage of levy for the period from 1.4.2008 to 25.9.2008 and thereafter upto 31.3.2009. Initially the special levy for wage revision arrears was considered at 20% only which was subsequently enhanced to 39%. In support, a copy of the relevant Board Resolution is furnished. The 5% levy being collected for payment of PLR to the workers was shown under the relevant head PLR Fund and, therefore, this will not figure in the income and expenditure statements. Similarly, the additional levy of 50% being collected to meet the deficit in the annual income and expenditure was also transferred to the general reserve and accordingly this component is also not shown in the income statements.
	(e). Explain the relevance of considering the interest income on loan to co-operative society in the tariff fixation of stevedoring services. The details of corresponding expenditure, if any, included in the cost statement, may be furnished.	The VDLB has given a loan amount to the Cooperative Society which is meant for the benefit of the VDLB workers and employees. As per the provision of the scheme under the Dock Workers Regulation and Employment Act, the welfare measures for dock workers including societies by way of grant of loan or otherwise to cooperative society form for the exclusive benefit of the dock workers and for the benefit of the Board, the loan was granted by the Board from time to time. In this process no expenditure will be incurred by the DLB and as such no component is included in the cost statements. However, the interest income on loan to Cooperative Society was considered in tariff fixation since the funds are provided from the general reserve fund of VDLB which was accumulated mainly from the levy component which is nothing but a specific percentage of time rate wages. Thus it is treated as a part of the revenue generated on the reserve fund and, therefore, this component is included in the tariff fixation in the cost statements. No loan is given to the society after merger of VDLB with VPT.
(xii).	<u>Expenditure projections:</u>	
	(a). Please confirm whether the Time Rate Wage estimated for the year 2010-11 at Rs.1395.19 lakhs factor the impact of wage revision of staff and officers.	The impact of wage revision in respect of dock workers is considered in the time rate wages estimated for the year 2010-11.
	(b). As communicated vide our letter No.TAMP/27/2005-Misc dated 18 May 2010 to all Major Port Trusts based on the average movement in WPI for the year 2009-10, the escalation factor of 3.76% will be considered for expenditure projections in the tariff cases to be	The escalation factor of 3.76% as communicated by the TAMP vide letter dt.18.5.2010 may not be applicable in respect of the expenditure pertaining to CHD with reference to time rate wages, payments to workers, payment to staff and contribution to the statutory funds. In this context it is to state that the escalation factor ranging from 5% to 10% was

	decided in the year 2010-11. Hence, the annual escalation considered by VPT in the estimates may be modified at the stated level.	considered while preparing the cost statements, as the major portion of the expenditure is pertaining to labour component only. In view of the above the application of escalation factor of 3.76% in respect of CHD may be exempted.
	(c). The proposed levy to be collected is to cover the overheads as well the retirement benefits such as pension, gratuity, superannuation, etc. Indicate the amount estimated towards the pension fund / gratuity fund contribution. Confirm whether the proposed levy is adequate to meet these liabilities. The Board's contribution to pension fund and other funds is reported at Rs.565 lakhs in 2008-09 which is increased to almost double i.e. Rs.1403 lakhs in 2009-10. For the future period 2010-11 to 2013-14 it is estimated in the range of Rs.1053 lakhs to Rs.1048.79 lakhs annually. Justify the reasons for steep hike in this item in the year 2009-10 and furnish a working in this regard. The source of revenue from which the Board had made the said contribution may also be indicated.	The contributions estimated for the year 2009-10 towards Pension fund is Rs.8,52,87,600/- and for Gratuity is Rs.5,43,04,899/-. The reasons for steep hike in Boards Contribution to Pension fund and other funds is that the Wages/ Salaries were enhanced due to the implementation of wage revision to Staff/ Workers and Officers. The approximate increase is 26 % for Workers & Staff.
	(d). The figures considered in the working of Wage arrears provision from 1.1.2007 to February 2010 is not clear. In this regard furnish the following: ➤ Actuals wage cost for the years 2007-08 to 2009-10 category-wise duly tallying the total wage cost with the figures reported in the respective Annual Account. ➤ Computation of wage revision impact year wise with reference to the base actual wage cost along with the working. ➤ Provision for the wage revision made in the years 2007-08 to 2009-10. ➤ Clause 2.5.2. of the tariff guidelines stipulates that one time expense such as arrears of wages and pension, VRS compensation, etc., are not allowed as admissible cost while fixing tariff. The VPT has estimated a separate cost under the head "wage revision officers, staff and workers" for the years 2009-10 to 2013-14. Please clarify whether this estimate is towards wage arrears. If so, it is not in line with clause 2.5.2. of the tariff guidelines and cannot be built in the tariff fixation process.	In accordance with the provision contained in Clause 2.5.2, one time expenditure towards wage revision arrears - Officers, staff and workers and VR benefit to workers and staff are deleted and revised cost statement is furnished.

	(e). The VRS benefit included in the cost statement is not admissible as a cost item while determining the tariff as per clause 2.5.2. of the tariff guidelines and hence may be excluded.	
(xiii).	Capital Employed:	
	(a). Please furnish detailed working of capital employed for the CHD as per Form -4A of the format prescribed.	The detailed workings of capital employed for CHD is furnished.
	(b). Indicate the basis of segregation of assets as business asset and business related asset and confirm it is in compliance with Clause 2.9.7. of the tariff guidelines.	The segregation of assets as business assets and business related assets is done in compliance with the Clause 2.9.7 of the tariff guidelines.
(xiv).	Kindly state whether in the existing set up any surplus labour exists and whether the expenditure attributable to such surplus work force has been included in the cost statement.	The CHD has considered 313 numbers as casual workers in order to meet the shortfall in the manpower depending upon the work. It is further to state even after adding these 313 casual workers the Stevedores are being permitted to engage private labour from outside market as and when necessary.
(xv).	The VPT may confirm that there is no overlapping of any cost elements or capital employed estimated in its general revision proposal and in the cost statement submitted for CHLD.	It is to confirm that there is no overlapping of any cost elements or capital employed estimated in VPT's general revision proposal. In this connection, a work sheet duly deleting the components related to CHD is furnished.

6.2. A summary position of the revised cost statement for the Cargo Handling Division furnished by the VPT is given below for the years 2008-09 and 2009-10 and estimates for the years 2010-11 to 2013-14:

(Rs. in lakhs)							
Sl. No.	Particulars	Actuals		Estimates at existing tariff			
		2008-09	2009-10	2010-11	2011-12	2012-13	2013-14
(i).	Total Income	4424.62	3173.10	4529.38	4492.21	4628.99	4778.22
(ii).	Expenditure (excluding ROCE)	5172.36	5594.06	5745.22	5745.51	5968.09	6148.86
(iii).	Capital Employed	Not furnished	209.03	185.99	163.86	141.73	119.61
(iv).	ROCE:						
	16% on Business Assets	--	10.31	9.04	7.91	6.77	5.65
	6.35% on Business Related Assets	--	9.18	8.22	7.27	6.31	5.35
(v).	Total Expenditure + ROCE (ii + iv)	5172.36	5613.55	5762.48	5760.69	5981.17	6159.86
(vi).	Excess Expenditure over Income (i - v)	(748.10)	(2440.45)	(1233.10)	(1268.48)	(1352.18)	(1381.64)

7.1. A joint hearing in this case was held on 2 November 2010 at the Visakhapatnam Port Trust. The VPT made a power point presentation of its proposal. At the joint hearing, VPT and the concerned users/ organisation bodies have made their submissions.

