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Tariff Authority for Major Ports

G.No.323 **New Delhi,** **17 September, 2019**

NOTIFICATION

This Authority, in exercise of the powers conferred on it under Sections 48, 49 and 50 of the Major Port Trusts Act, 1963 (38 of 1963), had disposed of the proposal received from the Mumbai Port Trust (MBPT) for general revision of its Scale of Rates on 24 July 2019. However, considering the time involved for notifying the (Speaking) Order along with the Scale of Rates approved by this Authority, this Authority decided to notify only the revised Scale of Rates immediately. Accordingly, the Scale of Rates approved by this Authority on 24 July 2019 was notified in the Gazette of India on 03 September 2019 vide Gazette No.308. It was stated in the said Notification that this Authority will notify the Speaking Order, in due course of time. Accordingly, this Authority hereby notifies the Speaking Order connected with disposal of the proposal of the MBPT for general revision of its Scale of Rates as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports

Case No. TAMP/5/2019-MBPT

Mumbai Port Trust - - - **Applicant**

QUORUM:

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

O R D E R

(Passed on this 24th day of July 2019)

This case relates to a proposal received from Mumbai Port Trust (MBPT) for General Revision of its Scale of Rates (SOR).

2.1. All the Major Port Trusts were earlier governed by the Tariff Guidelines of 2015 for fixation of SOR for handling cargo, vessel and rendering miscellaneous services. Subsequently, the Ministry of Shipping (MOS), vide its letter No.IWT-II/28/2018-IWT dated 26 December 2018 has issued the new "Tariff Policy for determination of Tariff for Major Port Trusts, 2018 (Tariff Policy, 2018)" for determination of SOR of Major Port Trusts which are due for revision with effect from 1 April 2019, under Section 111 of the Major Port Trusts (MPT) Act 1963.

2.2 In compliance with the direction issued by the Government of India, this Authority notified the Tariff Policy, 2018 in the Gazette of India Extraordinary (Part III Section-4) on 16 January 2019 vide Gazette No. 17. The Tariff Policy, 2018 has come into effect from 26 December 2018. Thereafter, as per Clause 1.5 of the Tariff Policy, 2018, Working Guidelines to operationalize the Tariff Policy for Major Port Trusts, 2018 have also been notified in the Gazette of India on 30 January 2019 vide Gazette No.29.

2.3. A copy each of the Tariff Policy, 2018 and the Working Guidelines to operationalize the Tariff Policy for Major Port Trusts, 2018 were forwarded to all Major Port Trusts including MBPT to consider it while formulating the General Revision proposal vide our letter Nos .TAMP/79/2018-Misc. dated 02 January 2019 and 04 February 2019 respectively.

3.1. The existing SOR of the MBPT was last approved by this Authority based on the Tariff Policy, 2015, prevailing then, vide Order No.TAMP/78/2015-MBPT dated 21 June 2016 which was notified in the Gazette of India on 1 August 2016 vide Gazette No.311. The validity of existing SOR of MBPT has expired on 31 March 2019. However, inorder to avoid a vacuum in the Scale of Rates, this Authority decided to extend the validity of existing SOR of all eleven Major Port Trusts from 1 April 2019 to 30 September 2019 or till the effective date of implementation of the revised SOR to be notified by this Authority, whichever is earlier. This position was conveyed to all the Major Port Trusts vide letter no. TAMP/39/2005-Misc. dated 29 March 2019.

3.2. Subsequent to the general revision of Scale of Rates of MBPT in June 2016, as brought out above, some amendments have been made to the SOR of MBPT approved in June 2016, based on the separate proposals filed by the MBPT, as listed below:

(a). Amendment to a note relating to Port Lighterage Anchorage (PLA) area with new extended co-ordinates of port limits, as a modification to its existing Scale of Rates. (TAMP/5/2018-MBPT dated 19 January 2018)

(b). Revision of charges prescribed towards Garbage Reception Facility in the existing MBPT Scale of Rates. (TAMP/13/2018-MBPT dated 8 June 2018)

(c). Deletion of clause prescribed at Sr. No. 3.1(D) (15) relating to levy of Stevedoring Charges @35% of the charge application with reference to the rates for cargo handled at Docks. (TAMP/14/2018-MBPT dated 8 June 2018) (d). Revision of Lighterage charges and water conveyance charges prescribed in the MBPT Scale of Rates (TAMP/15/2018-MBPT dated 8 June 2018)

(e). Incorporation of RFID Tags charges in the SOR of MBPT, (TAMP/44/2017-MBPT dated 21 July 2017)

(f). Insertion of the provision as clause 3.4 chapter – III of the Scale of Rates of MBPT relating to wharfage compensation payable by Oil and Natural Gas Corporation Limited (ONGC) to MBPT for transportation of Crude Oil through the pipelines laid within the limits of MBPT. (TAMP/18/2018-MBPT dated 03 October 2018)

4.1. The MBPT vide its letter No. FA/ACC/191/448 dated 31 January 2019 and letter no. FA/ACC/191/649 dated 14 February 2019 has submitted a proposal for revision / review of its Scale of Rates based on the Tariff Policy, 2018. The MBPT has stated that its proposal has been approved by its Board of Trustees (with some modifications) in the meeting held on 22 January 2019 vide its resolution no. TR 233 dated 22.01.2019. The MBPT vide its letter dated 14 February 2019 has forwarded the copy of the Board Resolution.

4.2. As seen from the Board Note furnished by MBPT vide its Board Resolution No. 233 dated 22 January 2019, the Board has decided to modify the license fees for pleasure yacht from the initial proposal of ₹.101.77 per GRT per month irrespective of size of the pleasure yacht to ₹.101.77 per GRT per month upto 10 GRT capacity and ₹.231.30 per GRT per month for more than 10 GRT capacity pleasure yachtes.

5.1. The MBPT has made the following submissions in its general revision proposal dated 29 December 2018 and 31 January 2019:

(i). The ARR is worked out as average of the sum of Actual Expenditure as per the final audited Accounts of the immediate three years 2015-16 (Y1), 2016-17 (Y2) and 2017-18 (Y3) plus Return at 16% of Capital Employed including capital work-in-progress obtaining as on 31st March 2017-18 (Y3). Further, ₹.116 Cr (i.e. 1/5 of ₹.580 cr), one time expenditure on wage revision arrears (including pension arrears) of ₹.580 Cr. due for payment has been considered in the calculation of ARR.

(ii). Following broad percentage increase in the revision of SOR is being proposed :

a)	Vessel related charges (excluding Anchorage charges)	10%
b)	Cargo and Container related charges	10%
c)	POL Wharfage charges	20%
d)	Storage (License fee) & Warehousing charges	10%

(iii). The summary of Annual Revenue Requirement (ARR) as reflected in the proposal of MBPT is as follows:

Sl. No.	Description	FY1 (2015-2016)	FY2 (2016-2017)	FY3 (2017-2018)	Total (3 years)
(1).	**Total Expenditure (As per Audited Annual Accounts)**				
(i).	Operating expenses (including depreciation)	79,404.00	80,340.00	85,351.00	245,095.00
(ii).	Management & General Overheads	28,165.00	30,827.00	37,241.00	96,233.00
(iii).	Finance and Miscellaneous expenses (FME)	102,859.00	82,220.00	86,287.00	271,366.00

Sl. No.	Description	FY1 (2015-2016)	FY2 (2016-2017)	FY3 (2017-2018)	Total (3 years)
	Subtotal 1=(i)+(ii)+(iii)	**210,428.00**	**193,387.00**	**208,879.00**	**612,694.00**
(2).	**Less Adjustments:**				
(i).	Estate related expenses				
	(a). Operating expenses (including depreciation)	7,924.00	7,678.00	8,790.00	24,392.00
	(b). Allocated Management & Administrative Overheads	2,291.02	2,328.43	3,172.46	7,791.90
	(c). Allocated FME	2,290.30	1,854.08	1,930.05	6,074.43
	Subtotal 2(i)=[(a)+(b)+(c)]	**12,505.32**	**11,860.51**	**13,892.51**	**38,258.33**
(ii).	**Interest on loans**	-	-	-	-
(iii).	**2/3rd of One time expenses, if any like arrears of wages, arrears of pension / gratuity, arrears of exgratia payment, etc. (list out each of the items)**				
	(a). Arrears of wages	1,131.33	1,102.67	1,562.00	3,796.00
	(b).SVRS Compensation	4,858.00	4,862.00	4,955.33	14,675.33
	Subtotal 2(iii) = [(a)+(b)]	**5,989.33**	**5,964.67**	**6,517.33**	**18,471.33**
(iv).	**2/3th of the Contribution to the Pension Fund**	**59,600.00**	**46,300.00**	**46,166.67**	**152,066.67**
(v).	**Management and General overheads over & above 25% of the aggregate of the operating expenditure and depreciation**	**10,295.00**	**12,661.50**	**18,100.75**	**41,057.25**
(vi).	**Expenses relevant for tariff fixation of Captive Berth, if any governed under clause 2.10. of the Tariff Policy, 2015.**	-	-	-	-
	Total of 2 = 2(i)+2(ii)+2(iii)+2(iv)+2(v)+2(vi)	**88,389.65**	**76,786.68**	**84,677.26**	**249,853.58**
(3).	**Total Expenditure after Total Adjustments (3 = 1-2)**	**122,038.35**	**116,600.32**	**124,201.74**	**362,840.42**
(4).	**Average Expenses of Sl. No. 3 = [Y1 + Y2 + Y3] / 3**				**120,946.81**
(5).	**Capital Employed**				
	(i). Net Fixed Assets as on 31.03.2018 (As per Audited Annual Accounts)				69040.00
	(ii). Add:Work in Progress as on 31.03.2018 (As per Audited Annual Accounts)				93066.00
	(iii). Less: Net value of Fixed assets related to Estate activity as on 31.03.2018 as per Audited Annual Accounts.				919.37
	(iv). Less : Net value of fixed assets, if any, transferred to BOT operator as on 31 March 2018 as per Audited Accounts.				-

Sl. No.	Description	FY1 (2015-2016)	FY2 (2016-2017)	FY3 (2017-2018)	Total (3 years)
	(v). Less : Net value of fixed assets as on 31 March 2018 as per Audited Accounts relevant to be considered for captive berths, if any, under clause 2.10. of the Tariff Policy, 2015.				-
	(vi). Add : Working Capital as per norms prescribed in clause 2.5. of the Working Guidelines				-
	(a). Inventory				1,003.05
	(b). Sundry Debtors				5,529.13
	(c). Cash				9,757.50
	(d). Sum of (a)+(b)+(c)				16,289.67
	(vii). Total Capital Employed [(i)+(ii)-(iii)-(iv)-(v)+(vi)(d)]				**177476.31**
(6).	**Return on Capital Employed 16% on Sl. No. 5(vii)**				**28396.21**
(7).	**Annual Revenue Requirement (ARR) as on 31 March 2018 [(4)+ (6)]**				**149,343.01**
(8).	**Indexation in the ARR @ 100% of the WPI applicable for the year 2018-19 i.e. @ 3.45%**				**154,495.35**
(9).	**The additional expdt. due to Wage Revision (Arrears) and revision of pension arrears - (Rs.580 cr. - 1/3) not include in above Sr.1**				**19,333.33**
(10).	**Ceiling Indexed Annual Revenue Requirement (ARR) (including 1/3 amt. of Wage Revision Arrears)**				**173,828.68**
(11).	**Revenue Estimation at the Proposed SOR within the Ceiling indexed ARR estimated at Sl No. 10 above**				**144,624.35**

(iv). The various definitions / clauses in existing scale of rates are proposed to be modified / simplified as given below:

(a). New definitions of “Ousting priority”, “Mafi”, “Ship stores” and “Inland vessels” are included for better clarity at section 1.1.

(b). Definitions of “Day” and “Offshore Supply Vessels” are amended for better clarity.

(c). The conditionality at note No. 9 under 2.1 schedule stating “Charges leviable according to GRT will be levied on a minimum of 1000 GRT” is proposed to be reintroduced in order to recover the fixed cost involved.

(d). Present conditions prescribed under note 1 of General Notes to Sections 2.1 & 2.2 for shifting of vessel for Port convenience do not include the condition if the shifting of vessel occurs due to failure of port mechanism i.e. Lock Gate not working, tug not working, etc. One additional condition is proposed to insert at Sr no.(x) to that effect.

(e). Anchorage charges (foreign/coastal/inland vessels) prescribed at section 2.15 in US cents and Indian Paise respectively are very meagre.

"The Anchorage facility is used in ports by vessels for various purposes. Currently due to locational advantages of Mumbai port waters and nearby approach, port's anchorages are used for lightering and carrying cargo in small vessels to nearby ports. Though facility to handle may be ideal at our ports, the port users may take a call on comparative cost advantages of handling cargo at various ports near Mumbai Port waters and also low anchorages fees in Mumbai port to handle cargo elsewhere by paying nominal amounts. Anchorage charges are now rationalized to resolve the anomaly and proposed revised rates in US $ and INR @ 40% of Berth Hire Charges.

While Anchorage fee at other major ports may be an indicator for comparison, the purpose of Anchorages may be different and other ports may not be experiencing virtual port paradox which Mumbai port is experiencing currently. Hence, it would be in order to levy 40% of Berth hire charges as Anchorage charges. Anchorage fee will thus be linked to Berth hire charges at 40% level on the rate in force at a particular point in time."

(f). Proposed to segregate the Speed Boats from Sr. No. 1 of Section 2.11 (II) and prescribe a separate higher rate for Speed Boats and Pleasure Yachts at Sr. No. 5, since both are primarily utilized for the purpose of entertainment and not for the transportation of general public.

(g). Proposed to incorporate the conditionality of minimum 10 GRT for levy of water conveyance charges as note 3 under clause 2.11 (II).

(h). Examination and Licence Fees for special plots/Licenced Master of Coastal vessels, barges, tugs etc.at clause 2.11 (I) are revised as documentation and administration cost has increased.

(i). Penal charges at clause 2.11 (III) are revised upward. Since, Harbour Cruise party is for entertainment purpose charges for permission for harbor cruise party are increased.

(j). As per 50(B) of MPT Act, 1963, Port Dues shall be levied at 50% of the rates specified at section 2.16 for a vessel which enters the Port but does not discharge or take in any cargo or passenger (with the exception of such unshipment and re-shipment of cargoes as may be necessary for purpose of repairs).

(k). Under the provisions of Note 4 of section 2.17 – Composite Berth Hire Charges for vessels less than 200 GRT are very meagre and needs to be enhanced on par with other Major Ports, where the rates are per hour per GRT. Hence, charges are prescribed <u>per hour or part thereof per GRT or part thereof</u> in place of per hour or part thereof.

(l). The existing heading of chapter III – Cargo related charges is proposed to be amended to 'The charges as herein after prescribed will be leviable on all traffic dealt within the Docks and Custom notified areas outside the Docks' from the existing header 'The charges as here after prescribed will be leviable on all traffic dealt within the relevant areas specified in Appendix 'G' to the MbPT Dock Bye-Laws'. The change is necessitated as MbPT Dock Bye-Laws is being replaced by MbPT Regulations, which is awaiting Government approval.

(m). Presently for the cargo handled overside, no wharfage is recovered, though the port provides services and infrastructure. It is therefore, proposed to charge 50% of the normal wharfage on the cargo handled on overside and note (ii) prescribed under section 3.1(A).

(n). Note no.(ix) under section 3.1(D) is deleted in accordance with deletion of charges at section 3.1(D) (15) for cargo handled in stream vide TAMP's order dated 08 June 2018.

(o). The only available floating crane with MbPT has been decommissioned and the port does not have any floating crane. Hence, charges for use of floating cranes at Sr. 4(A) of chapter IV of SOR are proposed to be deleted.

(p). The Port has only mobile cranes (10-14 capacity), tractors and fork lifts. Other equipments i.e. Tower type cranes, Platform truck and Forklift 16 tons are not available. Hence, charges prescribed for Tower type cranes, Platform truck and Forklift 16 tons at Sr. 4(B) of chapter IV of SOR are proposed to be deleted.

(q). Insertion of Licence fees for water conveyance for Ro-Pax vessels under clause 2.11 (II) and Vehicle Fees with respect to Ro-Pax vessels under clause 8.3 are introduced.