7.2. As decided in the joint hearing, the Visakhapatnam Port Trust (VPT) was advised to furnish its response to the following points:

- (i). Detailed break-up of administrative expenses for the past period as well as the next three years under consideration.
- (ii). Quantify the past period losses pertaining to this activity and explain the treatment given to adjust such past losses in the proposed tariff. The port should also review the period over which such past losses are proposed to be recovered.
- (iii). At the joint hearing, one of the user associations has submitted that the port has already reduced the proposed levy from 350% to 300%. The port may review the proposed percentage levy with reference to the current financial position.

7.3. With reference to the points discussed at the joint hearing, the VPT has responded vide dated 18 November 2010. The main points submitted by VPT are summarised below:

- (i). A statement containing detailed break-up statement of administrative expenses for the past period as well as the next three years is furnished. When comparing the expenditure of 2009-10 with 2010-11, 2011-12 and 2012-13, the increase in expenditure is mainly due to implementation of revised pay scales for the Class I & II Officers and Group 'C & D' employees, effective from 1.1.2007 and arrears were paid during the year 2010-11. Increase in the expenditure under the Head 'Health', is mainly due to extension of rationalized medical facilities to the retired employees (approx. 3000 pensioners) as well as family pensioners which includes referring the medical cases to outside hospitals for treatment as against the existing procedure of providing in-house treatment. Consequent to implementation of cadre restructure in respect of Class-I Officers there is hike in salaries apart from annual incremental expenditure being considered on year to year basis.
- (ii). The erstwhile VDLB is having one activity i.e., manual cargo handling operations. The past period losses that are quantified till the end of 31.3.2009 was Rs.22.57 crores and the accumulated net loss as on 31.3.2010 was Rs.55.40 crores. In order to adjust the past losses, the present CHD had proposed to hike the tariff from existing 189% to 250% w.e.f. 1.4.2010 for a period of 3 months and at the rate of 300% from 1.7.2010 to 31.12.2010 and at the rate of 350% from 1.1.2011 onwards. Considering these percentages and upon continuation of 350% levy w.e.f. 1.1.2011, the annual deficit losses are expected to be adjusted a span of 5 years commencing from 1.4.2010.
- (iii). As already mentioned in the joint hearing, considering the request of the Trade to reduce the enhanced levy from 350% to 300% the revised cost levy statement at the rate of 300% was calculated and the revised cost statement is furnished. Considering the percentage at the rate of 300%, the past losses are expected to be adjusted over a period of 7 to 8 years commencing from 1.4.2010. A comparative statement of Income and Expenditure with 189%, 250%, 300% and 350% as levy is furnished. In the year 2010-11, the workers strength as on 1.4.2010 was 958 and consequent to implementation of VRS, the strength reduced to 873 by 1.8.2010. Accordingly, the time rate wages were calculated and also the levy income.
- (iv). A summary of the revised cost statement is given below:

(Rs. in lakhs)

Sl. No.	Particulars	Actuals		Estimates at existing tariff collected by VPT			
		2008-09	2009-10	2010-11	2011-12	2012-13	2013-14
	Levy %			250 & 300%	300%	300%	300%
(i).	Total Income (including levy income)	4424.26	3089.69	8624.30	8026.82	8644.42	9326.06
(ii).	Expenditure (excluding ROCE)	5172.36	7263.72	7811.75	7488.61	7932.30	8494.46
(iii).	Capital Employed	--	--	152.91	100.40	49.94	0.18
(iv).	ROCE:						
	16% on Business Assets	--	--	6.89	4.43	2.22	0.01
	6.35% on Business Related Assets	--	--	6.97	4.61	2.29	0.01
(v).	Total Expenditure + ROCE (ii + iv)	5172.36	7263.72	7825.61	7497.65	7936.81	8494.48
(vi).	Excess Expenditure over Income (i - v)	(748.10)	(4174.03)	--	--	--	--
(vii).	Excess Income over Expenditure (i - v)	--	--	798.69	529.17	707.61	831.58
(viii).	Deficit/ Surplus after adjusting past losses	(2257.29)	(5540.00)	(4741.31)	(4212.14)	(3504.53)	(2672.95)

From the information furnished at item ii and iii above, in order to reduce the span for adjustment of past losses, the TAMP may consider the percentage of levy at 350% commencing from 1.1.2011 onwards till the above losses are adjusted as already agreed by the Trade earlier and thereafter review the levy percentage suitably.

8. Subsequent to the joint hearing, the Visakhapatnam Stevedores' Association (VSA) vide letter dated 10 November 2010 has filed written submissions on the proposal. The submissions made by VSA were forwarded to VPT for their comments. The VPT has responded on the submissions made by the VSA.

9.1. On examining the reply furnished by the VPT vide letters dated 22 October 2010 and 18 November 2010, further information was sought from VPT vide e-mail dated 14 December 2010. The VPT has responded vide its letter dated 28 December 2010. A summary of the queries raised by us and the clarifications furnished by the VPT are tabulated below:

Sl. No.	Queries raised by us	Reply furnished by VPT
(i).	The computation of time rate wages furnished in Annex-23 does not match with the time rate wages considered in the revised cost statement filed vide e-mail dated 18 November 2010.	The computation of Time Rate Wages furnished in Annexure-23 was based on pre-revised pay scales whereas the computation of data sent vide e-mail dated 18 November 2010 was based on revised pay scales. Hence the difference and the information furnished on 18 November 2010 through e-mail only is to be considered.
(ii).	The nature of Miscellaneous Receipts 'Differential of time rate wages' estimated at Rs.180.00 lakhs in the year 2010-11 may be explained.	As per the practice in vogue the Time Rate Wage is being collected based on the highest Wage Rate of that category Worker engaged for the work, whereas the payment is being made as per actuals to the workmen. The difference if any between T.R. Wages collected and actual payment, is being classified under Misc. Receipts under the head of 'Differential of TR Wages'.
(iii).	The expenditure under the head 'payment to workers' shows steep hike from Rs.967.52 lakhs reported in 2008-09 to Rs.1975.76 lakhs in the year 2009-10. The reasons for such steep increase in this expense in the year 2009-10 which would form the base for the future estimated may be explained particularly in the light of the fact that the port has somewhere else clarified that the impact of wage revision is 26%. The wage revision impact, if any, included in this figure may be indicated separately. Also, confirm it does not include wage revision arrears.	The variation in expenditure under the head 'payment to workers' is due to implementation of Wage Revision retrospectively i.e. 1.1.2007 onwards. The payment to workers reported in the years 2007-08 and 2008-09 includes provision to the tune of Rs.452.35 lakhs and Rs.517.61 lakhs respectively and of Rs.966.83 lakhs provided in the year 2009-10 shown separately under the head "Wage Board Arrears-Workers". A total amount of Rs.2109.36 lakhs was shown under other liabilities as on 31.03.2010 towards the provision of wage revision, arrears for the workers, Staff & Officers which includes Rs.1936.79 lakhs provided for workers.
(iv).	As regards the health expense, the VPT in its email dated 18 November 2010 clarified that the increase in the expense under this in on account of rationalized medical facilities proposed to the retired employees as well as family pensioners which includes referring the medical cases to outside hospitals for treatment as against the existing procedure of providing in-house treatment. If so, clarify whether the expenditure on health and hospital otherwise incurred in-house is adjusted (reduced) to that extent.	As per rationalisation of medical facilities the outside referrals were allowed to the retired employees as well as family pensioners in addition to in-house treatment. Hence the increase in expenditure under this head.

(v).	The port has clarified that of the 189% levy collected in the past, the 50% additional levy is transferred to general reserve fund to meet the deficit in annual income and expenditure. Please show how the objective to meet the deficit is met by transferring the 50% of the levy income so collected to the general reserve fund.	Additional levy @ 50% is being collected based on the Board Resolution No.17/2007 of erstwhile VDLB passed with an object to adjust the losses incurred and accordingly levy transferred to reserve fund to meet the accrued losses and is reflected in the General Reserve Fund Account. The details are as follows: (in Rs.)<table><tr><td></td><td></td><td>2008-09</td><td>2009-10</td></tr><tr><td>(a).</td><td>Opening Balance of accrued losses</td><td>228807508</td><td>225729197</td></tr><tr><td>(b).</td><td>Current year losses</td><td>82684988</td><td>417402808</td></tr><tr><td></td><td>Subtotal</td><td>311492496</td><td>643132005</td></tr><tr><td>(c).</td><td>Less: Receipts from Additional levy</td><td>85763299</td><td>89131783</td></tr><tr><td>(d).</td><td>Closing balances of accrued losses</td><td>225729197</td><td>554000222</td></tr></table>			2008-09	2009-10	(a).	Opening Balance of accrued losses	228807508	225729197	(b).	Current year losses	82684988	417402808		Subtotal	311492496	643132005	(c).	Less: Receipts from Additional levy	85763299	89131783	(d).	Closing balances of accrued losses	225729197	554000222
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(d).	Closing balances of accrued losses	225729197	554000222																							
(vi).	Furnish the Audited Income & Expenditure of Cargo Handling Division operating under Visakhapatnam Port Trust (Traffic Department) for the year 2009-10 and also the actuals for 2010-11 upto October 2010.	Audited Income and Expenditure for the year 2009-10 and the actuals for 2010-11 upto October is furnished. The revised estimates for 2010-11 are based on actuals upto August 2010 i.e. for 5 months and estimates from September 2010 to March 2011 is also furnished which were calculated on prorata bases for 7 months duly relying on actual of 5 months with increase of 5%.																								
(vii).	Explain how the income from levy is estimated. Furnish detailed working in this regard for each of the years 2010-11 to 2013-14. Confirm whether income from levy is estimated on the actual time rate wages payable to the worker deployed for handling cargo.	The income is estimated only on the actual Time Rate Wages collected from the workers deployed for handling cargo. For the year 2010-11, it is estimated on the actuals of Time Rate Wages incurred upto October 2010 and escalated with 3% for the remaining 5 months keeping in view the increase of Dearness Allowances, annual increments, etc. and the levy was computed at different percentages i.e. 189% to 350% of Time Rate Wages as resolved by the Board. However as an example the calculation of TR Wages and Levy @ 300% is furnished.																								

9.2. The port has furnished revised cost statement wherein it has estimated the differential time rate wages for the years 2011-12 to 2013-14 which was not considered earlier by the port. A summary position of the final revised cost statement for the Cargo Handling Division furnished by the VPT vide its letter dated 28 December 2010 is given below for the years 2008-09 to 2009-10 and estimates for the years 2010-11 to 2013-14:

(Rs. in lakhs)							
Sl. No.	Particulars	Actuals		Estimates at existing tariff			
		2008-09	2009-10	2010-11	2011-12	2012-13	2013-14
	Levy %			250% & 300%	300%	300%	300%
(i).	Total Income	4424.62	3089.69	8624.30	8086.82	8684.42	9356.06
(ii).	Expenditure (excluding ROCE)	5251.11	7263.72	7811.75	7488.61	7932.30	8494.46
(iii).	Capital Employed	Not furnished	Not furnished	152.91	100.40	49.94	0.18
(iv).	ROCE	Not furnished	Not furnished	13.86	9.04	4.51	0.02
(v).	Total Expenditure + ROCE (ii + iv)	5251.11	7263.72	7825.61	7497.65	7936.81	8494.48
(vi).	Excess Expenditure over Income (-) and Excess of income over expenditure (+) (i - v)	(826.85)	(4174.03)	798.60	589.17	747.61	861.58
(vii).	Deficit/ Surplus after adjusting past losses	(2257.29)	(5540.00)	(4741.31)	(4152.14)	(3404.53)	(2542.95)

10. Subsequently, VPT vide fax dated 28 December 2010, 30 December 2010, 4 January 2011 and 7 January 2011 has furnished further information/ clarifications which are summarised below:

- (i). It has furnished the working of the estimate of time rate wage and the levy for the year 2010-11 based on the actuals upto October 2010.
- (ii). It has furnished breakup of the items relating to previous year estimated at Rs.87 lakhs in the year 2010-11. As per the breakup furnished by the VPT, Rs.52 lakhs pertains to wage revision arrears relating to previous year.
- (iii). The port has clarified that as per the actuarial valuation of Group Levy Encashment Scheme given by the LIC for the year 2009-10, an amount of Rs.4.74 crores has been charged to Group Levy Encashment Scheme in the year 2009-10.
- (iv). (a). The port has also furnished the breakup of the contribution to pension fund reported at Rs.15.19 crores in the year 2009-10 as follows:

Contribution to pension fund in respect of Officers, Staff, Workers & Pensioners	85287000
Wage Board provision Pensioners	66700000
Total	151987600

- (b). The port has clarified that the hike in the pension contribution is due to revised actuarial valuation consequent to revised pay scale, periodical increase in DA, etc. A provision for payment of pension arrears is also made on the basis of outcome of wage revision to pensioners during the year 2010-11 as the revised pension arrears are received in January 2010 only.
- (c). The contribution to pension fund is made at 27% of the basic and DA of the workers based on the report of the actuarial valuation. For the year 2009-10, Basic Pay plus DA of the staff strength was restricted to Rs.1 lakh per employee while making contribution towards pension @ 27%. Hence less provision was made. For the year 2010-11, the contribution towards pension is made at 27% on basic plus DA of the CHD employees and if the contribution so arrived is more than Rs.1,00,000, then it is restricted to Rs.1,00,000 per employee.
- (d). The pension fund as per the actuarial valuation as on 1 April 2010 is estimated at Rs.320 crores by the actuarial LIC. The port has substantiated the actuarial valuation with copy of the actuarial report. The port has stated that the pension fund balance as on 1 April 2010 is Rs.158.20 crores and thus shortfall in the pension fund is Rs.162 crores.

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

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

- (i). The erstwhile Visakhapatnam Dock Labour Board (VDLB) has merged with the Visakhapatnam Port Trust (VPT) with effect from 26 September 2008. Prior to the merger, levy for deployment of workers from the VDLB was decided by the Dock Labour Board. With the merger of the VDLB with the VPT, a separate division termed as Cargo Handling Division (CHD) under VPT oversees the function of deployment of workers for cargo handling purposes and, therefore, the charges levied therefor fall under the regulatory ambit of this Authority.