(r). Charges for Permits for Motor Lorries, Mobile Crane, container handling equipment, etc. to ply in the Docks are revised and charges for LMV, Buses, Mini Buses, Passenger vans, Motor cycles and Taxis are introduced under section 9.2(C). Quarterly entry permit charges for Barge/Launch/Crew at ₹ 250 per person are prescribed under section 9.2(C).

(s). Parking charges for usages of open area for parking of cargo/container handling equipment like Mobile Cranes, Forklifts, Reach Stackers, JCBs, etc. inside the Dock area are newly introduced at section 9.7.

(t). Charges for use of pipelines from Pir Pau Manifold to Sewree 'O' point/Hay Bunder/Indira Dock/Naval Dock Yard at section 9.4 are reworked based on financial data for the year 2017-18 and considering the actual utilization of working hours of 2017-18 (cost sheet enclosed). The proposal is with the intention to recover the total cost and become self-sufficient. Further, the work of replacement of onshore pipelines was taken up by the Board at the behest of Oil industries and port had incurred capital expenditure. Port has been deprived of its legitimate revenue for last 13 years to meet the operational and maintenance expenditure.

(v). As far as License (Storage) fees under Section 3.3 of Chapter III of SOR is concerned, it is to state that it is based on recommendations of the Land Allotment Committee. The same has also been approved by the Board vide its TR No.187 dated 13.11.2018. Accordingly, the rates under section 3.3 are proposed to be increased by 10% over and above ad-hoc approved rates along with the revision of other Sections of SOR.

(vi). The Performance Standards proposed by MBPT in Form – 6 as per MBPT letter dated 31 January 2019 are as follows:

Sl. No.	**Performance Standards**	**Proposed Performance Standards as per MBPT letter dated 31.01.2019**
(1).	**Cargo Related**	
(a).	Average Ship Berth day Output (in tonnes) in respect of Major Cargo groups	8700
	(i). Liquid Bulk	-

	(ii). Dry Bulk	-
	(iii).Break Bulk	--
(2).	**Vessel Related**	
(a).	Average Turnaround Time of Vessels (in days)	2.50
(b).	Average Pre-Berthing Time of Vessels (in days)	0.15

5.2. The MBPT vide its letter dated 14 February 2019 has confirmed uploading of proposed Scale of Rates (SOR), performance standards, Forms no. 1 to 5 of its tariff proposal, Board Resolution dated 22 January 2019 in its website.

5.3. The MBPT has furnished the draft Scale of rates along with performance standards, Tariff filing forms duly certified by the practicing Chartered Accountant, wherever necessary and Audited Annual Accounts for the years 2015-16, 2016-17 and 2017-18.

6. Some of the users / user organisations have furnished their comments on the proposal as hosted by MBPT in its website. These comments were forwarded to MBPT for its comments. The MBPT vide its letters dated 30 March 2019 has responded.

7. Based on a preliminary scrutiny of the MBPT proposal, we have vide our letter dated 24 April 2019 sought some additional information/ clarification from MBPT on few points. After reminders, the MBPT has responded vide its letter dated 03 June 2019. The additional information/ clarification sought by us and the response of MBPT thereon are tabulated below:

<table>
<tr><th>Sl. No.</th><th>Information / Clarification sought by us</th><th>Reply furnished by MBPT</th></tr>
<tr><td>2.1 (a)</td><td>The Mumbai Port Trust (MBPT) has proposed Performance Standards at a level of (i). 8700 tonnes for Average Ship Berthday Output (OSBD) in respect of Major Cargo groups under cargo related activity (ii) 2.50 days for average Turnaround Time (TRT) and (iii) 0.15 days for Average Pre-Berthing detention Time (PBD) under vessel related activity. The MBPT is requested to furnish actual average annual performance achieved during the last four years i.e. 2015-16, 2016-17, 2017-18, 2018-19 in respect of OSBD for major cargo groups, TRT and PBD.</td><td>Actual performance achieved during last four years
<table>
<tr><th rowspan="2">Sl. No.</th><th rowspan="2"></th><th colspan="4">Actual Average Annual Performance</th></tr>
<tr><th>2015-16</th><th>2016-17</th><th>2017-18</th><th>2018-19</th></tr>
<tr><td>1</td><td colspan="5">Cargo Related</td></tr>
<tr><td rowspan="4"></td><td>Avg. Ship Berthday Output in respect of Major Cargo Groups (in tonnes)</td><td>7922</td><td>8413</td><td>9043</td><td>10409</td></tr>
<tr><td>(i) Liquid Bulk</td><td>18133</td><td>18815</td><td>18791</td><td>19339</td></tr>
<tr><td>(ii) Dry Bulk</td><td>1509</td><td>2015</td><td>1605</td><td>1774</td></tr>
<tr><td>(iii) Break Bulk</td><td>3102</td><td>2337</td><td>2828</td><td>2899</td></tr>
<tr><td>2</td><td colspan="5">Vessel Related</td></tr>
<tr><td>(a)</td><td>Avg. turnround time of Vessels (port a/c) (in days)</td><td>2.89</td><td>2.49</td><td>2.29</td><td>2.00</td></tr>
<tr><td>(b)</td><td>Avg. Pre-berthing time of Vessels (port a/c) (in days)</td><td>0.31</td><td>0.09</td><td>0.02</td><td>0.01</td></tr>
</table></td></tr>
<tr><td>(b)</td><td>Further, the MBPT vide its letter no. FA/ACC/203-11/1652 dated 23 April 2019 has conveyed that as against the prescribed</td><td>It is observed during last four years at Mumbai Port that there is continuous decreasing trend of fast moving cargo such as Iron & Steel (SBD: about 4500 Tonnes) from 5.985 Million Tonnes during</td></tr>
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<td>Performance Standards of OSBD at 8700 tones, 2.85 days for TRT and 0.29 days of PBD, the port has achieved 10661 tonnes of OSBD, 1.43 days for TRT and 0.01 days of PBD during the year 2018. When higher performance levels have already been achieved by MBPT in the past, the reason to now propose Performance Standard, which is lower than actual Performance, may be justified.</td>
<td>2015-16 to 3.268 Million Tonnes during 2018-19 and increasing trend of slow moving cargo i.e. Project Cargo (SBD: about 750 Tonnes) from 0.092 Million Tonnes during 2015-16 to 0.108 Million Tonnes during 2018-19. However, considering the past performance, average Ship Berth Day Output in respect of Major Cargo groups may be increased to 10,000 Tonnes in the proposed Performance Standards.

At Mumbai Port, deep drafted vessels are handled at BPX / BPS and three Harbour Wall Berths. BPX berth is being developed as International Cruise Terminal and it is expected that number of Cruise vessels will increase from 40 per year to 150 during 2019-20 and further to 250 during subsequent years, which will result in detention of deep drafted vessels resulting in increase in average Pre-berthing time of Vessels and average Turn Round Time (TRT) of Vessels.

Average TRT of Vessels may be fixed at 2.50 days as mentioned and the same will be from Notice of Readiness to Actual Departure from Port (NOR to ATD) as defined by the IPA instead of average TRT of Vessels (Port Account). The Port has achieved TRT (NOR to ATD) of 2.52 days during 2018-19.

Therefore, it is proposed to increase OSBD to 10,000 tonnes from the existing 8,700 tonnes, maintain pre-berthing detention at 0.15 days and Turn Round Time at 2.50 days with change in format (i.e. Port A/c. to NOR to ATD), as per instructions from IPA. [The MBPT has furnished Revised Proposed Performance Standards].</td>
</tr>
<tr>
<td>2.2</td>
<td>The note (b) to Form-1 mentions that the allocation of Finance and Miscellaneous Expenses (FME) and Management and General Administration Overheads (MGA) to the Estate activity (for the purpose of exclusion) have been done on the basis of proportionate expenses of store keeping, labour welfare & medical, residual administration & General and Engineering Workshop & Overheads. In this regard, the MBPT is requested to furnish the detailed calculation to determine the amount of apportionment of the MGA and FME to Estate expenditure with reference to each of the figures of store keeping, labour welfare & medical, residual administration & General and Engineering Workshop & Overheads as per the Audited Annual Accounts.</td>
<td>Statements of the detailed working /calculation to determine the amount of apportionment of the Management & General Overheads and Finance and Miscellaneous Expenses to Estate expenditure has been furnished by MBPT.

The summary of the apportionment of Management & General Overheads & Finance and Misc.Expenditure to Estate Rentals is given below.

A.Management & General Overheads (₹ in lakhs)
<table>
<tr><th></th><th>2015-16</th><th>2016-17</th><th>2017-18</th></tr>
<tr><td>Total Store Exp</td><td>2138.77</td><td>2144.57</td><td>2279.96</td></tr>
<tr><td>Total Store Keeping</td><td>815.72</td><td>945.85</td><td>853.34</td></tr>
<tr><td>Estate Store Expense</td><td>37.13</td><td>63.27</td><td>23.17</td></tr>
<tr><td>Proportionate Store Keeping Expenses for Estate Activity</td><td>14.16</td><td>27.91</td><td>8.67</td></tr>
<tr><td>Total salary & wages</td><td>50195.75</td><td>40024.32</td><td>42761.98</td></tr>
<tr><td>Total Labour Welfare & Medical Expenses</td><td>9916.05</td><td>9517.98</td><td>11184.01</td></tr>
<tr><td>Estate Salary & wages</td><td>1196.71</td><td>1210.37</td><td>1274.79</td></tr>
<tr><td>Proportionate Labour Welfare Expenses for Estate Activity</td><td>236.41</td><td>287.83</td><td>333.41</td></tr>
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<tr><td>Total direct cost</td><td>44829.30</td><td>46134.25</td><td>46794.31</td></tr>
<tr><td>Total res.adm General</td><td>7292.95</td><td>8394.97</td><td>9389.18</td></tr>
<tr><td>Estate Direct cost</td><td>3165.11</td><td>3063.67</td><td>3785.42</td></tr>
<tr><td>Proportionate Residual Administration & Genl Expenses for Estate Activity</td><td>514.91</td><td>557.49</td><td>759.54</td></tr>
<tr><td>Total R&M</td><td>5374.29</td><td>7218.49</td><td>6884.62</td></tr>
<tr><td>Total Engg&W/S Overhead</td><td>7537.86</td><td>8935.95</td><td>11053.65</td></tr>
<tr><td>Estate R& M</td><td>1087.67</td><td>1175.52</td><td>1289.80</td></tr>
<tr><td>Propotionate Engg. And Work Shop Overheads for Estate Activity</td><td>1525.54</td><td>1455.20</td><td>2070.84</td></tr>
<tr><td>Total MGA for Estate Activity</td><td>2291.02</td><td>2328.43</td><td>3172.46</td></tr>
</table>
B. Finance and Misc. Expenditure
(₹ in lakhs)
<table>
<tr><td></td><td>2015-16</td><td>2016-17</td><td>2017-18</td></tr>
<tr><td>Total Salary & Wages</td><td>1617.52</td><td>1440.12</td><td>1242.33</td></tr>
<tr><td>Total Pension , PLB</td><td>3095.67</td><td>2206.02</td><td>1880.90</td></tr>
<tr><td>Estate Salary & Wages</td><td>1196.70</td><td>1210.37</td><td>1274.79</td></tr>
<tr><td>Proportionate F& M Expenditure</td><td>2290.30</td><td>1854.08</td><td>1930.05</td></tr>
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<tr>
<td>2.3</td>
<td>The MBPT is requested to furnish workings in support of the value of capital spares and value of customized spares considered at ₹ 338.09 lakhs and ₹664.96 lakhs respectively under working capital.

Further, it is to mention that as per clause 2.4 of the Working Guidelines to operationalize the Tariff Policy 2018, the norms for inventory, the limit on inventory for capital spares will be one year's average consumption and in case of other items of inventory the limit will be six months' average consumption of stores excluding fuels. As such, six months' average consumption of stores excluding fuels and one years' average consumption is only a limiting factor to consider the inventory value in working capital as against the actual value of inventory shown in the Balance Sheet at the end the relevant year (Y3). In the present case in reference, the total inventory as per Balance Sheet as on 31st March 2018 is ₹. 9.07 crores, against which an amount of ₹ 10.03 crores is being considered as total inventory under working capital. The MBPT is requested to</td>
<td>A statement of working of allowable inventory abstracted from annual accounts (Schedule – XI) along with a copy of ledger, showing the amount of ₹.338.09 lakhs considered as capital spares has been furnished by MBPT.</td>
</tr>
</table>

<table>
<tr><td></td><td>justify consideration of higher inventory value for arriving Annual Revenue Requirement (ARR).</td><td></td></tr>
<tr><td>2.4</td><td>The Container Tariff and Transhipment Container Tariff considered in Form - 3 for arriving at the revenue at existing level of tariff and revenue at proposed level of tariff is not matching with the existing SOR and the proposed SOR of MBPT. The MBPT is requested to furnish basis for arriving at the existing / proposed Container Tariff and Transhipment Container Tariff considered in Form - 3 duly indicating the reference to the existing/ proposed SOR.</td><td>The General Container Tariff and Transsshipment Container Tariff are considered after deduction of applicable rebate of transportation charges as per section 5C(ii). Statement of Tariff considered for arriving at the revenue at existing level of tariff and revenue at proposed level of tariff is tabulated below:
<u>Statement showing Rates considered while calculation of Income</u>
<table>
<tr><th></th><th colspan="2">Existing Tariff</th><th colspan="2">Proposed Tariff</th></tr>
<tr><th></th><th>Container Tariff</th><th>Transhipment Container Tariff</th><th>Container Tariff</th><th>Transhipment Container Tariff</th></tr>
<tr><td></td><td>₹</td><td>₹</td><td>₹</td><td>₹</td></tr>
<tr><td>Coastal Tariff (Section-5B)</td><td>2028.00</td><td>3025.00</td><td>2230.80</td><td>3327.50</td></tr>
<tr><td>Less:- Transportation (Rebate) (Section - 5C (ii))</td><td>612.53</td><td>1225.06</td><td>673.78</td><td>1347.57</td></tr>
<tr><td>Tariff considered for income calculation</td><td>1415.47</td><td>1799.94</td><td>1557.02</td><td>1979.93</td></tr>
<tr><td>Foreign Tariff (Section-5B)</td><td>3379.00</td><td>5041.00</td><td>3716.90</td><td>5545.10</td></tr>
<tr><td>Less:- Transportation (Rebate) (Section - 5C (ii))</td><td>1020.89</td><td>2041.76</td><td>1122.98</td><td>2245.94</td></tr>
<tr><td>Tariff considered for income calculation</td><td>2358.11</td><td>2999.24</td><td>2593.92</td><td>3299.16</td></tr>
<tr><td></td><td></td><td></td><td></td><td></td></tr>
</table></td></tr>
<tr><td>2.5</td><td>In the existing SOR, the wharfage rate for the POL (crude) handled by ONGC has been prescribed at 50% of the normal POL (crude) wharfage rate. However, in the proposed SOR, though the wharfage rate for ONGC has been prescribed at 50% of the wharfage rate for normal POL (crude) in the income calculation at proposed SOR in Form 3, the wharfage rate</td><td>The wharfage rate for ONGC has been rectified in the income calculation at proposed level in Form – 3. [The MBPT has furnished the Revised Form – 3]</td></tr>
</table>

	for ONGC has been considered at 48% of the wharfage rate for normal POL (crude). The MBPT is requested to rectify the income calculation at proposed SOR in Form 3.	
2.6	It may be recalled that during the last general revision of tariff of MBPT in 2015, though the MBPT had reported that the License (storage) Fees and warehousing charges are to be fixed following the Land Policy Guidelines, the MBPT had sought an increase of 70% in the License (Storage) Fees and Warehousing Charges, based on the cost position and without following the methodology prescribed in the Land Policy Guidelines. The MBPT had then compared the Ready Reckoner Rates to the then existing Licence (storage) Fees and had stated that increasing the licence fee as per Ready reckoner Rates will have adverse impact on cargo traffic of the Port.	TAMP vide letter dated 24.04.2019, at Para 2.6, TAMP has stated that, in the current proposal, the MBPT has proposed an increase of 100% in License (Storage) Fees and Warehousing Charges. In this matter, it is stated that MbPT has proposed an increase in License (Storage) Fees and Warehousing Charges only by 10% over and above ad-hoc rates. Further, TAMP has requested Mumbai Port Trust to delink prescription of License (Storage) Fees and Warehousing Charges from its general revision proposal and file a well analysed proposal following the stipulations contained in the Land Policy Guidelines of 2014. Comments of Mumbai Port are as furnished below: **(a).** In the past, the TAMP had asked MbPT to formulate a well analyzed proposal following the stipulations contained in the Land Policy Guidelines of 2014 and file the proposal for charges under Section 3.3 of Chapter III of SOR, as advised by TAMP. The recommendations of the LAC were approved by the Board by its TR no 187 of 13-11-2018. The same was mentioned at para 6 of this office letter dated 29th December 2018. Hence, the current proposal is based on the Land Policy Guidelines and on the basis of recommendations of the Land Allotment Committee. **(b).** The role of Ports has changed from only service to vessels and cargo to a logistics platform providing related services and activities. Cargo Storage is one important activity of Ports facilitating smooth functioning of trade. The users of storage facility are the importers and exporters. Cargo Storage activity is emerging from the core activity of loading/unloading cargo from the vessels and it is not directly related to Estate rentals. Storage charges under Scale of Rates are applicable for the area under the jurisdiction of Traffic Manager and not of Estate Manager. In other words, the storage charges that are being prescribed in the SOR is being billed by the Traffic Department of the Port. **(c)** Further, Scale of Rates duly approved by TAMP, is published on MbPT website and trade is aware of the provisions in the Scale of Rate (SOR) which are basically applicable for vessel and for cargo. Schedule of Rates (Land) [SoR (Land)] for Port Landed Estate is yet to be framed by the Estate Department. It is therefore requested not to delink but to change nomenclature of License (Storage) Fees and

		Warehousing charges to Storage Charges. Similarly, it is proposed to change nomenclature of SOR Chapter V, 5(E) from License (Storage) fees on containers to Storage Charges on containers.
	In this connection, since the Authority is mandated to follow the Land Policy Guidelines issued by the Government from time to time for the purpose of determining estate related charges for the estates of Port Trusts and since the MBPT has not determined the License (Storage) Fees and Warehousing Charges based on the stipulation contained in the Land Policy Guidelines of 2014, the MBPT was advised to formulate a well analysed proposal to prescribe License (Storage) Fees, Warehousing Charges in line with the stipulations contained in the Land Policy Guidelines of 2014 within 3 months from the date of notification of the Order of 2016 relating to SOR in the Gazette of India. The increase of 70% as proposed by the MBPT during the General Revision of SOR in License (storage) fees and warehousing charges was approved on Ad hoc basis keeping in view that the MBPT has to invite tenders for engagement of valuers to determine the market value of land.	
	In this backdrop, in the current proposal, the MBPT has proposed an increase of 100% in License (Storage) Fees and Warehousing Charges. Paragraphs 10 and 11 of the Revised Land Policy Guidelines of Government, issued in the year 2014 stipulate allotment of land inside and outside Custom Bond area taking into account the Reserve Price notified by the Authority. Para 13 of the said policy gives flexibility to the Port Trust not to choose the highest of the factors listed under para 13 with reasons. In view of the Land Policy position, the MBPT is requested to delink prescription of License (Storage) Fees and Warehousing Charges from its general revision proposal, and file a well analysed proposal following the stipulations contained	

	in the Land Policy Guidelines of 2014.	
2.7	With regard to stevedoring revenue, the MBPT has applied 10% increase over the existing revenue during the financial year 2017-18 to arrive at estimated revenue at proposed revenue. The impact of revenue on account of the withdrawal of stevedoring charges at 35% of the charges applicable for cargo handled at Docks, for cargo handled at Inner Anchorage approved by the Authority during the year 2018-19 appears to have not been factored in the revenue estimation at proposed rates. Similarly, the revenue impact on account of revision of lighterage charges and water conveyance charges and Revision of charges prescribed towards Garbage Reception Facility approved by the Authority during the year 2018-19, also appears to have not been factored. The MBPT is requested to capture the impact of Revenue arising from all the partial revision in the various tariff items carried out after the last general revision of SOR of MBPT in the year 2016-17 and till date.	Form 3 has been modified considering impact of Revenue arising from all the partial revision in the various tariff items carried out after the last general revision of SOR As per Section 3.1 (D) of SOR for the cargo handled in stream, 35% of the Stevedoring Charges were applicable in respect of cargo discharged in stream provided Barges are brought to the Docks or at Bunders. Also, in respect of export cargo loaded on the mother vessel in stream provided such barges are loaded either in Docks or at Bunder and then brought to the mother vessel. The 35% stevedoring charges were recovered upto 10.08.2018 and then discontinued. After that MBPT is recovering amount as Royalty of Rs.5/- for stevedoring operations performed at PLA and Rs.7/- at inner anchorages. As the revenue stream is new concept, the exact impact is not known at present. However, the expected impact may not vary to a large extent.
2.8	The SOR of MBPT was last revised in 2016-17. Thereafter, due to achievement of performance standards relating to vessels, the MBPT appears to have indexed the Vessel Related Charges (VRC) by the applicable escalation factor during 2017-18 and 2018-19. As such, the percentage increase sought by MBPT in its proposed SOR is 10% over the rates prevailing in the year 2018-19. However, in the income estimation at proposed level of tariff in Form – 3, a 10% increase in vessel related income has been assessed over the vessel related income as of the year 2017-18. For example, applicable indexed tariff for year 2017-18 in respect of composite pilotage charges (for a foreign vessel of 30000 GRT handled at Docks) is US $ 0.4783 per GRT, the tariff proposed by MBPT is US $ 0.5443 per GRT [0.4783 per GRT x 1.0345 indexation factor for the year 2018-19 x 10% proposed increase]. As such, the proposed	The revenue estimation of the vessel related charges has been modified after considering the effect of indexation in the proposed level of tariff in Form-3.

	tariff is increased by 13.80% over the indexed tariff of 2017-18, whereas, the MBPT has estimated only 10% increase in revenue over the year 2017-18. Keeping in view of the above, the MBPT is requested to make necessary modification in the revenue estimation related to vessel related charges.	
2.9 (a)	The MBPT has proposed the Anchorage Charges at Section 2.15 of the proposed SOR by considering an average increase of 876% in case of foreign going vessels and 1408% in case of coastal vessels. The MBPT is requested to provide the justification and detailed calculation for arriving at the proposed rate of anchorage charges at different anchorage points.	(a) In order to resolve the anomaly of levy of Anchorage charges in Cent and Paisa, the Anchorage charges are proposed to be levied in US dollars ($) and Rupee terms. As the Anchorage is akin to berth, it is proposed to levy Anchorage charges equivalent to 40% of Berth Hire charges. Though the detailed calculation is not done, the proposed revised rates are comparable with nearby Port like JNPT. The justification for proposed increase in Anchorage Charges at Section 2.15 of the proposed SOR and how they are arrived have been furnished by MbPT is given below: Anchorage charges (foreign/coastal/inland vessels) at section 2.15 prescribed in US cents and Indian Paisa respectively are very meagre. Anchorage charges are now rationalized to resolve the anomaly and proposed revised rates in US $ and INR @ 40% of Berth Hire Charges. The justification for the proposal rationalization is as under: The Anchorage facility is used in ports by vessels for various purposes. Currently due to locational advantages of Mumbai Port waters and nearby approach, Ports (minor and major) anchorages are used for lightering and carrying cargo in small vessels to nearby ports. Though facility to handle may be ideal at our ports, the port users may take a call on comparative cost advantages of handling cargo at various ports near Mumbai Port waters and also low anchorages fees in Mumbai port to handle cargo elsewhere by paying nominal amounts. While Anchorage fee at other major ports may be an indicator for comparison, the purpose of Anchorages may be different and other ports may not be experiencing virtual port paradox which Mumbai port is experiencing currently. Hence, it would be in order to levy 40% of Berth hire charges as Anchorage charges. Anchorage fee will thus be linked to Berth hire charges at 40% level on the rate in force at a particular point in time.
(b)	Further, the proposed rates as given in the income estimation in schedule of anchorage charges (Annex – C of Form–3) are seen to be different as compared to the rates proposed in the SOR furnished by the MBPT. The MBPT is requested to examine this aspect	Annexure-C of Form-3 has been revised as per proposed SOR and enclosed

	and revise the proposed SOR accordingly.	
2.10	The charges for the use of pipelines from Pir Pau Manfold to Sewree 'O' Point / Hay Bunder / Indira Dock / Naval Dock yard of MBPT (Section 9.4) has been proposed to be increased by 199% with reference to existing tariff. A cost sheet in this regard is also furnished by MBPT as Annex – D of Form-3. However, the MBPT has not furnished the basis of arriving various components of expenditure as considered in its cost sheet. The MBPT is requested to furnish basis for arriving at each of components of expenditure.	Detailed cost sheet including the basis of arriving at various components of expenditure is furnished in respect of the charges for the use of pipelines from Pir Pau Manifold to Sewree 'O' Point/Hay Bunder/Indira Dock/Naval Dockyard of MBPT (Section 9.4)**.**
3	The MBPT has proposed certain modifications / introduced new conditionalities in the proposed SOR. A comparative statement of existing SOR and proposed SOR highlighting the changes has been furnished by MBPT vide its letter No. FA/ACC/191/649 dated 14 February 2019 which was subsequently modified and forwarded to us vide MBPT's email dated 7 March 2019. However, the MBPT has not furnished the reason/justification for amendments/ inclusions/ deletion of conditionalities and the revenue impact thereon as per Form-5 of the Working Guidelines 2018 along with the proposal in reference. The MBPT is requested to furnish the reason/ justification for each of the amendments / inclusions/deletions of conditionalities as per Form-5 of the Working Guidelines 2018.	An updated **Form-5** including the reason / justification for each of the amendments / inclusions / deletions of conditionalities as per Form-5 of the working Guidelines, 2018 is furnished**.**

8. A joint hearing on the case in reference was held on 25 February 2019 at the Office of this Authority. At the joint hearing, the MBPT made a brief power point presentation on the proposal. At the joint hearing, the users/ user organisations and the MBPT have made their submissions.

9. Subsequently, the MBPT vide its letter No. FA/ACC/191/2064 dated 22 May 2019 has forwarded a copy of the T.R. No. 8 of 03.05.2019 which was passed by the Board of Trustees of MBPT with a request to insert the following proposed notes in the proposed SOR of MBPT to have better clarity in recovering charges from users:

(i). Barges which enter in dock basin with pass pilot permission are coming direct till lock gate ID without MBPT pilot. Subsequently, pilot (berthing master) pilots the vessel from lock gate to berth and vice versa. Presently for these kind of movements rates are applied as per SOR Section 2.1(B). It is proposed to levy shifting charges as prescribed in SOR section 2.1(A). There is a negative implication in this proposal. However, the volume handled will be less. Hence, following note is proposed to be inserted at Sr. No. 10 below Section 2.1 (A) & (B).

Note at Sr. No. (10) below Section 2.1 (A) & (B)

(10) For movement of pass pilot vessels from Lock gate to Berth & vice versa with MBPT pilot (berthing master), the shifting charges as specified in Section 2.1(A) above are leviable.

(ii). The charges for Garbage Reception Facility will not be applicable to the vessels registered under Inland Vessels Act (I.V.Act), as these vessels can discharge garbage at the designated dumping place in Dock area. Hence, following note is proposed to be inserted under Section 2.14 of the SOR.

<u>Note below Section 2.14 – charges for Garbage Reception Facility.</u>

<u>Note</u> : The above charges is not applicable to the vessels registered under Inland Vessel Act (I.V.Act). The operators of such vessel should dispose their Garbage in the designated dumping place provided in dock area. If found guilty the above charges will be imposed on him on each occasion.

10. 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.

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

(i). The existing Scale of Rates (SOR) of Mumbai Port Trust (MBPT) was last approved by this Authority vide Order No.TAMP/78/2015-MBPT dated 21 June 2016, based on the Tariff Policy, 2015, which was then applicable in respect of all the Major Port Trusts. Vide the said Order, an increase of 13% in the cargo related charges including demurrage and stevedoring charges and an increase of 10% in the vessel related charges, as proposed by the port then, was granted. The validity of the SOR of MBPT approved by this Authority in the said Order was prescribed till 31 March 2019. Accordingly, the MBPT has come up with a proposal for revision of its SOR. The proposal of MBPT has the approval of its Board of Trustees.

(ii). The Ministry of Shipping (MOS), vide its letter No.IWT-II/28/2018-IWT dated 26 December 2018 has issued the new "Tariff Policy for determination of Tariff for Major Port Trusts, 2018" for determination of SOR of Major Port Trusts which are due for revision with effect from 1 April 2019, under Section 111 of the Major Port Trusts (MPT) Act 1963, which was notified in the Gazette of India on 16 January 2019 vide Gazette No. 17. Thereafter, as per Clause 1.5 of the Tariff Policy, 2018, Working Guidelines to operationalize the Tariff Policy for Major Port Trusts, 2018 have also been notified in the Gazette of India on 30 January 2019 vide Gazette No.29. Thus, the proposal filed by MBPT for general revision of its Scale of Rates is based on the Tariff Policy, 2018, and the Working Guidelines.

(iii). The MBPT vide its letters dated 31 January 2019 and 14 February 2019 has submitted a proposal for revision of its Scale of Rates. Subsequently, the MBPT has furnished the additional information/ clarification sought by us. While doing so, the MBPT has made some changes in the tariff filing forms, which has no impact on the percentage of increase sought by the Port in the initial SOR submitted by MBPT. Thus, the proposal filed by MBPT in January/ February 2019 along with submissions made by the port during the processing of the case is considered in this analysis.

(iv). (a). Clause 2.1 of the Tariff Policy, 2018 requires each Major Port Trust to assess the Annual Revenue Requirement (ARR) which is the average of the sum of Actual Expenditure as per the final Audited Accounts of the three years (Y1), (Y2) and (Y3) subject to certain exclusions as prescribed in

Clause 2.2. of the Tariff Policy 2018 and the Working Guidelines issued by this Authority plus Return at 16% on Capital Employed including capital work-in-progress obtaining as on 31st March Y3, duly certified by a practicing Chartered Accountant/ Cost Accountant.

(b). The MBPT has assessed the Annual Revenue Requirement (ARR) based on Audited Annual Accounts for three years i.e. 2015-16 (Y1), 2016-17 (Y2) and 2017-18 (Y3) duly certified by a practicing Chartered Accountant. The MBPT has excluded the expenses not admissible in ARR computation for arriving at the Average annual expenses for the years 2015-16, 2016-17 and 2017-18. The following adjustment done by MBPT in line with provisions prescribed in Clause 2.2. of Tariff Policy 2018 and Clause 2.2. of Working Guidelines are brought out along with a few modification required to be done in the computation of the ARR for the reasons explained:

(i). The MBPT has excluded expenses related to estate activity. Interest on loans is reported to be NIL.

(ii). As per Clause 2.2(iii) of Tariff Policy 2018 and the Working Guidelines, 1/3 of one-time expenses like arrears of wages, pension/ gratuity, ex-gratia payments arising out of wage revision etc. are to be included in the Annual Revenue Requirement (ARR). Likewise, 1/3th of the Contribution to Pension Fund is to be included for the calculation of ARR. This means 2/3rd of the above mentioned expenses are to be excluded in the ARR computation.

MBPT has excluded ₹ 11.31 crores, ₹ 11.02 crores and ₹ 15.62 crores towards 2/3rd of the arrears of wages during the years 2015-16 to 2017-18, as reflected in the Annual accounts of the respective years for the Port, and hence considered in the analysis. Similarly, MBPT has excluded ₹ 48.58 crores, ₹ 48.62 crores and ₹ 49.55 crores towards 2/3rd of the compensation towards Special Voluntary Retirement Scheme (SVRS) during the years 2015-16 to 2017-18, as reflected in the Annual accounts of the respective years for the Port, and hence considered in the analysis.

Further, the MBPT has excluded ₹596.00 crores, ₹463.00 crores and ₹461.67 crores in the years 2015-16, 2016-17 and 2017-18 respectively being the aggregate of 2/3rd of the contribution to the pension fund reported in the Annual Accounts of the Port in the corresponding years, which is in line with Tariff Policy, 2018.