- (ii). As per the terms of the Memorandum of Settlement entered between the VPT and the VDLB, the port continued to apply the then prevailing levy of 189% in the post merger scenario till 31 March 2010. The instant proposal of the port is to increase the (then) prevailing levy of 189% to 250% of the time rate wages for three months with effect from 1 April 2010 to 30 June 2010 and thereafter at 350% from 1 July 2010 onwards.

The port has justified that the then prevailing levy of 189% collected prior to the merger is insufficient to meet the administrative expenses. The increase proposed in the levy is with the sole objective to meet the administrative and welfare expenditure of the CHD, to recover the past period losses to the tune of Rs.55.40 crores over five years span and the shortfall in the pension fund liability. The port has stressed that the increase proposed in the levy is not with any profit motive. Based on the discussion with the trade and consent of the trade, the port has implemented the increase proposed in the levy from 1 April 2010. Though the proposal of the port was to increase the levy to 350% of the Time Rate Wages, on the request made by the trade, levy is being collected 300% of time rate wages as reported by the port, which is confirmed by some of the users/ user associations.

- (iii). Clause 4.7.2. of the tariff guidelines recommends prescription of levy on per tonne basis for stevedoring activity when the stevedoring operations is undertaken as a separate activity by the port. The guidelines allow prescription of percentage based levy on the actual wages where only on-board labour is supplied. At VPT, the role of the port is limited to supply of labours. The VPT has brought out that the Ministry of Shipping vide its letter No.LB-13018/4/05-L-II dated 24 June 2009 has formulated a new Stevedoring policy wherein it has directed all the port trusts to calculate the stevedoring levy on tonnage basis instead of percentage of wages of labour. When sought the reasons for not complying with the directions of the Government, the VPT has clarified that whilst the port insisted on prescription of the per tonne rate, the trade and the stevedores have objected to introduction of per tonne levy for CHD labour and requested to continue with the existing system of collection of levy on percentage basis for some more time. The Board of Trustees of VPT had reconsidered its earlier stand and approved continuance of percentage levy. It is notable that tariff guidelines of 2005 allow prescription of percentage based levy on the actual wages where the service is only for supply of labour which is the position in the instant case. In view of that, and recognising the proposal of the VPT to continue with the existing method of levy on percentage of actual wages flows from the request made by the trade which is substantiated with the copy of the minutes of the meeting dated 18 March 2010 attended by the relevant trade members including Visakhapatnam Stevedores Association (VSA), the proposal of VPT for percentage based levy on the time rate wages is accepted for the current cycle.

It is notable that per tonne rate linked to productivity of workers will act as an incentive to stevedores to achieve better performance and the said approach will foreclose the scope for multiple accounting of the cost of same labour gang. Viewed from this perspective and in view of the specific direction from the MOS for prescribing per tonne levy for stevedoring activity, the port is advised to formulate tonnage based levy at the time of the next review / revision of the CHD activity.

- (iv). Though the VDLB is merged with the VPT, accounts are maintained separately for the CHD as per the Memorandum of Settlement. The VPT has furnished cost statement for the CHD activity based on the actuals for the year 2008-09 prior to merger (till 25 September 2008). It has also furnished the actual cost position for the post merger period from 26 September 2008, and for the year 2009-10 along with the estimates for the years 2010-11 to 2013-14. On our request, the port has subsequently furnished the actuals for the CHD activity for the year 2010-11 upto October 2010. The estimates furnished in final revised cost statements submitted by the VPT vide its letter dated 28 December 2010 alongwith the information/ clarifications furnished during the processing of the case is considered in the analysis.

- (v). The accumulated loss in the CHD activity as on 31 March 2010 is reported at Rs.55.40 crores. The port proposes to recover the total expenses and the admissible return of the CHD activity for each of the years 2010-11 to 2013-14 and to set off total past period loss of Rs.29.97 crores out of the accumulated loss of Rs.55.40 crores assessed for the past period till 31 March 2010. The balance past period loss of Rs.25.43 crores is proposed to be adjusted in the next tariff cycle.

It is notable that users/ user associations including the VSA have principally not made any pointed objection on the proposal of VPT for setting off the past losses in the CHD activity except suggesting that a separate special levy may be prescribed for limited period to meet the past period losses instead of clubbing with the general levy. The VSA, however, demanded that such a special levy should be levied directly from Importers/ Exporters. This suggestion cannot be accepted as stevedoring levy is recovered from stevedores who engage the cargo handling workers and no justification emerges for shifting the tariff burden on to some other user group.

The approach adopted by the VPT to propose a consolidated levy which will also provide funds to meet the past losses does not appear to be sound in as much as it may not only perpetuate the past loss in future years but also does not ensure the application of the specified realisation to off set the past losses.

That being so, a separate levy as a percentage of the time rate wage is arrived at for a limited period to meet the past period loss. Thus, as apprehended by some of the user associations, the past period loss will not have influence on the determination of basic levy and at the same time will not put the port in any financially disadvantageous position.

- (vi). The time rate wages and the piece rate wages payable to workers deployed from the CHD are recovered from the Stevedores. Hence estimate of time rate wages and piece rate wages payable to workers are rightly reflected in the income side as well as the expenditure side by the VPT. The levy is proposed to be collected on the time rate wages. The time rate wages estimated by the VPT and the modification done in our analysis is explained hereunder:

- (a). The port has confirmed that impact of wage revision in respect of dock workers is considered in the estimation of time rate wages for the year 2010-11. The time rate wages will depend on the deployment of labour from the CHLD. The port has furnished actual time rate wage upto October 2010. For the purpose of estimates for 2010-11, the actual time rate wages reported by the VPT for the period from April 2010 till October 2010 together with the estimates furnished by the port on pro rata for the balance five months are considered. The differential time rate wages is also added to the estimates for the reasons explained in the subsequent paragraphs.
- (b). The estimated time rate wages for the year 2011-12 is arrived by VPT by increasing the corresponding figure for the previous year by 1.4%. No justifiable reason is given by the VPT for restricting the increase in time rate wages to 1.4% when the overall traffic of the port as furnished in the general revision shows 7.5% increase in the year 2011-12 and the coal traffic in particular is projected to increase by 22.6% in this year. Further, the time rate wages for the subsequent two years 2012-2013 and 2013-2014 are estimated to increase by 9.4% and 10.4% respectively.

The average deployment of labour for the year 2010-11 furnished by the VPT is 14 to 16 days for most of the categories of workers and 19 to 20 days in a month for the mazdoors, signal men and maisteries. On examining the working of time rate wages furnished by the VPT for the year 2011-12 to 2013-14 vide its letter dated 22 October 2010, it is observed that the port has not factored increase in deployment of labour from the CHD on account of increase in the cargo volume availing the

services of the CHD. The cargo traffic expected to avail the CHD services and the annual escalation in wage cost are the two factors relevant for estimation of time rate wages.