The MBPT has contributed ₹20 crores, ₹15 crores and ₹15 crores towards gratuity fund during the years 2015-16, 2016-17 and 2017-18 respectively. The 2/3rd of the contribution to the gratuity fund has not been excluded by MBPT while computing ARR. The same has been excluded by us in the computation of ARR to fall in line with Tariff Policy, 2018.

(iii). As per Clause 2.2. (iv) of Tariff Policy 2018 and Clause 2.2. (iv) of the Working Guidelines, Management and General Administration Overheads subject to a cap of 25% of aggregate of the operating expenditure and depreciation is only to be considered in the ARR calculation.

The Management and General Administration Overheads reported in the Audited Annual Accounts is ₹ 281.65 crores, ₹ 308.27 crores and ₹ 372.41 crores for years 2015-16, 2016-17 and 2017-18 respectively. Thereafter, the MBPT has assessed 25% of the Operating Expenses (including depreciation but excluding operating expenses relating to Estate) as per Audited Annual Accounts at ₹ 178.70 crores, ₹ 181.65 crores and ₹ 191.40 crores. As per the working furnished by the MBPT in Form-2, the MBPT has identified an amount of ₹ 102.95 crores, ₹ 126.61 crores and ₹ 181.01 crores of Management and General Administration Overheads as excess of 25% of aggregate of operating expenses and depreciation and hence excluded the same from ARR in the years 2015-16, 2016-17 and 2017-18 respectively complying with the provisions of Tariff Policy, 2018.

(iv). The tariff for port railway services is not fixed by this Authority; it is fixed by the Railway Board. The Railway activity in MBPT is in deficit. Therefore, average expenditure of the railway activity to the tune of ₹.3.57 Crores [(₹.3.70 + ₹.3.43 + ₹.3.58)/3] is excluded and the net deficit in the railway activity (i.e. excess of railway expenditure over railway income) in the respect of the two years is added to the ARR. Such an approach has been adopted by this Authority while disposing of the general revision proposal filed by the Mormugao Port Trust (MOPT), New Mangalore Port Trust (NMPT) and the Mumbai Port Trust. .

(v). As per Clause 2.2(v) of the Working Guidelines notified by this Authority all expenses relevant for captive berths are to be excluded from the computation of ARR. The MBPT has not indicated any existence of Captive berths and has, therefore, not estimated any expenditure under this head.

(v). Following the provisions prescribed at Clause 2.3. of the Tariff Policy, 2018 and Clause 2.3. of the Working Guidelines, the MBPT has arrived at average expenses for the years 2015-16, 2016-17 and 2017-18 at ₹ 1209.46 crores. After excluding the expenditure of the railway activity as brought out above, the revised average annual expenditure is worked out by us at ₹1190.66 crores.

(vi). (a). The MBPT has arrived at capital employed in line with provision prescribed in Clause 2.4. of the Working Guidelines. The MBPT has considered the net fixed assets plus capital work-in-progress as on 31 March 2018 reported in the Audited Annual Accounts. As stated earlier, the MBPT has stated that there is no expenditure incurred by port relating to captive berths.

(b). Working capital comprises of Inventory, Sundry debtors and Cash balances. The Inventory and Sundry Debtors is seen to be computed as per norms prescribed in clause 2.5. of Working Guidelines. However, the Inventory value of ₹ 10.03 crores computed as per the norms is seen to be higher than the inventory value i.e. ₹ 9.07 crores as reflected in the Annual Accounts for the year 2017-18. Accordingly, the inventory for computation of working capital has been limited ₹ 9.07 crores as per Audited Annual Accounts 2017-18. The cash balance is seen to have been calculated by MBPT by taking into account the monthly cash expenses, excluding depreciation, but including the cash expenses of the Estate activity. Since the Estate activity has been excluded from the purview of the Tariff Policy, 2018, the cash balance is reworked to consider one month cash expenses excluding the expenses related to the Estate activity and Railway activity and arrived at ₹59.46 crores as against ₹97.50 crores arrived by MBPT.

(c). The total capital employed including the revised working capital works out to ₹1766.59 crores as against ₹1774.76 crores arrived by MBPT.

(d). Return on Capital Employed at 16% has been worked out on the revised Capital Employed worked out above at ₹ 282.65 crores which is considered in the ARR computation.

(vii). The ARR is the average of the expenditure for the three financial years 2015-16 to 2017-18 at ₹ 1190.66 crores plus 16% Return on Capital Employed at ₹ 282.65 crores aggregating to ₹ 1473.31 crores as on 31 March 2018. Further, as per Clause 2.7. of Working Guidelines, the said ARR has been indexed @ 100% of the Wholesale Price Index (WPI) applicable for the year 2018-19 at 3.45%. The indexed ARR works out to ₹ 1524.14 crores for the year 2018-19, as against the indexed ARR worked out by MBPT at ₹1544.95 crores.

(viii). The MBPT has added an amount to the tune of ₹193.33 crores to the indexed Annual Revenue Requirement (ARR) as worked out by it, being 1/3rd of wage revision Arrears and pension arrears amounting to ₹580.00 crores. Since the said expenditure is not seen to be reflected in the Audited Annual Accounts of 2015-16 to 2017-18, the said expenditure has not been considered by us. Thus, the revised ceiling indexed ARR works out to ₹ 1524.14 crores for the year 2018-19, as against the ceiling indexed ARR worked out by MBPT at ₹ 1738.29 crores.

(ix). The detailed working of ARR calculation given by the port duly certified by Chartered Accountant is relied upon subject to the modification effected with regard to exclusion of Railway expenditure and the adjustments relating to inventory and cash balance under the head of Working Capital as discussed above. A summary of the ceiling indexed ARR furnished by the MBPT and as considered by us is given below:

(Amount ₹ in lakhs)

Sr. No.	Particulars	As estimated by the MBPT	As considered by us
1.	Average Expenses for the years 2015-16, 2016-17 and 2017-18	120,946.81	119,066.03
2.	Capital employed including net fixed asset, capital work-in- progress as on 31.03.2018 and working capital as per norms	177,476.31	176,658.85
3.	Return on capital employed @ 16%	28,396.21	28,265.42
4.	ARR as on 31 March 2018 (4=1+3)	154,495.35	147,331.45
5.	Indexation in the ARR @ 100% of the WPI applicable for the year 2018-19 (3.45%)		152,414.38
6.	Impact of the arrears of wage and pension revision	19,333.33	**-NIL-**
7.	Ceiling Indexed Annual Revenue Requirement (ARR)	**173,828.68**	**152,414.38**
8.	Revenue estimated by MBPT at the proposed Scale of Rates	**148,512.24**	**148,512.24**

(x). (a). As per Clause 2.6 of the Tariff Policy 2018, the Major Port Trusts have the flexibility to determine the rates to respond to the market forces based on commercial judgment and draw the Scale of Rates within the ceiling of indexed ARR, duly certified by a practicing Chartered Accountant. The actual income for the year 2017-18 has been taken as base by MBPT and thereafter the port has estimated revenue for the future by taking into account the proposed percentage of increase sought by it. As per Clause 2.5 of Tariff Policy 2018, for drawing the SOR, the MBPT has considered the actual cargo traffic in tonnes and GRT of vessel handled by the port during the year 2017-18, to draw the proposed SOR within the ceiling indexed ARR.

(b). On scrutiny of revenue estimation in Form-3, it is seen that the existing tariff and proposed tariff for arriving of revenue at existing level of tariff and revenue at proposed level of tariff did not match with the existing SOR and the proposed SOR of MBPT in case of Container Tariff and Transhipment Container Tariff. On being pointed out, the port has stated that tariff for the General Container and Transshipment Container has been considered after deduction of applicable rebate of transportation charges when the users make their own arrangement as per section 5C(ii). The MBPT has also furnished a statement of Tariff considered for arriving at the revenue at existing level of tariff and revenue at proposed level of tariff. The position as brought out by the MBPT has been relied upon.

(c). As brought out above, the traffic handled in the year 2017-18 has been taken as base by MBPT for drawing the SOR as required as per Clause 2.9. of the Working Guidelines. While doing so, the impact of the subsequent amendments effected in the SOR of MBPT, by some tariff Orders passed by this Authority based on the proposals filed by MBPT in this regard, had not been captured by MBPT. At our request, the MBPT has furnished the modified revenue statement considering the impact of Revenue arising out of withdrawal of stevedoring charges at 35% of the charges applicable for cargo handled at Docks, for cargo handled at Inner Anchorage, revision of lighterage charges and water conveyance charges and Revision of charges prescribed towards Garbage Reception Facility, which had been carried out after the last general revision of SOR of MBPT.

(d). As brought out earlier, the SOR of MBPT was last revised in 2016-17. Thereafter, due to achievement of performance standards relating to vessels, the MBPT appears to have indexed the Vessel Related Charges (VRC) by the applicable escalation factor during the years 2017-18 and 2018-19. The MBPT has sought an increase of 10% over the rates prevailing indexed rates in the year 2018-19. However, in the income estimation at proposed level of tariff in Form – 3, a 10% increase in vessel related income has been assessed over the vessel related income as of the year 2017-18. On being pointed out, the MBPT has furnished the revised vessel related income estimation at proposed level of tariff by considering a 10% increase over the income of 2018-19.

(e). The actual cargo traffic reported to have been handled by MBPT in the year 2017-18 is 628.12 lakh tonnes. Considering the proposed increase of 10% in the cargo and container related charges including demurrage and stevedoring charges (except POL, LPG/ LNG, Edible oil & Bulk Chemicals Wharfage), 20% increase in the wharfage charges of POL, LPG/LNG, Edible oil & Bulk Chemicals, 10% increase in the licence fees and 10% increase in the vessel related charges and the additional income due to rationalisation of Anchorage charges @ 40% of Berth Hire Charges and revision of charges for use of pipelines from Pir Pau Manifold to Sewree `O' point/Hay Bunder/Indira Dock/ Naval Dock Yard based on the actual expenditure of 2017-18, the MBPT has arrived at the Revenue Estimation at the proposed level of tariff at ₹1485.12 crores.

(xi). (a). With regard to the 10% increase in the licence fees, it is recalled that during the last general revision of tariff of MBPT in the year 2016, the MBPT had sought an increase of 70% in the License (Storage) Fees and Warehousing Charges, based on the cost position of MBPT and without adopting the methodology prescribed in the Land Policy Guidelines. For the reasons as brought out in the last general revision Order of MBPT, this Authority while approving the General Revision of Scale of Rates of MBPT in 2016 had granted an increase in the lease rentals as proposed by the port then on an adhoc basis and had advised the MBPT then to formulate and file a well analysed proposal following the stipulations contained in the Land Policy Guidelines of 2014 within 3 months from the date of notification of the said Order in the Gazette of India.

(b). In this backdrop, the MBPT in its current proposal has proposed an 10% increase in Licence (Storage) Fees under the Section 3.3 of Chapter III of the SOR over the adhoc rates approved by this Authority in the year 2016.

(c). On perusal of the LAC Report, it is seen that as per the Ready Reckoner of 2017-18, the lease rentals for open land works out to ₹ 485/- per sq.m per month, the lease rentals for office/ commercial on above floor works out to ₹ 978.50 per sq.m per month and the lease rentals for office/ commercial on ground floor works out to ₹ 1284.50 per sq.m per month. The MBPT has also stated that no transaction of land is involved. The lease rental as per the tender is reported to be at ₹ 155.23 per sq.m per month. The lease rental as arrived by the Valuer appointed by MBPT is ₹ 385/- per sq.m per month for open land.

Based on the above values, the LAC in its Report has observed that the lease rates as per the Valuation Report are 114% to 655% more than the rentals prescribed in the SOR of MBPT. The LAC has also observed that as per Ready Reckoner rates, the port can seek an increase upto 471% in the charges for open land and 1790% increase in the charges for the office/ commercial area. The LAC has also viewed that since the licence fee has already been revised upward by 70% in the year 2016, any further increase as stated above will not be sustainable by the trade. Further, the LAC is also of the view that since the port earns revenue mainly from the Vessel Related activities and Cargo Related activities, the activity of storage of EXIM cargo at Port should not be considered in isolation. The storage facility is being provided on a supplementary basis to the main objective of import/ export activities of the Port and Storage charges are being realized for the cargo being handled through the port from which the vessel and cargo related charges are realized. Thus, any substantial increase in the storage is viewed by the LAC to be detrimental to the cargo traffic, thereby adversely affecting the traffic and revenue from the cargo and vessel related activities. Considering that the allotment of area to the port users for transit storage of cargo is for limited period and since the adoption of the highest among the factors as stipulated in the land policy guidelines is aimed to be applied for allotting land for a longer period, the LAC has felt that it may not be worthwhile to apply the highest rate among the various factors to determine the rentals for storage of transit cargo.

Thus, the LAC in its Report has recommended continuing the rates as approved in the year 2016 for the period upto 31 March 2019. Further, given that the general revision of SOR of MBPT is due from 01 April 2019 onwards, the LAC has recommended the revision in the rentals along with the other rates as contained in its general SOR. In this connection, the Board of Trustees of MBPT has recommended an increase of 10% in the rentals. The additional revenue on account of increase in storage charges has been worked out by the MBPT at ₹ 29.88 crores and it has been captured by MBPT while estimating revenue at the proposed level of tariff.

Based on the justification furnished by the port and since the Land Policy Guidelines permit the LAC to not choose the highest rentals among all the factors, by recording reasons in writing and based on the recommendation of the Board of Trustees of MBPT and since there is no pointed objection from any of the users with regard to proposed storage charges, this Authority is inclined to approve an increase of 10% in the rentals, as proposed by the port.

(d). During the proceedings relating to the case in reference, considering that the fixation of Licence (storage) fees is based on the stipulations contained in the Land Policy Guidelines, the MBPT was requested to delink prescription of License (Storage) Fees and Warehousing Charges from its general revision proposal, and file a well analysed proposal following the stipulations contained in the Land Policy Guidelines. In this regard, the MBPT has stated that the Cargo Storage is one of the important core activities of the Ports facilitating smooth functioning of trade for the importers and exporters. Thus, the MBPT is of the view that the Cargo Storage activity relates to loading/ unloading cargo from the vessels and it is not directly related to Estate rentals. Therefore, the MBPT has made a request to not delink the said rates from the SOR of MBPT, but has instead, requested to change the nomenclature of ‘License (Storage) Fees and Warehousing charges’ in Chapter III, Section 3.3 and Chapter V, Section 5(E) to ‘Storage Charges’.

Based on the justification furnished by the port, this Authority accedes to the request of MBPT to not delink storage charges from the General SOR and to change the nomenclature of License (Storage) Fees and Warehousing charges in Chapter III, Section 3.3 of MBPT SOR to Storage Charges and the nomenclature of License (Storage) fees on containers in Chapter V, Section 5(E) to Storage Charges on containers. It is relevant here to mention that the nomenclature of License (Storage) Fees for storage of general Cargo at Tuna Port [Deendayal Port Trust (DPT)] has been modified as Storage charges for general Cargo vide order number TAMP/20/2018-DPT dated 14 June 2019.

(xii). Anchorage charges in respect of foreign/ coastal/ inland vessels, prescribed in the existing SOR in US cents and Indian Paisa are reported to be very meager. In the current general revision, the port has resolved to remove the unit of levy of Anchorage charges in Cent and Paisa and has proposed to prescribe anchorage charges @ 40% of Berth Hire Charges, on the ground that anchorage is akin to berth. Though, this would result prescription of anchorage charges in US $ and INR and would lead to an increase of 876% in case of foreign going vessels and 1408% in case of coastal vessels, as compared to the existing anchorage charges, the port has left it to the wisdom of the port users to take a call on comparative cost advantages to the users to handle cargo at various other ports near Mumbai Port waters or at MBPT. The additional revenue on account of rationalization of anchorage charges has been worked out by the MBPT at ₹ 78.10 crores and it has been captured by MBPT while estimating revenue at the proposed level of tariff.

Based on the submissions made by the port and keeping in view the flexibility available to the port to determine the rates based on the market forces and commercial judgment of the port, this Authority is inclined to approve the Anchorage Charges at Section 2.15 as proposed by the Port.

(xiii). The charges for the use of pipelines from Pir Pau Manfold to Sewree ‘O’ Point/ Hay Bunder/ Indira Dock/ Naval Dock yard of MBPT (Section 9.4) has been proposed to be increased by 199% with reference to existing tariff based on the actual expenditure incurred during the year 2017-18 for the facility. In this regard, the MBPT has furnished a detailed cost sheet to arrive at the per hour charge for use of use of pipelines from Pir Pau Manfold to Sewree ‘O’ Point / Hay Bunder/ Indira Dock/ Naval Dock yard of MBPT considering the various cost components viz. direct cost, depreciation, administrative cost, management overheads, in justification of the proposed increase. The additional revenue on account of charges for the use of pipelines has been worked out by the MBPT at ₹ 12.92 crores and it has been captured by MBPT while estimating revenue at the proposed level of tariff. Based on the cost details as furnished by the MBPT and since there is no pointed objection from any of the users on the proposed increase of charges for the use of pipelines from Pir Pau Manfold to Sewree ‘O’ Point / Hay Bunder / Indira Dock / Naval Dock yard of MBPT (Section 9.4), this Authority is inclined to approve the said charges as proposed by MBPT.

(xiv). Thus, considering the proposed increase of 10% in the cargo and container related charges including demurrage and stevedoring charges (except POL, LPG/ LNG, Edible oil & Bulk Chemicals Wharfage), 20% increase in the wharfage charges of POL, LPG/ LNG, Edible oil & Bulk Chemicals, 10% increase in the licence (storage) fees and 10% increase in the vessel related charges and including the income of proposed Anchorage charges @ 40% of Berth Hire Charges and revised charges for use of pipelines from Pir Pau Manifold to Sewree `O' point/Hay Bunder/Indira

Dock/ Naval Dock Yard, the Revenue Estimation at the proposed level of tariff has been worked out by MBPT at ₹ 1485.12 crores. As can be seen, the Revenue Estimation at the proposed level of tariff at ₹ 1485.12 crores is lower than the Ceiling Indexed Annual Revenue Requirement (ARR) of ₹ 1524.14 crores, as calculated earlier, thereby leaving a gap of ₹ 39.02 crores, which has been left uncovered by the Port. In other words, with the increase in tariff accorded, the income at the proposed level of tariff is not sufficient to meet the return of 16% on the capital employed which is ₹ 282.65 crores. The estimated return on Capital employed works out to 14.34%.

(xv). Subject to above analysis, the computation of ARR, as modified by us is attached as **Annex.**

(xvi). Considering the position that the increase in the cargo related charges including demurrage and stevedoring charges and the vessel related charges, as sought by the MBPT is well within the ceiling indexed Annual Revenue Requirement and based on the judgment of the Port, this Authority is inclined to grant an increase of 10% in the cargo and container related charges including demurrage and stevedoring charges (except POL,LPG/LNG, Edible oil & Bulk Chemicals Wharfage), 20% increase in the wharfage charges of POL, LPG/LNG, Edible oil & Bulk Chemicals, 10% increase in the licence (storage) fees, 10% increase in the vessel related charges, rationalisation of Anchorage charges and revision of charges for use of pipelines from Pir Pau Manifold to Sewree `O' point/Hay Bunder/Indira Dock/ Naval Dock Yard.

(xvii). During the proceedings relating to the case in reference as well as during the joint hearing, all the users/ user associations have raised serious concern about the condition of the infrastructure facilities, availability of Pilots and other operational issues encountered by stakeholders at the MBPT. Majority of the users have also objected to the increase in the rates proposed by the MBPT, considering the reported poor infrastructure of MBPT. The MBPT has submitted that development works are being taken to improve the infrastructure facilities viz., deepening and widening of Mumbai Harbour Channel and JN Port Channel, construction of second berth to handle liquid chemical/ specialized grades of POL at New Pir Pav Pier, deep drafted berth for catering to Suez Max Tankers with a capacity of 22 MMTPA to handle crude oil, Upgradation of Indira Dock, setting up of Tank Farm on the reclaimed area at Jawahar Island, Automobile Hub, develop a world class integrated ship repair facility, concretization of Roads. The MBPT has also stated that they are in process of exploring the possibility of hiring additional 14 pilots to cope with the operational requirements. In this regard, the MBPT is advised to speed up the various infrastructure developments works to improve its infrastructure facilities and to well address the concerns of the users while rendering the port services. It is to be noted that the increase in the cargo related charges including demurrage and stevedoring charges and the vessel related charges, as sought by the MBPT, is well within the ceiling indexed Annual Revenue Requirement. Since the increase sought by the MBPT is within the purview of the stipulations of the Tariff Policy, 2018, the increase granted in the cargo and vessel related charges is inevitable. In this regard, it is relevant here to mention that as per clause 7.1. of the Tariff Policy 2018, the rates prescribed in the Scale of Rates are at ceiling levels. The MBPT may exercise the flexibility to charge lower rates by allowing rebates and discounts. Further, as per Clause 2.7. the Tariff Policy 2018, the MBPT is requested to ensure that as a result of revision in the SOR there will not be loss of traffic to the port.

(xviii). In the existing Scale of Rates, the term ‘Day’ is defined as the period starting from 08.00 hours of a day and ending at 08.00 hours of the following day. The MBPT has now proposed to change the timings of the ‘Day’ from 7.30 hours of the day and the ending at 7.30 of the following day, taking into account the Shift timings of Docks working. The proposed modification is approved.

(xix). The existing Scale of Rates defines 'Free Period' as the period during which cargo/ container shall be allowed storage free of demurrage charges and this period shall exclude Sunday(s), customs holidays and Port's non-working days. In the proposed SOR, the port has proposed to include 'Licence (storage) fees on containers' within the ambit of the definition of 'free period', on the ground that Licence (storage) fees is levied on containers beyond free period. Since the existing definition caters to allowing of free period for containers and also levy of storage/ demurrage charges thereafter, and since there does not appear to be any ambiguity, the existing definition of 'free period' shall continue to be prescribed.

(xx). The MBPT has introduced a definition of 'Inland Vessels' in its proposed Scale of Rates. 'Inland Vessels has been defined as Vessels / barges registered under Inland Vessel Act and which cannot ply outside Indian water limit and which do not fall under definition of offshore supply vessel. Simultaneously, the MBPT has proposed a change to the existing definition of 'Offshore Supply Vessel', so as to exclude Inland Vessels from the purview of the 'Offshore Supply Vessel'. The introduction of definition for Inland Vessel and the change proposed in the definition of Offshore Supply Vessel, clearly brings out a demarcation between the both the category of Vessels. It is presumed that the port has done its due diligence, while proposing introduction of definition for Inland Vessel and proposing change in the definition of Offshore Supply Vessel, so as to avoid any legal/ operational issues. Since the proposed introduction of definition for Inland Vessel and the change proposed in the definition of Offshore Supply Vessel is reported to be for better clarity, the same is approved.

(xxi). The port has introduced a new definition 'Mafi' in its proposed SOR. "Mafi" is proposed to be defined to mean a mobile loading platform for loading a large item, facilitating transport by Ro-Ro vessels, and treated on par with Containers. The definition of 'Mafi' is not prescribed in the SOR of any of the Major Port Trusts. It may not be incorrect to presume that the port would have done its due diligence, while proposing introduction of the said definition, so as to avoid any legal/ operational issues. Since the introduction of the said definition is reported to give better clarity, this Authority approves the introduction of the definition of "Mafi" as proposed by MBPT.

(xxii). The port has introduced a new definition 'Outsting Priority' in its proposed SOR. When a working vessel at berth is removed (ousted) from the berth and shifted to stream/ other berth for accommodating another cargo/ cruise vessel, such movement is proposed to be treated as "ousting priority" berthing. The definition as proposed by the MBPT is seen to be in order. Since the introduction of the definition of 'Outsting Priority' is reported to have been proposed for having clarity, the said definition as proposed by the MBPT is approved.

(xxiii). The MBPT has introduced the definition of 'Ship stores, so as to mean Inventory carried on board of a ship to meet its daily requirements such as food, water, cleaning supplies, medical supplies, safety supplies, spare parts etc. Considering that the said definition is proposed to be introduced for better clarity, this Authority approves the introduction of the definition of 'Ship stores' as proposed by MBPT.

(xxiv). Section 2.1 (B) of the SOR of MBPT prescribes composite pilotage and towage charges for Miscellaneous vessels viz., Off Shore Supply Vessels, Survey vessels and specific support vessels, floating cranes, rig vessels, dredgers, vessels under construction, telegraph vessels, Tugs boats, Passenger boats, Fishing trawlers, Self-propelled Barges, dumb barges, lash barges, pleasure yacht, country crafts, crew boats, etc. The MBPT has proposed a note to the effect that composite pilotage and towage charges for the above referred vessels shall be levied at minimum of 1000 GRT in order to recover the fixed cost involved in the activity. The MBPT has not established how fixing the minimum level of 1000 GRT will enable the port to recover its fixed costs. The additional income arising to the port on account of fixing a minimum level for levy of composite pilotage and towage is not seen to have been captured by the port. Hence, the introduction of the proposed note is not acceded to.

(xxv). The General notes to Section 2.1 and 2.2 at sl. No. (1), lists down the various instances, where shifting of the vessels would be considered as shifting for port convenience. The MBPT has proposed to introduce a new note (x) to the said Section to the effect that whenever vessels shifting occurs due to failure of Port mechanism such as lock gate not working, tug not working, pilot not available or if berth not available, such shifting shall be treated for port convenience. The proposed note is reported to have been introduced, as at present, no conditions are prescribed for shifting of vessels due to failure of Port Mechanism. The Proposed note appears to be reasonable and would give relief to the users. Therefore, this Authority is inclined to approve the said note.

(xxvi). The examination fee prescribed at Section 2.11 (I) has been proposed to be increased from ₹ 217.17 to ₹ 1000/-. Likewise, Licence fee/ renewal fee/ issue of duplicate licence fee prescribed at Section 2.11 (I) has been proposed to be increased from ₹ 43.47 to ₹ 500/-. Also, the charges towards penalty for delayed renewal of licence prescribed at Section 2.11 (III) is also proposed to be increased from ₹ 580/- to ₹1000/- per licence (if renewal is beyond 30 days and upto 60 days), from ₹ 1161/- to ₹ 2000/- per licence (if renewal is beyond 60 days and upto 120 days) and from ₹ 1741/- to ₹ 3000/- per licence (if renewal is beyond 120 days). Further, the charges for permission for harbor cruise party is proposed to be increased from ₹ 1161/- to ₹5000/- per cruise. The services as listed above are not in the normal course of MBPT's day to day port operations. Considering a revenue gap of ₹ 39.02 crores, as brought out earlier, it is presumed that any additional revenue earned on this account may get subsumed in the revenue gap. In view of the above position and considering that the proposal of MBPT has the approval of its Board of Trustees and since none of users have objected to the said increases, this Authority is inclined to approve the charges for the various licence fees as listed above, as proposed by the port.

(xxvii). In Section 2.11 (II), which prescribes licence fees for water conveyance for various Harbour crafts, the port has proposed to introduce licence fees for Ro-Pax vessels at sl no. 1, on the ground that Ro-Pax Services are proposed to be commenced. The judgment of the port in this regard is relied upon.

Further, the existing licence fees as prescribed for Catamarans and Hovercraft at sl no. 1 is proposed to be increased from ₹ 46.26 to ₹ 76.33 per GRT per month and the licence fees for speed boats is proposed to be increased from ₹ 46.26 to ₹ 101.77 per GRT per month. The port has also introduced licence fees for Pleasure Yachts upto 10 GRT and Pleasure Yachts of more than 10 GRT at ₹ 107.77 per GRT per month and ₹231.30 per GRT per month respectively, as the instance of the Board of Trustees.

The Port has not quantified the revenue impact arising out of the above referred proposed changes. Considering a revenue gap of ₹39.02 crores, as brought out earlier, it is presumed that additional revenue earned on this account may get subsumed in the revenue gap. In view of the above position and considering that the proposal of MBPT has the approval of its Board of Trustees and since none of users have objected to the said increases, this Authority is inclined to approve the licence fees for Catamarans and Hovercraft, as proposed by the port.

(xxviii). The Note 4A at Section 2.16 of the existing SOR of MBPT, prescribes that 32% of the Port Dues shall be levied incase of a vessel which enters the Port but does not discharge or take in any cargo or passenger (with the exception of such unshipment and re-shipment of cargoes as may be necessary for purpose of repairs). Considering that Section 50B of the Major Ports Trust Act, 1963, (MPT Act) stipulates that when a vessel enters a port but does not discharge or take in any cargo or passengers therein (with the exception of such unshipment and reshipment as may be necessary for purposes of repair), she shall be charged with a port-due at a rate to be determined by this Authority and not exceeding half the rate with which she would otherwise be chargeable, the MBPT has proposed to increase the levy of Port Dues on the above referred vessels from the existing 32% to 50%. Since the prescription proposed by the port is in line with the stipulation contained in the MPT Act, the proposed change is approved.

(xxix). The Port at note no. 4 to Section 2.17 has proposed to modify the unit of levy of berth hire charges in respect of boat, country craft, dredgers, tugs and passenger boats of less than 1000 GRT, pleasure yacht and lash barge entering the Docks, from the existing ‘per hour or part thereof’ to ‘per hour or part thereof per GRT or part thereof’, in addition to the general increase of 10% sought across all vessel related charges. The change in the unit of levy has been proposed by the port on the ground that the existing charges are very meagre and that the proposed changes would enhance the rates at par with other Major Ports, where the rates are prescribed on per GRT per hour basis. The MBPT has not established how the proposed change in the unit of levy would enhance the rates at par with other Major Ports. The additional income arising to the port on account of the proposed change in the unit of levy also is not seen to have been captured by the port. Hence, the introduction of the proposed note is not acceded to.

The port is advised to come up with a separate proposal for change of unit rate for levy of berth hire charges for boat, country craft, dredgers, tugs and passenger boats of less than 1000 GRT, pleasure yacht and a lash barge entering the Docks, giving justification and revenue impact thereon.

(xxx). As per the existing description given with regard to levey of Cargo related charges, the charges were leviable on all traffic dealt within the relevant areas specified in Appendix 'G' to the MBPT Dock Bye-Laws. On the ground that the MBPT bye-laws is being replaced by MBPT Regulations, the port has proposed that the charges will be leviable on all traffic dealt within the Docks and Custom notified areas outside docks. The proposed change is approved.

(xxxi). Under the Wharfage schedule, the port has introduced a note to the effect that 50% of the normal wharfage will be applicable on the cargo handled overside, on the ground that port is handling large amount of project cargo through overside discharging and loading, for which charge needs to be prescribed in the SOR of MBPT. Considering that the overside discharge/ shipment of cargo from/into a vessel working at berth would happen without passing through the quay at the berth, prescription of a lower wharfage rate for overside cargo handling is appropriate. The proposal of the port in this regard is approved.

(xxxii). Uncleared goods when sold by the MBPT under section 61 or 62 of the Major Port Trust Act, 1963, were allowed a free period of 15 days from the date of confirmation of sale by MBPT as prescribed at Section 3.1 (C). In this regard, the port has stated that Mumbai based bidders complete the formalities and take delivery within the stipulated free period. However, bidders having base other than Mumbai are generally unable to complete the formalities and take delivery. In such cases, the bidders are reported to be reluctant to take delivery as they have to pay demurrage after the expiry of free days which acts as a deterrent. Thus, in order to retain the existing bidders and to attract more bidders for participating in e-tender-cum-e-auction and also for ensuring evacuation of cargoes sold in sale, the port has proposed to allow a free period of 15 working days following the date of receipt of printout of Customs Out of Charge and where Customs Out of Charge is not involved, free period of 15 working days will be allowed following the date of Delivery Order. Based on the judgment of the port and since the proposed provision would be user friendly, the proposed modification is approved.

(xxxiii). The charges and conditionalities governing the use of floating cranes prescribed at Section 4A have been deleted by the Port on the ground that the existing sole floating crane available with MBPT has been decommissioned and the port does not have any other floating cranes. Similarly, the port does not have any Tower type cranes, Platform truck and Forklift of 16 Tonnes. Therefore, the port has proposed for deletion of charges prescribed in the existing SOR relating to the use of the above said equipment. The proposed deletion is accepted.