The port has not furnished cargo volume which will utilise the services of CHD for the years 2010-11 to 2012-13 despite request. Based on the actual cargo volume reported to have availed services of CHD for the year 2010-11 till August 2010, the total traffic of CHD for the year 2010-11 will be 161.65 lakh tonnes. In the proposal filed by the VPT for general revision of its Scale of Rates which is being processed separately, the overall traffic for the years 2011-12 to 2012-13 is estimated to increase by 7.5% and 11.5% respectively. In the absence of any traffic details provided by the VPT relating to the CHD for the years 2011-12 to 2013-14 but at the same time recognising the cargo volume availing the services of the CHD need not necessarily grow at the same level as the overall growth in the traffic of the port, for the purpose of this analysis, cargo volume availing the services of the CHD is assumed to grow by 5% per annum for the purpose of estimating the time rate wages. The time rate wage estimated for the year 2010-11 based on seven months actuals is taken as the base and adjusted for 5% growth in the traffic and annual escalation of 3.76% is applied for estimating the time rate wages for the years 2011-12 to 2013-14. The estimate for time rate wage considered in the income side is also reflected in the expenditure side.

- (c). The VPT has reported that time rate wages are collected at the highest wages for each category of workers. Actual payment to workers are, however, made with reference to the wages payable as per the entitlement of each worker. Difference between the time rate wages actually collected from the Stevedores and the time rate wages actually paid are accounted for as miscellaneous receipts under the head "Difference of Time Rate Wage".

Ideally, the time rate wages should be collected on the actual wages payable for the workers deployed. But recognising that the practice of collecting highest time rate wage for each category of workers is already in vogue and the billing issues, the same is allowed in this tariff cycle. A careful examination of the practice will reveal that the billing method adopted will not result in any undue advantage to the port at the expense of stevedores. The difference between the time rate wage collected and actually paid is accounted as income which goes to reduce the uncovered deficit to be met out of levy.

For the purpose of determining the levy in the cost statement prepared by us the differential of time rate wage shown separately by the VPT is clubbed with the estimate of revenue from time rate wages recovery to reflect the total time rate wages on which the levy is collected.

- (d). The revenue on account of difference in time rate wages estimated by VPT is Rs.180 lakhs. The actual receipts on account of difference in time rate wage for the period from April 2010 upto October 2010 is reported at Rs.131.08 lakhs. For the balance five months of the year 2010-11, the estimate of difference in the time rate wages is considered pro rata based on the estimates furnished by the port in line with the approach adopted for estimating the time rate wages for the year 2010-11. Accordingly, the estimate for this item is considered at Rs.206.09 lakhs for the year 2010-11 in line with the approach adopted for estimating the time rate wages.

In the original proposal, the port had not estimated revenue from difference in time rate wage for the subsequent years 2011-12 to 2013-14. It has subsequently vide letter dated 28 December 2010 estimated the income under this head at Rs.80 lakhs, Rs.60 lakhs and Rs.40 lakhs for the years 2011-12 to 2013-14 respectively.

The sudden drop in revenue from difference in time rate wage during these years is not explained by the VPT. Reduction, if any, under this head can mainly be on account of one annual increment in wages actually earned by all workers. In the absence of detailed working given by the port for estimating this item of income, for the purpose of the analysis, the average of the differential in time rate wages reported at Rs.326.35 lakhs for the year 2008-09, Rs.79.50 lakhs in the year 2009-10 and estimate of Rs.206.09 lakhs in the year 2010-11 is taken as a base and adjusted for traffic growth assumed at 5%. Recognising that this estimate will reduce to the extent of one increment payable to workers which is 3%, the annual escalation in the wage cost of 3.76% which is otherwise applicable is not factored. Subject to above modification, the revenue from difference in the time rate wages is estimated at Rs.214.18 lakhs in the year 2011-12, Rs.224.89 lakhs in the year 2012-13 and Rs.236.13 lakhs in the year 2013-14.

- (e). The modified time rate wages including revenue from the difference in time rate wages considered in the cost statement is Rs.1836.99 lakhs, Rs.1976.40 lakhs, Rs.2144.80 lakhs and Rs.2327.83 lakhs for the years 2010-11 to 2013-14 respectively.
- (vii). Apart from the time rate wages, the cost statement furnished by the VPT shows various items of income and expenditure. In the modified cost statement considered, the income and expenditure items have been suitably grouped based on the nature of the income and expense. The analysis relating to the other items of income and the expenditure estimated by the VPT and the modifications done in the estimates are discussed briefly hereunder:

- (a). The VPT has confirmed that it has implemented the National Tribunal Award on manning scales and accordingly the manning scales has been revised for various activities of cargo handling. The port has confirmed that present incentive scheme was finalized from 1 May 2010 and the estimates reckons the present incentive scheme. The estimates of piece rate wages furnished for the year 2010-11 seem to be reasonable when the actuals reported upto October 2010 are extrapolated for the full year and hence the estimates of VPT are accepted. For the years 2011-12 to 2013-14, the piece rate payment is estimated to reduce by 2.7%, 0.4% and 0.5% respectively.

The piece rate wages are shown at the same level on both the income as well as the expense side representing the amount collected from stevedores and the payment made to workers.

- (b). On the income side VPT has considered interest income from loan to co-operative society, interest on investment, and interest on advance to staff and workers in the estimates for the years 2010-11 to 2013-14. On the expenditure side, the VPT has considered interest payable on PF trust in the estimates for the year 2010-11. In line with the general approach followed by this Authority, the interest element both on the income side and the expense side are excluded from the cost statement.
- (c). The port has stated that annual escalation of 3.76% permitted as per tariff guidelines will not apply in this instant case as the major cost component is relating to the labour component. The port has estimated the expenses considering annual escalation of 5% to 10%. The annual escalation factor adopted for the year 2010-11 is 3.76% based on the WPI for the year 2009-10. The annual escalation of 3.76% has been applied uniformly in the other tariff revision cases like the Mormugao Port Trust, South West Port Limited, etc. decided in the year 2010-11. The tariff guidelines do not specify any differential treatment in fixing cargo handling worker related charges. Therefore, the annual escalation in the estimates of expenditure is restricted to 3.76% wherever it is found to be higher subject to the analysis given hereunder.

- (d). The port has considered VRS payment to workers as a cost and amortised the expense over five years. One time expense such as arrears of wages and pension, VRS compensation, etc., are not allowed as admissible cost while fixing tariff. Hence the VRS payment is not considered in the cost statement for the years 2010-11 to 2013-14.
- (e). Time rate wages reflect payments made to the workers who are engaged for the cargo handling service. Apart from time rate wages, wages payable to worker for the period when they are not deployed is captured separately as an expense in the cost statement by the VPT. The port has confirmed that the estimate of payment to worker, officers and staff in the year 2010-11 is after taking into consideration the impact of the wage revision. It has also confirmed that the estimate for the year 2010-11 under this head does not include any arrears relating to the past.

For the year 2010-11, the VPT has estimated payment to worker at Rs.1989.46 lakhs. The expenditure on payments to workers and staff will generally follow the fixed pattern. The estimates furnished by the VPT are found to be higher when the actuals furnished by the VPT upto October 2010 are extrapolated for the full year. The estimates for the year 2010-11 are moderated based on actuals furnished upto October 2010. The estimate of payment to officers and staff for the year 2010-11 is found to be reasonable when compared with the extrapolated figures based on actuals upto October 2010 and hence is accepted.

The payment to workers, officers and staff is estimated to increase by 5% per annum in the years 2012-13 and 2013-14. The VPT has stated that the total strength of workers and staff under the CHD is expected to reduce from 1165 in 2010-11 to 1015, 981 and 974 during the years 2011-12 to 2013-14 respectively. The payment to worker and staff estimated by the VPT does seem to capture the reduction in the workers and officers/ staff particularly in the years 2012-13 and 2013-14.