(xxxiv) The MBPT has reported that for simplification of the schedule of passenger fees prescribed at Section 8.1, it has proposed to rationalize the said charges by merging the two different charges i.e. Section 8.1 (i) - ₹. 10.70 per passenger for Peak hour service (9.00 a.m. to 11.30 a.m. and 5.00 p.m. to 8.00 p.m.) and Section 8.1 (ii) - ₹5.14 per passenger for Non-Peak hour service as in existing SOR and proposed single charge (₹.11.77 per passenger) at the level of 10% increase over the existing tariff (₹. 10.70 per passenger) in the proposed SOR. The MBPT has also proposed for deletion of a note at 8.1 (iii) of the existing SOR which stipulated that the charges to be worked out at 30% of passenger capacity in respect of the routes served between Gateway of India and Mandwa and at 60% of passenger capacity in respect of all other routes, instead it has proposed to levy the passengers charges at 50% on the all the routes. In addition to be above, the MBPT has proposed to levy Security Fee at the rate of ₹.5 per passenger on all routes.

The MBPT is not seen to have factored the impact of revenue on account the proposed modifications while estimating the revenue at proposed SOR. Nevertheless, the revenue to be generated on passenger fee may not be very substantial and it is likely that additional revenue earned on this account may get subsumed in the revenue gap ₹ 39.02 crores, as brought out earlier. As such, this Authority is inclined to approve the modifications in the Schedule 8.1 "Passenger Fee" as proposed by the MBPT.

(xxxv). In view of the likely commencement of Ro-Pax Service at MBPT, the MBPT has introduced vehicle fees at the ₹.40/- per vehicle. The port has also prescribed that the charges to be worked out at 60% of the capacity declared as per certificate of registration in respect of all the routes where vehicles are transported within inland waters.

The MBPT is not seen to have factored the impact of revenue on account of the proposed modifications while estimating the revenue at proposed SOR. Nevertheless, the revenue to be generated on passenger fee may not be very substantial and it is likely that any additional revenue earned on this account may get subsumed in the revenue gap ₹ 39.02 crores, as brought out earlier. The proposed provision is, therefore, approved.

(xxxvi).The port has introduced charges for issue of daily permits in respect of Mobile Cranes, Forklifts and Container handling Equipment, on the ground that charges are prescribed for issue of only for quarterly or duplicate permits in the existing SOR. Likewise, the port has introduced charges for issue of daily/ quarterly permits for LMVs, Buses, taxis and motorcycles, on the ground that no rates are available in this regard. The port has also proposed charges for issue of quarterly permit to persons. The MBPT is not seen to have factored the impact of revenue on account of the proposed modifications while estimating the revenue at proposed SOR. Nevertheless, the revenue to be generated on issue of permits may not be substantial and it is likely that additional revenue earned on this account may get subsumed in the revenue gap ₹ 39.02 crores, as brought out earlier. As such, this Authority is inclined to approve the modifications in the Schedule 8.1 "Passenger Fee" as proposed by the MBPT.

(xxxvii).A new clause relating to Parking charges for usage of open area for parking of cargo/container handling equipment like Mobile Cranes, Forklifts, Reach Stackers, JCBs, etc. inside the Dock area has been introduced by MBPT at Section 9.7. However, the MBPT is not seen to have factored the impact of revenue on account of the proposed clause while estimating the revenue at proposed SOR.

Nevertheless, the revenue to be generated on introduction of the proposed provision may not be substantial and it is likely that any additional revenue earned on this account may get subsumed in the revenue gap ₹ 39.02 crores, as brought out earlier. The proposed provision is, therefore, approved.

(xxxviii). As per Clause 3.1. of the Tariff Policy 2018, the Major Port Trusts shall also commit Performance Standards for cargo related services in terms of average ship berth day output, average moves per hour in case of container handling. For vessel side services, the port shall prescribe Performance Standards in terms of average turnaround time of vessels and average pre-berthing time of vessels and any other parameter which is found relevant by the Port. The MBPT has committed Performance Standards for cargo related services in terms of overall average ship berth day output in tonnes / day. The MBPT has also proposed Performance Standards in terms of average turnaround time of vessels and average pre-berthing time of vessels. The Performance Standards as proposed by MBPT is given below:

Sl. No.	Performance standards	Proposed Performance Standards
(1).	**Cargo Related**	
	Average Ship Berth day Output (in tonnes) in respect of Major Cargo groups	10000
(2)	**Vessel Related**	
(a)	Average turnaround time of Vessels (in days)	2.50
(b)	Average Pre-berthing time of Vessels (in days)	0.15

The Average Ship Berth day Output (in tonnes) in respect of Major Cargo groups as proposed by the MBPT at 10000 tonnes is seen to be lower than the actuals achieved by the port during the last year i.e. 2018-19. The reason for proposing a lower ship day output has been attributed by MBPT due to continuous reduction of fast moving cargo such as Iron & Steel and increase in the slow moving cargo i.e. Project Cargo. Nevertheless, the ship day output as proposed by the port is seen to be higher as compared to the average of the past four years, as per the figures furnished by the MBPT.

With respect to average TRT and average pre berthing detention, it is seen to be higher as compared to the actuals for the past four years. In this regard, the port has stated that in the past, the deep drafted vessels were handled at BPX/ BPS/ three Harbour Wall Berths at MBPT. However, since the BPX berth is being developed as International Cruise Terminal, leading to detention of deep drafted vessels resulting in increase in average Pre-berthing time of Vessels and average Turn Round Time (TRT) of Vessels.

The Tariff Policy, 2018 does not prescribe any method or basis for proposing performance standards. It is noteworthy that the performance standards as proposed by the port are an improvement over the performance standards approved during the last general revision of SOR of MBPT. Thus, based on the submissions made by the MBPT, the Performance standards as proposed by the port are prescribed along with SOR.

(xxxix) As per Clause 2.8. of the Tariff Policy, 2018, the SOR will be indexed annually to inflation to the extent of 100% of the variation in Wholesale Price Index (WPI) announced by the Government of India. Such adjustment of SOR will be made every year and the adjusted SOR will come into force from 1st May of the relevant year to 30th April of the following year. Further, as per clause 3.2 of the Tariff Policy 2018 to be read with clause 2.8 of the Tariff Policy, 2018, annual indexation in SOR at 100% of the WPI is applicable subject to achievement of Performance Standards committed by Major Port Trusts. If a particular port does not fulfil the Performance Standard, no indexation would be allowed during the next year. It is relevant here to state that in the instant case indexation for the year 2018-19 is already considered in the ARR computation and for drawing the SOR. The next annual indexation in SOR will thus be applicable from 1 May 2020 subject to increase in inflation index and achievement of Performance Standards in the year 2019-20. That being so, a note is inserted in the SOR to the effect that the SOR approved by this Authority is subject to automatic annual indexation at 100% of the WPI to be announced by this Authority. The annual indexation will be from 1 May 2020 subject to increase in inflation index announced by this Authority and the MBPT achieving the Performance Standards notified alongwith the SOR. If Performance Standards prescribed in the SOR are not achieved, there will be no indexation in SOR for that particular year. The Tariff Policy, 2018 stipulates that annual indexation in the SOR will be automatic subject to achievement of Performance Standards. It does not require the Major Port Trusts to approach this Authority for the same. In order to have transparency, the port is advised to declare the Performance Standards achieved for the period 1 January to 31 December vis-à-vis the Performance Standards notified by this Authority at the level committed by the port within one month of end of the calendar year to the concerned users as well as to this Authority. If the Performance Standards as notified by this Authority are achieved by the port, then the port can automatically index the rates prescribed in this SOR at 100% of WPI announced by this Authority. Such adjustment of SOR will be made every year and the adjusted SOR will come into force from 1st May of the relevant year to 30th April of the following year. The SOR indexed by the MBPT shall be intimated by the port to the concerned users and to this Authority.

(xL) The existing SOR of the MBPT had a validity upto 31 March 2019. However, the Authority has permitted all the eleven Major Port Trusts to levy the tariff as per the existing approved SOR from the 1 April 2019 to 30 September 2019 or till the effective date of implementation of the revised SOR notified by this Authority, whichever is earlier. As per Clause 3.8. of Working Guidelines, the SOR notified shall remain valid for a period of 3 years after expiry of 30 days from the date of notification of the Order in the Gazette of India.

(xLi). As per clause 7.1. of the Tariff Policy 2018, the rates prescribed in the Scale of Rates are ceiling levels. The port may, if so desire, charge lower rates. The MBPT may exercise the flexibility to charge lower rates and/or allow higher rebates and discounts.

(xLii). Further, as per Clause 2.7. of the Tariff Policy 2018, it is for the MBPT to ensure that as a result of revision in the SOR, there will not be any loss of traffic to the port.

(xLiii). If there is any error apparent on the face of record considered, the MBPT may approach this Authority for review of the tariff fixed and the conditionalities prescribed within 30 days from the date of notification of the Order passed in the Gazette of India.

(xLiv). The modifications proposed by MBPT in the conditionalities governing the Scale of Rates are considered for approval based on justification/ clarification furnished by MBPT. The MBPT may also, for any justifiable reasons, approach this Authority for amending any of the conditionalities approved, even before the expiry of the tariff validity period.

12.1. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves the revised SOR and the Performance Standards of the MBPT which have been notified separately. The effective date of the revised Scale of Rates and conditionalities governing the application of revised Scale of Rates will remain the same as already indicated in the separate Order dated 24 July 2019 and shall be in force for a period of 3 years from the date of effect of revised SOR. The approval accorded will automatically lapse thereafter unless specifically extended by this Authority.

12.2. The MBPT has committed Performance Standards for cargo related services in terms of overall average ship berth day output in tonnes / day. The MBPT has also proposed Performance Standards in terms of average turnaround time of vessels and average pre-berthing time of vessels.

12.3. The indexation of SOR as provided in Clause 2.8 of the Tariff Policy, 2018 is to be read with Clause 3.2. of Tariff Policy 2018. If MBPT does not fulfil the Performance Standard, no indexation is eligible for the next year.

12.4. As per Clause 6 of the Tariff Policy 2018, the MBPT shall furnish to this Authority annual reports on cargo traffic, ship berth day output, average turnaround time of ships, average pre-berthing waiting time as well as the tariff realized for each of its berth. The annual reports are to be submitted by the Port within 60 days following the end of each of the year. Any other information which is required by this Authority shall also be furnished to this Authority from time to time.

12.5. As per Clause 4 of the Working Guidelines, this Authority shall host all the information received by it from MBPT under clause 6 of the Tariff Policy, 2018 on its website. However, this Authority shall consider a request from MBPT about not publishing certain data/information furnished which may be commercially sensitive. Such requests should be accompanied by detailed justification regarding the commercial sensitiveness of the data/ information in question and the likely adverse impact on their revenue/ operation upon such publication. TAMP's decision in this regard would be final.

(T.S. Balasubramanian)
Member (Finance)

Annex

Computation of Annual Revenue Requirement under Policy for Determination of Tariff for Major Port Trusts, 2018 (As modified by TAMP)

				Rs. in lakhs	
Sl. No.	Description	FY1 (2015-2016)	FY2 (2016-2017)	FY3 (2017-2018)	Total (3 years)
(1).	**Total Expenditure (As per Audited Annual Accounts)**				
(i).	Operating expenses (including depreciation)	79,404.00	80,340.00	85,351.00	245,095.00
(ii).	Management & General Overheads	28,165.00	30,827.00	37,241.00	96,233.00
(iii).	Finance and Miscellaneous expenses (FME)	102,859.00	82,220.00	86,287.00	271,366.00
	Subtotal 1=(i)+(ii)+(iii)	**210,428.00**	**193,387.00**	**208,879.00**	**612,694.00**
(2.1).	**Less Adjustments:**				
(i).	Estate related expenses				
	(a). Operating expenses (including depreciation)	7,924.00	7,678.00	8,790.00	24,392.00
	(b). Allocated Management & Administrative Overheads	2,291.02	2,328.43	3,172.46	7,791.90
	(c). Allocated FME	2,290.30	1,854.08	1,930.05	6,074.43
	Subtotal 2.1 (i)=[(a)+(b)+(c)]	**12,505.32**	**11,860.51**	**13,892.51**	**38,258.33**
(ii).	**Railway Related Expenses**	**2,382.00**	**2,509.00**	**2,289.00**	**7,180.00**
(iii).	**Interest on loans**	-	-	-	
(iv).	**2/3th of One time expenses, if any like arrears of wages, arrears of pension / gratuity, arrears of exgratia payment, etc. (list out each of the items)**				
	(a). Arrears of wages	1,131.33	1,102.67	1,562.00	3,796.00
	(b).SVRS Compensation	4,858.00	4,862.00	4,955.33	14,675.33
	Subtotal 2.1 (iii) = [(a)+(b)]	**5,989.33**	**5,964.67**	**6,517.33**	**18,471.33**
(v).	**2/3th of the Contribution to the Pension Fund & Gratuity Fund**	**60,933.33**	**47,300.00**	**47,166.67**	**155,400.00**
(vi).	**Management and General overheads over & above 25% of the aggregate of the operating expenditure and depreciation**	**10,295.00**	**12,661.50**	**18,100.75**	**41,057.25**
(vii).	**Expenses relevant for tariff fixation of Captive Berth, if any governed under clause 2.10. of the Tariff Policy, 2015.**				
	(a). Operating Expenses				
	(b). Depreciation				
	(c). Allocated Management and Administrative Overheads				
	(d). Allocated FME				
	Subtotal 2.1 (vi) = [(a)+(b)+(c)+(d)]	**-**	**-**	**-**	
	Total of 2.1. = 2.1 (i)+2.1 (ii)+2(iii)+2.1 (iv)+2.1 (v)+ 2.1 (vi)+2.1 (vii)	**92,104.98**	**80,295.68**	**87,966.26**	**260,366.92**
(2.2).	**Add : Excess of Expenditure over Income in Railway activity**	**1,370.00**	**1,867.00**	**1,634.00**	**4,871.00**
(3).	**Total Expenditure after Total Adjustments (3 = 1 - 2.1 + 2.2)**	**119,693.02**	**114,958.32**	**122,546.74**	**357,198.08**
(4).	**Average Expenses of Sl. No. 3 = [Y1 + Y2 + Y3] / 3**				**119,066.03**
(5).	**Capital Employed**				
	(i). Net Fixed Assets as on 31.03.2018 (As per Audited Annual Accounts)				69040.00
	(ii). Add:Work in Progress as on 31.03.2018 (As per Audited Annual Accounts)				93066.00
	(iii). Less: Net value of Fixed assets related to Estate activity as on 31.03.2018 as per Audited Annual Accounts.				919.37
	(iv). Less : Net value of fixed assets, if any, transferred to BOT operator as on 31 March 2018 as per Audited Accounts.				
	(v). Less : Net value of fixed assets as on 31 March 2018 as per Audited Accounts relevant to be considered for captive berths, if any, under clause 2.10. of the Tariff Policy, 2015.				
	(vi). Add : Working Capital as per norms prescribed in clause 2.5. of the Working Guidelines				
	(a). Inventory				907.00
	(b). Sundry Debtors				5,529.13
	(c). Cash				9,036.08
	(d). Sum of (a)+(b)+(c)				15,472.21
	(vii). Total Capital Employed [(i)+(ii)-(iii)-(iv)-(v)+(vi)(d)]				**176,658.85**
(6).	**Return on Capital Employed 16% on Sl. No. 5(vii)**				**28265.42**
(7).	**Annual Revenue Requirement (ARR) as on 31 March 2018 [(4)+ (6)]**				**147,331.44**
(8).	**Indexation in the ARR @ 100% of the WPI applicable for the year 2018-19 i.e.@3.45%**				**152,414.38**
(9).	**Ceiling Indexed Annual Revenue Requirement (ARR)**				**152,414.38**
(10).	**Revenue Estimation at the Proposed SOR within the Ceiling indexed ARR estimated at Sl No. 10 above**				**148,512.24**

SUMMARY OF THE COMMENTS RECEIVED FROM THE PORT USERS / DIFFERENT USER ORGANISATIONS AND ARGUMENTS MADE IN THIS CASE DURING THE JOINT HEARING BEFORE THE AUTHORITY.

TAMP/5/2019-MBPT	**:**	**Proposal received from the Mumbai Port Trust (MBPT) for General Revision of its Scale of Rates (SOR).**

A summary of the comments received from the users/ user organizations and reply furnished by MBPT thereon are tabulated below:

<table>
<tr><th>Sr. No.</th><th>Comments of users / user organisations</th><th>Reply of MBPT</th></tr>
<tr><td>1.</td><td>IMC Chamber of Commerce and Industry</td><td></td></tr>
<tr><td>(i).</td><td>MBPT has lost almost all of its container volume handled, as well as general cargo volumes due to the total lack of investment by the Port Authorities. None of the equipment that are used by MBPT authorities are of the latest technology nor have they been procured in the last 10 years.</td><td>MBPT has handled the following quantities (more or less same in the range) during the last three years.
<table>
<tr><td>Year</td><td>TEUs</td></tr>
<tr><td>2015-16</td><td>42820</td></tr>
<tr><td>2016-17</td><td>41917</td></tr>
<tr><td>2017-18</td><td>42387</td></tr>
</table>
Further, MbPT owned equipments available for handling of cargo are given below:
<table>
<tr><td>Sr. No</td><td>Description</td><td>Number</td><td>Capacity</td></tr>
<tr><td>1</td><td>Mobile Crane</td><td>2</td><td>14 tonnes</td></tr>
<tr><td>2</td><td>Fork Lifts Trucks</td><td>8</td><td>3 tonnes</td></tr>
<tr><td>3</td><td>Electric Fork Lifts</td><td>1</td><td>1 tonne</td></tr>
<tr><td>4</td><td>Tractors (3T)</td><td>5</td><td>3 tonnes</td></tr>
<tr><td>5</td><td>Electric Level Luffing Wharf Cranes</td><td>08
03</td><td>10 tonnes
16 tonnes</td></tr>
<tr><td>6</td><td>Diesel Locomotives</td><td>1</td><td>Hauling capacity – 2200 Tonnes</td></tr>
</table>
MbPT has hired private Tugs / launches in addition to MbPT tugs for towing the vessels and hired Pilots to provide better and timely services. The position of the floating craft is tabulated below:
<table>
<tr><th>S. No</th><th>Type of floating Craft</th><th>Number</th><th>Capacity</th></tr>
<tr><td>1</td><td>Harbour Tugs</td><td>6 (2 Hired)</td><td>2 x 1500 – 2 x 2481 BHP</td></tr>
<tr><td>2</td><td>Dock Tugs</td><td>6</td><td>2 x 475 BPH</td></tr>
<tr><td>3</td><td>Dredging Tugs</td><td>2</td><td>2 x 270 BPH & 372 BPH</td></tr>
<tr><td>4</td><td>Security Launches</td><td>2 (Hired)</td><td>2 X 247 BHF</td></tr>
<tr><td>5</td><td>Mooring Launches</td><td>6 (2 Hired)</td><td>92 X 140 BHP
2 x 205 BHP</td></tr>
<tr><td>6</td><td>Pilot Launches</td><td>5</td><td>2 x 240 -2 x 475 BHP</td></tr>
</table>
</td></tr>
</table>

(ii)	Further, there has been a massive flight of cargo from MBPT, due to the lack of handling equipment, lack of draught at the berth as well as, lack of any clarity on what cargo the Port desires to handle in the future. So long as no investment has been done by the Port administration, we find it strange, that an upward revision is desired by the Port. In fact, the Port authorities should reduce their tariffs and be more competitive to attract larger volumes, rather than drive business away with higher tariffs.	The MBPT has furnished the Major Assets Capitalized and upgradation of an additional to existing Major Assets during last 5 years to justify upward revision of tariff. The sum of such assets has been shown as ₹. 475.15 crores. The assets include deepening and widening of Mumbai Harbour Channel and JN Port Channel (₹.194.29 crores), construction of second berth at a cost of ₹.142.98 crores to handle liquid chemical / specialized grades of POL at New Pir Pav Pier and concretization of Roads at a cost of ₹.36.36 crores.
(iii)	Mumbai Port in December 2007, had signed an agreement for the creation of an Offshore Container Terminal. Unfortunately, though 12 years have passed, the Offshore Container Terminal has not come into existence, nor is there any effort to create the Offshore Container Terminal.	No specific comments offered by MBPT.
(iv)	We understand that the existing facility, where huge investment have been incurred, would be utilized to promote other industry, for which it was not created. As a result, industries such as Tourism and Coastal movement of cargo will become economically unviable, due to the upward revision by the Mumbai Port Authorities.	The Proposal is based on Annual Revenue Requirement (ARR) as per Tariff Policy 2018 ARR works out to INR 1738.29 Cr. Total Actual Income for 2017-18 as per Annual Accounts - ₹.1224.20 Cr. Thus, ARR available for increase in SOR was ₹.514.09 Cr. (Deficit). To cover the Revenue Gap of INR 514.09 Cr., there was a scope of increasing the Tariff by 40% across the Board. However, the increase in the rate of SOR was restricted to 20% in respect of POL charges and 10% for all other charges. Thus, the proposed increase in Scale of Rates is within the ceiling ARR and the balance ARR/deficit works out to ₹.292.05 crore and is totally justified.
(v)	We request for access to data, on the total amount of capital goods and Port handling equipment that have been purchased by the Mumbai Port, in order to justify any upward revision. We request the MBPT to furnish details of the expenses incurred in the past 5 years to justify an increase.	[The MBPT has furnished Major Assets Capitalized and upgradation / additional of existing Major Assets during last 5 years, which was forwarded to IMC for information]
2.	**Maritime Association of Nationwide Shipping Agencies (MANSA) vide its e-mail dated 15 January 2019**	**MBPT Letter dated 6.03.2019**
(i).	As approved by TAMP, MBPT has already enhanced the Tariffs @ 2% w.e.f. 01-04-2017 and @ 3.75% w.e.f. 10-08-2018. It is once more observed that within a span of 07 months, MbPT is proposing a very steep increase @ 10%.	The TAMP guidelines allows the ports to avail the benefit of indexation provided the performance standards are achieved. The port had achieved the performance standards prescribed and were thus eligible for availing indexation benefits. The indexation is based on WPI index to cover the inflationary trends and thus should not be considered as increase in tariff. Accordingly, Mumbai Port enhanced the
(ii).	We are at a loss to understand how this 10% increase has been arrived at. The relevant elements of the increase, in relation to services provided and resources utilized by the Port, with split up like Labour charge, Administrative Costs, Infrastructure	

	Maintenance Cost and miscellaneous are not known.	Tariffs @ 2% w.e.f. **01.05.2017** and @ **3.45%** w.e.f. 10.08.2018.
(iii).	This periodic upward revision thrusted, causes a heavy burden on the Shipping Trade. This would result in passing the burden to the EXIM Trade by way of increased Freight Rates multi-fold. Ultimately, the Trade may not prefer to move their cargo to Mumbai Port. Already the Port has faced considerably reduced container and general traffic due to setback of infrastructure and other facilities. Needless to emphasize that the proposed revision would be a further blow for the Trade to digest.	As per the current tariff revision proposal submitted to TAMP, Annual Revenue Requirement (ARR) as per Tariff Policy,2018 works out to INR 1738.29 Cr. Total Actual Income for 2017-18 as per Annual Accounts – ₹.1224.20 Cr. Thus, ARR available for increase in SOR was ₹.514.09 Cr.(Deficit). To cover the Revenue Gap of INR 514.09 Cr. there was a scope to increase the Tariff by 40% across the Board. However, the increase in the rate of SOR was restricted to 20% in respect of POL charges and 10% for all other charges. Thus, the proposed increase in Scale of Rates is within the ceiling ARR and the balance ARR/ deficit works out to ₹.292.05 crore and is totally justified. This issue was also explained to MANSA during the meeting on 22.02.2019 and joint hearing conducted by TAMP on 25.02.2019.
(iv).	The reasons for the above conclusion in a nutshell, are given below: (a). On cursory glance, the proposed increase in Berth Hire Charges is not justifiable. At present 24 hours Berth Hire charges for a typical vessel of GRT 33,000 MT / NRT 19232 carrying Steel Cargo of HR / CR Coils at Mumbai Port, amounts to approx. USD 10,000 per day whereas 24-hour Berth Hire at Kandla works out to USD 9,066 and at Chennai it is merely USD 4,018. Another 10% proposed increase by MbPT, the same Berth Hire would shoot up to USD 11,028, which would be very much higher than the other major Indian Ports. Furthermore, with a required discharge rate @ 10,000 MT per day in Mumbai Port in normal weather conditions, the vessel having 30,000 MT of Steel Cargo on board would take minimum 3 days' stay at berth. However the same vessel would discharge the cargo in the port of Kandla within 02 WW Days, @ a discharge rate of 15,000 MT per day. Additionally, the proposed increase would hike the Stevedoring charges in MbPT to INR 137/- per MT from the existing rate of around INR 122/- per ton (which is already high than other Indian Major Ports), whereas the Stevedoring charges at Kandla is around INR 75 – 80 per ton. (b) Also, for Dry Bulk Cargo and Fertilizers, no Gangs or Grabs are provided by MbPT for working the vessel. Mumbai Port therefore refunds 50% stevedoring charges. Despite same, levying INR 232/- per MT is exorbitant. Also due to heavy shortage of labour, Mumbai Port permits utilization of	Berth Hire Charges - As regards proposed increase in Berth Hire rate and comparison made with rates prevailing at other Major Ports like Kandla and Chennai, it can be seen from the rates worked out by MANSA that the present Berth Hire rates are comparable with the rates at Kandla. Further, the rates prevailing at various Major Ports are not uniform and they are dependent upon various factors such as topography of each port, facilities available thereat, operating expenditure of each port, etc. Further, it is relevant to mention here that the revision of SOR of all the Major Ports is due w.e.f. 1.4.2019, therefore, it will be incorrect to compare existing rates at other ports with rates proposed by MbPT. Increase in rates for Port Dues: Port provides various facilities such as dredging of Main channel and berth pockets, installation of various navigational aids, buoys, operation and maintenance of VTMS, etc. The expenditure on all these facilities

	Private Labour but levies 50% charges which tanamounts to cost escalation up to 150% i.e. owners have to bear full wages of private labour and 50% wages to MbPT for the workers not engaged. As stated above, the ships carrying fertilizer cargo take 02 days in Kandla to discharge vis-o-vis at Mumbai Port, the same ship with similar quantity, takes 03 days minimum to complete the operations. The productivity at MbPT for fertilizer is maximum 1,500 MT per day whereas at other Ports it exceeds to 6,000 MT per day. The productivity for other dry bulk cargo is maximum 3,000 MT per day and at other Ports the productivity is around 8,000 MT per day. In other words, its' not only that the tariff rates at Mumbai Port are way high, but due to poor productivity, vessels stay at berth is always prolonged, an equation, which raises the costs for working at Mumbai Port abnormally high. At Kandla Port, engagement of private labour, plus reduction in stevedoring charges, and 35% higher productivity for steel cargo, the vessels turnaround time and costs are much lesser than at Mumbai Port. (c) Going by the above, it may be noted that working of a vessel in MbPT, with existing tariff rates, is already higher than working at various other convenient places, and further increase of 10% would simply paralyze the trade, i.e. there is every likelihood that the unwarranted increase would adversely affect overall throughput of the Port by decreased utilization of available facilities. (d) The increase in Port Dues is not understandable when port has not done any changes in harbour. The increase in pilotage also is not understandable when there is shortage of Pilots and Tugs. The increase in Pilotage charges from the then rate of US$ 18,286 were already hiked (by 3.75%) to US$ 18,918. By increase of 10%, this would go up to US$ 21,194. The Port Dues from US$ 11,343 were increased to US$ 11,737 by earlier hike of 5.75%, which would further go up to US$ 12,909 by this 10% proposed increase. (e) Attention is drawn to the numerous occasions where ships got cancelled / delayed due to shortage of Pilots / Tugs as enumerated below: 1. MV 'HHL Mississippi' - Berthing time was cancelled on 3/10/2018 due to shortage of pilot a/c GAC Shipping. 2. MV 'Mookda Naree' - Berthing time given 0645 hours on 4/10 and got cancelled due to shortage of tugs a/c Parekh Marine.	increases every year. Therefore, the proposed increase in Port Dues is justified. To cope up with the demand of additional pilot requirement, the port has recruited pilots on contract basis so as to ensure that the timely pilotage services is provided to the vessels. Thus, the port strives to provide the best services to the port users. Incidentally, the factual position was explained in detail by MbPT during the Joint Hearing when MANSA representatives were also present.

	3. MV 'Ise' - Berthing allotted 9/11 @ 1115 hours and got cancelled due to shortage of pilot a/c NYK. 4. MV 'Bans A' - Berthing time given 7/12/2018 at 1800 hours. Docking cancelled due to shortage of pilot a/c Samsara. 5. MV 'BBC Amber' berthing was delayed due to shortage of pilots on 26/12/2018. 6. M.V. 'Sea Music' at BPS - On 28.12.2018, the Port Authorities had programmed to shift the vessel from BPS to 15 ID at 1500 hours. However, at the last moment, due to shortage of MBPT Pilot, the vessel's shifting was cancelled. 7. One important operation under the agency of M/s J. M. Baxi required to be elaborated here: a). MV 'Happy Sky', which called Mumbai Port, was planned to top load Godrej's prestigious cargo, i.e. world's largest reactor of about 90-meter length. M/s Godrej and the media personnel were called to witness the cargo at Mumbai Port Trust berth no. 21 ID. The details are appended below: - b). Mumbai Port was given a 14 days advance notice (declared on 06.12.2018) with ETA Mumbai 22.12.2018. This was followed by repeated updates in the daily OG meeting, whereupon the ETA was deferred. The vessel arrived Mumbai Port on 05.01.2019. Agents, along with the Godrej Team, had a detailed meeting with Senior Port Officials, deliberating the milestone project to be handled at Mumbai Port through dumb barge, with cargo being carried from Godrej Dahej Plant and Jetty. M/s Godrej Boyce Mfg. Co. Ltd. had planned a 'Media Release' of the event for this prestigious shipment, which was scheduled for 7th January, 2019, and port had assured all the assistance. c). The barge with the world's largest reactor weighing 698 MT and 90 Meters in length had to wait for almost 15 days after arriving at Mumbai Port. Mumbai port was unable to provide any safe berth to the Dumb Barge 'Sagar 300' along with Tow Tug 'Sagar 3' at Indira Docks, and was left to anchor at P & V Anchorage being exposed to weather conditions. d). After prolonged waiting the Berthing time was allotted to the Barge 'Sagar 300' along with Tow Tug 'Sagar 3' for double banking with the mother vessel MV 'Happy Sky' on 06.01.2019 at 1230 hours, the movement of the barge, with such cargo was cancelled due to shortage of Tugs/ Pilot. Another movement was planned by Port for the next day i.e. on 07.01.2019, alas; the second movement of the barge was also cancelled as no Pilot Launch was available. This created	

	state of uneasiness, as media was planned to board the vessel and photography / publicity event was to be held within this short duration. e). The barge with cargo could come alongside the mother vessel only on the next day, as per port convenience. Above only proves the casualness and the lack of infrastructure in the Port of Mumbai. f). The above information is illustrative and not exhaustive. It is also reiterated that Port has not augmented its number of Pilots since then, and trade continues to face the setback with delays in sailing and berthing of the vessels. It is observed that the shifting of the vessel in anchorage from one point to the other, has become much expensive than shifting from one berth to the other in the Docks because of which the ships coming for working in anchorage may have to reduce their business in the Port anchorage. Shifting charges of berth to berth and anchorage to anchorage should be different and not same. It may be noticed that Pilotage from 'Sea to Stream' is charged @ USD 0.0895 per GRT (present SOR), while shifting charges from anchorage to anchorage is charged @ USD 0.1229 per GRT, which is higher than 'Sea to Stream'. Thus shifting charges 'Stream to Stream' should be lesser than 'Sea to Stream".	(f). Bringing vessels from Sea to Stream and back to sea does not involve shifting of vessel. Shifting of vessel is either from one anchorage to another or from one berth to another berth without using tugs. Since the movement is different, the charges levied are different.
(v).	As of date, most of the Dock-Workers are aged, and are on the verge of retirement, as no recruitment has been undertaken for number of years. This results in persistent shortages in the Working Gangs.	With regard to point that most of the Dock workers are aged, it is to state that although the shore workers are ageing, the work efficiency of shore workers is maintained as they are well experienced and work is monitored by the Supervisory staff and officers. It is observed that when there is increase in demand of gangs, shortage is experienced during IIIrd shift and the same is met by utilization of private gangs. As regards creation of more labour gangs, it is stated that as per Office Memorandum issued by Ministry of Finance, Department of Expenditure, New Delhi, there is total ban on creation of plan and Non-plan posts. Further, the MbPT has ensured the 24x7 working which has increased the availability of labour resources.
(vi)	The transaction cost for EXIM trade would only increase freight rates by the Principals. Another factor which stands as a setback for operations in Mumbai Port is the long period of 4 months' monsoon during which the vessel operations are drastically reduced and its turnaround time increases compared to Kandla Port where the Monsoon period does not extend beyond 2 months. The	With regard to general flexibility allowed by TAMP to reduce the rates at the discretion of the Port on commercial considerations and the consequential effect of concessions granted by MbPT for various schemes in respect of wharfage and storage are as under: ➢ Grant of extended free days for cargo and containers.