The estimates of payment to workers and officers/ staff are modified considering the average payment to workers/ staff and officers considered for the year 2010-11, the strength of workers/ staff and officers furnished by the VPT assuming that on an average retirement will be in the middle of the respective year and applying 3.76% annual escalation.

- (f). The VSA has argued that the levy should be to recover only the direct expense payable to the workers and the indirect expenditure like quarters no longer used by labourers, schools etc. should be included in the overall overheads of VPT and recovered through wharfage charges. The port has clarified that administration and other expense relate to the CHD activity and the facility like quarters, etc., are being used by CHD labourers and staff only and hence the expenditure relating to CHD is to be recovered as part of the levy. The suggestion of the VSA to recover the overheads of the CHD through the general revision of the port Scale of Rates would entail other cargo to share the burden of cost for services not availed by them and result in cross subsidizing the CHD activity. Hence, the point made by the VSA cannot be considered.
- (g). The estimate of expenses by the VPT for the year 2010-11 towards office maintenance, repairs and maintenance, health, education, etc. are modified extrapolating the figures based on the actuals furnished upto October 2010 as done for estimation of payment to workers and staff.

For the years 2011-12 to 2013-14, the VPT has considered 5% escalation factor while estimating most of the items and 10% annual escalation is considered while estimating the health expense. The annual escalation in estimates for the years 2011-12 to 2013-14 is restricted to 3.76% per annum over the estimates of the respective previous year in line with the general approach followed for estimating other expense.

- (h). The actuals reported in the year 2009-10 includes Rs.4.74 crores towards Group Leave Encashment Scheme. The port has clarified that the estimate is based on the actuarial valuation of Group Leave Encashment Scheme given by the LIC for the year 2009-10. For the year 2010-11, Rs.1.33 crores is estimated under this head. When the actuals furnished by the VPT under this head upto October 2010 is extrapolated for the full year, the estimate for the year 2010-11 are found to be matching and hence the estimate furnished by VPT for this item is accepted. The estimates for the years 2011-12 to 2013-14 do not include any estimate of Group Leave Encashment Scheme.
- (i). The contribution towards pension fund, gratuity fund, provident fund, HBA fund, etc., is reported at Rs.2124 lakhs in the year 2009-10 as against Rs.565.37 lakhs in the previous year 2008-09. The increase in the contribution to Pension fund, Gratuity Fund, etc., for the year 2009-10 is found to be almost four times the actual contribution reported in the year 2008-09. For the year 2010-11 and 2011-12 the contribution towards the above mentioned fund is estimated at Rs.1940 lakhs and Rs.1958 lakhs respectively. For the subsequent two years, the port has estimated 5% and 10% increase respectively over the estimates of the respective previous years.

On seeking clarification for steep increase in this item over the 2008-09 actuals, the port has clarified that the increase in the contribution is mainly due to revised actuarial valuation consequent to revised pay scale, periodical increase in DA, etc. Of Rs.1519 lakhs reported as contribution to Pension fund in the year 2009-10, the port has clarified that Rs.852.87 lakhs is the actual contribution made to the Pension Fund and Rs.667 lakhs is the provision made towards the contribution to the Pension fund based on wage revision to pensioners declared in January 2010. The contribution to Gratuity Fund is reported at Rs.595.58 lakhs in the year 2009-10 reportedly made at 8.33% of the basic plus DA of the strength of the CHD employees.

The port has clarified that in the year 2010-11, the contribution to pension fund is made at 27% of the basic and DA of the workers and if the contribution is more than a lakh per employee, the contribution is restricted to 1 lakh per employee. Whereas in the year 2009-10, the contribution to Pension Fund was made at 27% of restricting the basic plus DA per employee at 1 lakh for making such contribution. The contribution to pension fund and gratuity fund is reportedly as per the actuarial valuation in line with the terms of the Memorandum of Settlement.

Though port has attempted to justify its estimates, a clear position for the steep increase in this item does not emerge. The pension fund liability as per the actuarial valuation is estimated at Rs.320 crores as on 1 April 2010 by the Life Insurance Corporation. The pension fund balance is reported at Rs.158.20 crores and shortfall in the pension fund is as on 1 April 2010 is estimated at Rs.162 crores. The port has confirmed that the estimate of contribution towards Pension Fund, Gratuity Fund, etc., does not include any arrears. Despite specific request, the port has not furnished the working of the estimated contribution to various funds for the years 2010-11 to 2013-14 with reference to the revised estimates furnished by the VPT vide letter dated 28 December 2010.

Nevertheless, from the position furnished by the port, it emerges that there is huge shortfall in the Pension Fund liability to the tune of Rs.162.00 crores as on 1 April 2010. Therefore, contribution to Pension fund, gratuity fund, provident fund, etc., reported in the year 2009-10 and the estimates by the VPT for the year 2010-11 are considered without any modification. For the subsequent years, the total contribution to the various funds is restricted to the annual escalation of 3.76% as allowed for other items.

As mentioned earlier, the estimates of VPT lack clarity. The actual position in this regard will be verified at the time of next tariff review and the excess estimates, if any, considered now will be fully adjusted in the tariff to be set for the next cycle.

- (j). The items relating to previous year in the year 2010-11 is estimated at Rs.87 lakhs which includes Rs.52 lakhs towards wage revision arrears for the previous year. The port has clarified that the provision for wage revision arrears was made in the years 2008-09 and 2009-10. To the extent of shortfall in the provision to the tune of Rs.52 lakhs, wage revision arrears paid in the year 2010-11 is treated as an expense under items relating to previous year.

As per clause 2.5.2. of the tariff guidelines of 2005, one time liability like arrears of wages/pension, VRS compensation, contributions to Pension Fund for past liability, etc. are allowed as admissible cost while determining the tariff. Such arrears are to be met from the accumulated surpluses/ reserves other than specifically earmarked funds or provisions and if it is still not adequately covered, then through a special rate for a limited period. In view of loss reported in the CHD Annual Accounts for the past period, the shortfall in the wage arrears provision cannot be covered from the reserves/ surplus. Guidelines of 2005 allow to recover such one time liability which cannot be met from reserves and surplus through a special rate for a limited period. Recognising the amount is not significant instead of prescribing a separate rate only to meet this liability, it is clubbed with the past period loss for which a special rate is prescribed. That being so, the wage arrears to the tune of Rs.52 lakhs reported in the year 2010-11 which relates to previous years is clubbed with the past period loss and met from special levy prescribed separately.

- (viii). The VPT has considered the working capital as nil in the capital employed. The net fixed assets as reported in the Annual Accounts of 2009-10 is taken as the base for capital employed which is relied upon. The port has not proposed any additions to the gross block of asset in the years 2010-11 to 2013-14. There seems to be some arithmetical error in the depreciation considered by the VPT while estimating the net fixed assets for the years 2010-11 to 2013-14 which is corrected in our analysis.

The port has classified the net fixed assets as business asset and business related assets. The classification of assets furnished by the VPT is relied upon. However, in view of modification done in the estimate of net fixed assets, the classification of net fixed assets into business assets and business related assets are suitably modified maintaining the ratio of the business assets and business related assets at the level estimated by VPT.

The port has computed the Return on capital employed at 16% for business assets and at 6.35% on business related assets. Since the rate of return fixed for the year 2010-11 is 16% for business assets and 8.4% for business-related assets, return of 16% for business assets and 8.40% for business related assets are considered for all the years 2010-11 to 2013-14.

- (ix). Subject to the above analysis, the cost statement furnished by the VPT is modified. The modified cost statement is attached as **Annex - I**. Summary of the cost position reflected in the revised cost statement prepared by us is given below:

(Rs. in lakhs)

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

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

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

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

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

- (x). (a). It is notable that of the 189% levy collected by the port at the time of merger included levy of 50% of time rate wages which was adjusted against the past period loss. After such adjustments, the cumulative loss as on 31 March 2010 is reported at Rs.55.40 crores in the Annual Accounts. The position reported in the Annual Accounts is relied upon subject to exclusion of interest income, interest expenses and the VRS payments for the years 2008-09 and 2009-10 which are not considered in fixation of tariff. As stated earlier, payment of wage arrears of Rs.52 lakhs made in the year 2010-11 is added to the past period loss. Subject to the above adjustment, the total past period loss till 31 March 2010 is Rs.5554 lakhs.

There is no specific provision in the guidelines to 2005 to set off the past losses. It has to be recognised that this exercise is done to make this activity a self reliant which is one of the conditions of the Memorandum of Settlement. Even the trade has not raised any pointed objection except requesting a separate levy instead of clubbing the past period loss for determining the basic levy.

- (b). The activity reflects an estimated deficit of Rs.5244.23 lakhs for the year 2010-11 as per the cost statement. The deficit for the eleven months period i.e. from 1 April 2010 till 28 February 2011 which is considered as part of the past period will be Rs.4807.21 lakhs. It is notable that the estimated deficit shown in the cost statement is before accounting for the income from the levy collected by the port on adhoc basis. The VPT has estimated the income from levy at Rs.6395.31 lakhs. The actual income collected by the port upto October 2010 from applying the levy on adhoc basis is Rs.4091.57 lakhs and the estimates for the balance four months from November 2010 to February 2011 on pro rata based on the estimates furnished by the port is Rs.2131.77 lakhs. Thus, the total revenue from the levy till 28 February 2011 is Rs.6223.34 lakhs which after adjustment with the deficit reflected for the corresponding period leaves a surplus of Rs.1416.13 lakhs. This surplus of Rs.1416.13 lakhs is applied to partly meet the loss assessed for the past period.

- (c). The interest income and the interest expenses are not admissible in the tariff fixation exercise and hence excluded. The net interest income over the interest expenses earned in the years 2008-09 and 2009-10 and estimated position for the year 2010-11 to 2013-14 is a source available to the port to meet the past period loss to some extent. The sum of net interest income over the expenses reported in the years 2008-09 and 2009-10 and estimated for the year 2010-11 to 2013-14 to the tune of Rs.195 lakhs is adjusted against the past period loss.
- (d). At the existing levy of 300% of the time rate wage, the port expects the recovery of past period loss over seven to eight years beginning from 1 April 2010. As per the cost statement furnished, the uncovered loss pertaining to the past period is expected to be Rs.25.43 crores at the end of this tariff cycle at the existing levy of 300%. The past period loss is expected to be recovered in four years i.e. by 2013-14 at the proposed levy of 350% of the time rate wages. There does not appear to be any specific reason to peg the recovery period to only a single tariff cycle and burden the users. The recovery of accumulated losses should be done in a gradual manner without causing a heavy burden on the users and at the same time, cannot be extended to a very long period, at the expense of the port. The Mormugao Port Trust (MOPT) during their tariff revision in 2006 had proposed to introduce a special levy to augment the Pension Fund over five years. It was decided by this Authority to spread over the pension liability over longer duration so as to reduce the burden on users. The special levy introduced in 2006 for one tariff cycle has been extended for another tariff cycle in the tariff revision of the MOPT approved in May 2010. It is notable that in case of Kolkata Port Trust where the shortfall in the Pension Fund was found to be substantial, a special levy is being introduced to augment the Pension Fund over three tariff cycles. In the instant case, the past period loss is proposed to be recovered in two tariff cycles beginning from 1 March 2011.
- (e). The position relating to the past period loss is explained hereunder:

			(Rs. in lakhs)
1.	Past period loss upto 31 March 2010		-5554
2.	(a).Deficit for the year 2010-11 as per the cost statement (Rs.5244.23 lakhs considered proportionately for 11 months till 28 February 2011)	-4807.21	
	(b).Less: Revenue earned by VPT from recovery of levy on adhoc basis at 250% from 1 April 2010 till 30 June 2010 and at 300% thereafter till 28 February 2011	6223.34	
	(c). Net surplus for the year 2010-11		1416.13
3.	Net of interest income over the interest expenses for the years 2008-09 to 2013-14		195.00
4	Net loss for the past period loss as on 1 March 2011 (1+2+3)		-3942.87
5.	Past losses (net) to be recovered in the current cycle from 1 March 2011 till 31 March 2014		-2026.20
6.	Total Time Rate Wages for the month of March 2011 and for the years 2011-12 to 2013-14		6602.12
7.	Special levy to meet the past period losses (% of time rate wage) [5/7]		31%

Accordingly, a special levy of 31% of the time rate wage is approved to meet the past period loss. The port is advised to maintain a separate account of income to be generated from the special levy and apply the revenue only for the stated purpose. The port should furnish the audited accounts in this regard for scrutiny at the time of the next review, based on which the quantum of special levy will be decided for the next cycle.

- (xi). The VPT has proposed to include definitions of Cargo Handling Division, Dock Work, Dock Worker, Rate of levy, Time Rate Wage and Piece Rate in the existing Section-1 of its proposed Scale of Rates. These terms are not defined while approving charges for deployment of cargo handling labour for stevedoring operations in the Scale of Rates of the Mormugao Port Trust (MOPT), New Mangalore Port Trust (NMPT), Mumbai Port Trust (MBPT) and Chennai Port Trust (CHPT). The definitions of the terms dock work, dock worker are common port parlance and hence need not be specifically defined in the Scale of Rates. The Memorandum of Settlement entered between the VPT and the VDLB defines the term Cargo Handling Division.

The time rate wages and the piece rate wages payable to the workers are as per the wage settlement and the incentive scheme is stated by way of a general note.

The port has proposed to define Rate of levy as a percentage of time rate wages paid to workers to be collected from the Stevedores to meet the administrative and welfare expense of cargo handling division. The mode of recovery of levy is separately mentioned in the Schedule and hence the rate of levy need not be defined separately. A note is inserted under the schedule to state that the levy is payable to VPT by the stevedores.

- (xii). During the processing of this case, it emerged from the comments received from the Tamil Nadu Electricity Board that the port has implemented the proposed levy. The port was vide our letter dated 9 August 2010 alerted that this Authority has not approved any levy for deployment of labour from Cargo Handling Division in the Scale of Rates of VPT. The VPT has clarified that in view of substantial financial loss in the CHD, the VPT with the consensus arrived with the trade which included the handling agent of the TNEB, representative of the VSA amongst other trade members decided to enhance the levy from the existing 189% to 250% for a span of three months i.e., w.e.f. 1.4.2010 till 30.6.2010 and thereafter at 350%. The port has, however, restricted the levy at 300% in view of request made by the trade.

As per clause 2.17.1 to 2.17.3 of the tariff guidelines whenever a specific tariff for services / cargo is not available in the notified Scale of Rates, the port can submit the proposal and levy the rate on an adhoc basis till the rate is finally notified. For this purpose, the adhoc rate must be derived based on the existing notified tariffs for comparable services / cargo and it must be mutually agreed upon by the port and the concerned users.

The Scale of Rates of the VPT approved by this Authority did not prescribe any rate for CHD as it was operated by the VDLB prior to merger i.e. till 25 September 2008. Post merger, the VPT continue to offer this service at the then prevailing levy of 189% collected by the VDLB. Since the operations were not found sustainable at the then prevailing levy, the VPT after obtaining the consent of the trade proposed to increase the levy and implemented the proposed hike of 250% at the first stage from 1 April to 30 June 2010. For the period after 30 June 2010, though original proposal proposed the levy at 350% of the time rate wage, based on the request of the trade, the port has been collecting the levy at 300% of the time rate wages.

Clause 2.17.4. of the tariff guidelines of 2005 permits this Authority to recognize the interim rate adopted in an ad-hoc manner retrospectively if it is not found to be excessive. While deciding the quantum of special levy, the income earned by the VPT based on adhoc levy implemented by the port is considered for the period from 1 April 2010 till 28 February 2011 and revenue in excess of the permissible level is adjusted against the past period loss. The levy implemented by the port on adhoc basis from 1 April 2010 is, therefore, recognised by this Authority.

13.1. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves the following rates to be incorporated in the existing Scale of Rates of the VPT as Schedule 4.7.4. under Section 4 – Cargo Related charges.

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

4.7.4.1. Levy on Time Rate Wages

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

Notes:

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

4.7.4.2. Special Levy

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

Note:

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

13.2. The levy approved will come into effect from 1 March 2011 and will remain valid till 31 March 2014.

(Rani Jadhav)
Chairperson

COST STATEMENT RELATING TO CARGO HANDLING DIVISION OF VISAKHAPATNAM PORT TRUST

Annex -I

in Rs.

SL.NO.	PARTICULARS	Furnished by VPT						Modified by TAMP			
		ACTUALS		Estimates by the VPT at the levy presently collected				Estimates considered by TAMP (excludes the levy income for the years 2010-11 to 2013-14)			
		2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2010-11	2011-12	2012-13	2013-14
I	INCOME			250 & 300%	300%	300%	300%				
	(i) TIME RATE WAGES	184540767	113023532	179749000	170050000	185056000	201057000	183698792	197640414	214479692	232783468
	(ii) PIECE RATE WAGES	84081989	28241832	30608000	29771000	29664000	29521000	30608000	29771000	29664000	29521000
	(iii) LEVY	156560633	152303661	639531000	598062000	643168000	694171000	0	0	0	0
	(iv) RECEIPTS FROM RENT	3517602	3123366	3218000	3377000	3544000	3721000	3218000	3377000	3544000	3721000
	(v) OTHER RECEIPTS & INTEREST ON DELAYED PAYMENTS	6219296	5216800	3234000	2042000	2083000	2120000	3234000	2042000	2083000	2120000
	(vi) INTEREST INCOME (ON INVESTMENT, LOAN TO CO-OPERATIVE SOCIETY, ADVANCE TO STAFF, etc.)	7505901	7060312	6090000	5380000	4927000	5016000	0	0	0	0
	TOTAL OF INCOME	442426188	308969503	862430000	808682000	868442000	935606000	220758792	232830414	249770692	268145468
II	EXPENDITURE										
	(i) TIME RATE WAGES	151905621	105072798	161749000	164050000	181056000	198057000	163090061	176222301	191990672	209169997
	(ii) PIECE RATE WAGES	84081989	28241832	30608000	29771000	29664000	29521000	30608000	29771000	29664000	29521000
	(iii) PAYMENTS TO WORKERS	96752066	197575595	198946000	185000000	194250000	203962000	192994344	188784620	180798662	183849167
	(iv) PAYMENTS TO OFFICERS & STAFF	64218752	75149578	69652000	70218000	73729000	77415000	69652000	65314357	59349030	59916214
	(v) ADMINISTRATION EXPENSES	12482309	7035191	6130000	6154000	6424000	6751000	5738302	5676522	5853290	6080388
	(vi) STAFF WELFARE EXPENSE ON HEALTH, RECREATION, HOUSING, CANTEEN ETC.,	38912004	42179538	70118000	72250000	76898000	81969000	67216395	67044909	69089632	71029853
	(vii) DEPRECIATION	2497519	2762140	2762000	2762000	2762000	2762000	2762000	2762000	2762000	2762000
	(viii) FINANCE AND MISCELLANEOUS EXPENSE										
	(a) CONTRIBUTION TO PENSION FUND, GRATUITY FUND, FAMILY SECURITY SCHEME ETC.,	56537250	212408206	194065000	195830000	205621000	226183000	194065000	195830000	203193208	210833273
	(b) INTEREST ON BANK LOAN, PF TRUST, etc.,	9848734	4338439	2255000	0	0	0	0	0	0	0
	(c) ITEM RELATING TO PREVIOUS YEAR	0	23909	8700000	0	0	0	3500000	0	0	0
	(d) GROUP LEAVE ENCASHMENT SCHEME	0	47400000	13364000	0	0	0	13364000	0	0	0
	(e) VRS BENEFIT to WORKERS & staff	0	4185085	22826000	22826000	22826000	22826000	0	0	0	0
	OPERATING EXPENDITURE	517236244	726372311	781175000	748861000	793230000	849446000	742990102	731405709	742700494	773161892
III	Surplus / deficit	-74810056	-417402808	81255000	59821000	75212000	86160000	-522231311	-498575295	-492929802	-505016424
IV	CAPITAL EMPLOYED			15291000	10040000	4994000	18000	20822000	18060000	15298000	12536000
	(i) BUSINESS ASSETS			4307000	2769000	1387000	5000	5830160	5056800	4283440	3510080
	(ii) BUSINESS RELATED ASSETS			10984000	7271000	3607000	13000	14991840	13003200	11014560	9025920
V	RETURN ON CAPITAL EMPLOYED										
	(i) RETURN ON CAPITAL EMPLOYED ON BUSINESS ASSETS 16%			689000	443000	222000	1000	932826	809088	685350	561613
	(ii) RETURN ON CAPITAL EMPLOYED ON BUSINESS RELATED ASSETS 6.35% (our computation at 8.4%)			697000	461000	229000	1000	1259315	1092269	925223	758177
	RETURN CAPITAL EMPLOYED			1386000	904000	451000	2000	2192140	1901357	1610573	1319790
VI	TOTAL EXPENDITURE + RETURN	517236244	726372311	782561000	749765000	793681000	849448000				
VII	NET SURPLUS/ DEFICIT	-74810056	-417402808	79869000	58917000	74761000	86158000	-524423451	-500476652	-494540376	-506336214
VIII	NET SURPLUS/ DEFICIT AS PERCENTAGE OF TIME RATE WAGES							-285%	-253%	-231%	-218%
IX	AVERAGE DEFICIT AS PERCENTAGE OF TIME RATE WAGES (From March 2011 to March 2014)									-234%	
X	(DEFICIT) / SURPLUS AFTER ADJUSTMENT OF PAST PERIOD LOSS	-225729197	-554000000	-474131000	-415214000	-340453000	-254295000				