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<td>normal weather conditions prevail in Mumbai Port for only 8 months and in Kandla it will be for 10 months which is advantageous to that Port for facilitating better productivity and lesser turnaround time. Although this is a natural setback for which MbPT cannot be held responsible, it would be more prudent to understand ones weaknesses and try to overcome same for luring customers by offering better working conditions and procuring right infrastructure.</td>
<td>
➢ Storage facilities for import bagged cargo at concessional rate at notified outlying areas as well at areas under GBL has been extended upto 270th day.
➢ Extension of storage facilities for import of Agri products and concessional storage upto 180 days.
➢ Grant of extended free days for import consignment of iron & steel.
➢ Concessional composite Box rate for handling of container at CFS/Docks.
➢ Concessional demurrage beyond 30 free days on export of Sugar.
➢ Free days facility on container/cargo brought by road from other ports to Mumbai Port for de-stuffing and delivery.
The Performance indicator achieved by Mumbai Port are as follows :
<table>
<tr><th></th><th></th><th>2016-17</th><th>2017-18</th></tr>
<tr><td>1</td><td>Average time spent at berth (days)</td><td>2.33</td><td>2.17</td></tr>
<tr><td>2</td><td>Average detention per ship Port accounts (hrs)</td><td>2.16</td><td>0.59</td></tr>
<tr><td>3</td><td>Average Turn round time (days)</td><td>2.49</td><td>2.29</td></tr>
<tr><td>4</td><td>No. of ship days lost on account of non-availability of berth</td><td>136</td><td>38</td></tr>
<tr><td>5</td><td>Average size of parcel per ship (Tonnes)</td><td>19630</td><td>19644</td></tr>
</table>

[The MBPT has furnished a snapshot of recommendations for improvement of Turn Round Time of vessel and cargo in Ease of Doing Business].
</td>
</tr>
<tr>
<td>(vii)</td>
<td>While the Port is making efforts to modernize for attracting Cruise Ships and creating Marina and other facilities, the cargo traffic is neither encouraged by taking any new initiatives, nor are any fresh facilities created and no maintenance of available facilities is undertaken. There are several restrictions due to reduction in draughts for movement of the vessels inside the Dock as well as other Berths. Due to the immobilization of Inner Lock Gate, the Inner Basin has been exposed to the Tides and got silted for several days. Till late, due to the availability of the depth, approx. 3-4 ships used to be brought inside the Docks for working. With the depths falling, the Trade reduced / stopped engaging vessels of suitable dimensions that can be brought inside the Dock and started engaging bigger vessels which can be accommodated at the Harbour Wall and BPS / BPX.</td>
<td>
The MbPT has taken up the following major Port related Projects:
(i) <u>Fifth Oil berth (Biggest Oil terminal with capacity of 22 MMT)</u>
The project envisages construction of a deep drafted berth for catering to Suez Max Tankers with a capacity of 22 MMTPA to handle crude oil. The cost of the project is ₹.811 crores of which 50%will be shared by Oil PSUs.

(ii) <u>Coastal movement of JNPT Containers to Mumbai Port for city consumption</u>
The project outlines bringing containers to Mumbai Port from JNPT by barges. The cargo will be destuffed at Mumbai Port and distributed in the city for consumption. The average distance covered will be reduced to 40 kms
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		and reduce congestion on roads at Thane and pollution. (iii) <u>Indira Dock Upgradation</u> The project consists of works which will improve the look of Indira Dock which is the main cargo handling center of the port after the Marine Oil Terminal. The existing yards and storage areas, roads, drainage where necessary, sheds and operational buildings will be repaired and painted. All these work when completed will facilitate smooth movement of cargo. (iv) <u>Automobile Export Hub</u> Mumbai Port is set to be the Automobile Hub on the West Coast of India with 1,50,000 sq.metres of dedicated storage area. It provides PDI facilities for PDI storage and pre-shipment storage facility of 30 free days. (v) <u>Tank Farm Project at Jawahar Dweep</u> The project at an estimated cost of ₹.700 crores envisages setting Tank Farm on the reclaimed area at Jawahar Island. Presently the crude is received at Jawahar Dweep berth and directly pumped to HPCL and BPCL refineries through 4 km. long submarine pipeline and 3 km. long onshore pipeline. In order to have a faster turnaround and higher pumping rate, it is decided to have Tank Farms at JD Island itself with 3 lakh tonne capacity. This will act as a buffer during emergency. The Tank Farm will be set up by BPCL and HPCL and the land will be offered by the Port. (vi) <u>Modernisation, Operation and Management of Ship Repair Facility at MbPT by Cochin Shipyard</u> Memorandum of Understanding has been signed with Cochin Ship Yard to develop a world class integrated ship repair facility at Mumbai at MbPT's Hughes Dry Dock (HDD) which is one of the largest graving dry dock on the western coast of India. It would usher a new era of ship repair industry in India and mark its strong presence on global scale thereby strengthening the concept of Make in India initiative by the Hon'ble Prime Minister of India. Total area, 43,000 sq.mt. of land and water area of 18,600 sq.mt. has

<table>
<tr><td></td><td></td><td>been handed over to Cochin Shipyard.
(vii) Construction of second berth to handle liquid chemical/specialized grades of POL at new Pir Pau Pier of actual expenditure of ₹. 143.83 crores has been commissioned from 13.01.2016.</td></tr>
<tr><td>viii)</td><td>Due to cancellation of vessels for want of Pilots / Tugs, the vessel per force remained alongside the Berth idling for more than 4 hours after readiness to move. However, the relevant provision is not appropriately interpreted and implemented strictly for not levying Berth Hire on vessels cancelled/ delayed by the Port due to this setback.</td><td>MbPT has hired private Tugs/launches in addition to MbPT tugs for towing the vessels and hired Pilots to provide better and timely services. The position of the floating craft is tabulated below:
<table>
<tr><th>No</th><th>Type of Floating Craft</th><th>Number</th><th>Capacity</th></tr>
<tr><td>1</td><td>Habour Tugs</td><td>6 (2 Hired)</td><td>2 x 1500 – 2 x 2481 BHP</td></tr>
<tr><td>2</td><td>Dock Tugs</td><td>6</td><td>2 x 475 BHP</td></tr>
<tr><td>3</td><td>Dredging Tugs</td><td>2</td><td>2 x 270 BHP & 372 BHP</td></tr>
<tr><td>4</td><td>Security Launches</td><td>2 (Hired)</td><td>2 x 247 BHP</td></tr>
<tr><td>5</td><td>Mooring Launches</td><td>6 (2 Hired)</td><td>92 x 140 BHP
2 x 205 BHP</td></tr>
<tr><td>6</td><td>Pilot Launches</td><td>5</td><td>2 x 240 – 2 x 475 BHP</td></tr>
</table>
To maintain draft, dredging has been done through private contract as well as MBPT own dredger. The expenditure for last 3 years are given below :
<table>
<tr><th>Year</th><th>Expenditure (in crores)</th></tr>
<tr><td>2015-16</td><td>51.93</td></tr>
<tr><td>2016-17</td><td>33.34</td></tr>
<tr><td>2017-18</td><td>23.71</td></tr>
</table></td></tr>
<tr><td>(ix)</td><td>All are aware that the Port is embarking with great efforts a number of new initiatives for creating new facilities of international standards, presumably to attract more commercial traffic and augment its stature in the Maritime Trade. However, it has to be ensured that the Tariffs levied are viable and bearable to the Trade failing which all efforts would be futile. Further, the Trade is not assured of better services and no prospect in providing and enhancing the existing facilities and infrastructure the proposed upward revision of tariffs is not at all justified especially in the wake of Government of India making earnest efforts to reduce the transactional costs for EXIM trade. The proposed increase of tariffs on the contrary would negate the efforts of the Ministry of Shipping / Government of India.</td><td>To improve the performance and encourage port users, following steps have taken / being taken by Mumbai Port Trust –

(i) <u>24 x 7 Working in Docks</u>
In a historic development, Mumbai Port has begun 24 hours working as against existing 22 hours for cargo handling operations in Docks and outlying areas from 5.1.2018 to achieve better throughput and productivity, ship berthday output and consequent reduction in turnaround time of vessel. This has resulted in increase of 10% in cargo handling hours without any cost to the users.
(ii) With Rationalization of Manning, full complement of workers (gangs) are being supplied to the Vessel Agents for working their vessels, thus, ensuring vessels do not remain idle at berth.
(iii) Vessel Agents are permitted to engage private manpower on coastal barges / Mini bulk carriers / ships</td></tr>
</table>

		carrying cement cargo giving full rebate of stevedoring charges. (iv) Where there is short supply of On-Board Labour, Vessel Agents are permitted to utilize private manpower with 50% rebate on the Stevedoring charges. (v) Provision of additional Weigh Bridge through privatization has been implemented. (vi). Sampling/testing and clearance of agricultural products by Food, Safety and Standards Authority of India (FSSAI), under Ministry of Health and Family Welfare, Government of India, within 24 hours, thus enabling faster clearance/removal of pulses, grains, etc., making transit areas available for fresh cargoes from ships. (vii) To speed up the gate operations, induction of RFID for the cargo vehicles under the Access Control System is introduced. (viii) The Clause at Sr. No.3.1 (D) (15) of SOR, relating to levy of Stevedoring Charges @ 35% of the charge applicable with reference to the rates for cargo handled at Docks, for cargo handled in stream, has been deleted. (ix) Under the project Facelift of Indira Dock, major repairs to the roads and sheds inside Indira Dock, are being carried out. All the above measures taken also ensure cost of vessel's stay at berth is reduced. (The MBPT has also furnished a list of Major Assets Capitalised and upgradation of existing Major Assets during last 3 years.)
2B	**MANSA's letter dated** **17 January 2019 and 25 January 2019**	MBPT's letter dated 12 February 2019 Addressed to MANSA and copy endorsed to TAMP.
i).	MANSA has desired that the analysis of different financial elements with details of service wise costs such as Pilotage, Towage, Stevedoring, improvements in the services rendered and addition of infrastructure (equipment's etc.) and the amounts received on account of stevedoring services not rendered (50%). Also whether there is any deficit in providing the above services and additional facilities. The actual costs of services other than welfare measures may be furnished. The amount spent on welfare measures may be shown separately.	Annual Revenue Requirement has been worked out as per clause 2 of the working guidelines to operationalize the Tariff Policy for Major Ports Trusts, 2018. Annual Revenue Requirement forms has been uploaded MBPT's website www.mumbaiport.gov.in. Further, the activity-wise income and expenditure is available in Annual Accounts of MBPT, which is uploaded MBPT website under the head "Download-Annual Reports. Stevedoring service is covered under the cargo related activity. The cargo related activity is in net deficit. An amount of

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<td>The above information may be furnished for the last Financial Year (2017-2018) at the earliest. On receipt of these details we will revert back to MbPT & TAMP with the pertinent views of our Members.</td>
<td>₹.1.65 crores received in the year 2017-18 on account of 50% applicable rate of SOR for utilization of private manpower (worked out as per MOS Policy).

The amount spend on welfare measure is appearing in schedule-XI of the Annual Accounts, which is available on www.mumbaiport.gov.in. The copy of the same has been furnished by the MBPT.
The other information / clarification / comments will be furnished later.</td>
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<td>2C</td>
<td>MANSA Email dated 21.02.2019
Addressed to MBPT and copy endorsed to TAMP.</td>
<td>MBPT Letter dated 25 March 2019</td>
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<td>(a).</td>
<td>A cursory glance of the Income-Expenditure Statement and the relevant data in different Annexures thereof would reveal in a nutshell as under:
<u>YEAR ENDING 31st MARCH 2018</u> <u>Amount in Crores</u>
<table>
<tr><th>Particulars</th><th>Income</th><th>Expenses</th></tr>
<tr><td>Earned by way of Cargo Handling and Storage charges etc.</td><td>654.54</td><td>521.38</td></tr>
<tr><td>Earned by way of Port and Dock charges Pilotage, Tugs etc.</td><td>569.66</td><td>221.34</td></tr>
<tr><td>Management and General Administration (for all department)</td><td>-</td><td>372.41</td></tr>
<tr><td>TOTAL</td><td>1,224.20</td><td>1,115.13</td></tr>
</table>
Income 1224.20
Expenses 1,115.13

NET SURPLUS : 109.07

In view of the above, it is obvious that the income on account of vessel / cargo operations is not at all falling short of the expenditure incurred for providing the services and even overall administrative costs for cargo / vessel operations besides ancillary activities on account of Estate, Dry Docking, Railways, Welfare, Medical and various other Departments by the Port. If it is analyzed in-depth it may reveal that only 50% of the entire Administrative Cost may be attributable directly to the cargo operations. It is evident that the income generated by cargo / vessel operations is more than ₹. 100 Crores during the last year. The deficit is mainly because of the contribution made to the Pension Fund Trust which has to be generated by the Port by long term Capital Investments and other different sources without stretching and stressing the ongoing operations especially when the Port is facing keen competition from the neighbouring Ports – Private as well as Government. Factually, MANSA Members explained that considering the cost of services in Mumbai Port the Principals / Owners may</td>
<td>The MBPT has already explained vide letter dated 27.02.2019 that the proposal is based on Annual Revenue Requirement (ARR) as per Tariff Policy, 2018 and also justified that the increase is reasonable. Annual Revenue Requirement (ARR) as per the Tariff Policy, 2018 works out to INR 1738.29 Cr. Total Actual Income for 2017-18 as per Annual Accounts –INR 1224.20 Cr. Thus, ARR available for increase in SOR was INR 514.09 Cr. (revenue gap). To cover the Revenue Gap of INR 514.09 Cr.there was a scope to increase the Tariff by 40% across the Board. However, the increase in the rate of SOR was restricted to 20% in respect of POL charges and 10% for all other charges.

As per the Tariff Policy, 2018 the one third of (1/3) pension contribution has been considered while working of the Annual Revenue Requirement. The 1/3rd of pension contribution is ₹. 230.83 crores whereas total pension contribution towards pension fund is ₹.692.50 crores for the year 2017-18.

While working the Annual Revenue Requirement the Estate expenditure has not been considered. Further, the proportionate allocation of cost towards Management & General Overheads (including labour welfare and medical expenses) has been considered as per Tariff Policy, 2018.

MbPT has already explained and justified the proposal of revision of SOR.</td>
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	opt out of the Port preferring other Ports. Our Members are extremely anxious as their age old, well established Agency business supported by own infra-structure (well settled offices / staffing etc.) created over decades would be rendered idle if the business is fully migrated. There is no doubt that some fringe improvements have been achieved by the Port like Removal of Pinnacle; Deepening of the Anchorage Points, Creation of OCT etc. but in comparison with other leading Ports in India much is desired to be done to cope with the competition and demands of Maritime Trade. Besides improving the services, there is a need to ensure the services so provided are cost effective and viable. Further, it has to be stated assuming without admitting that there are improvements the Turnaround time of general, break bulk, dry bulk cargo etc. remained to be more or less the same for several years compared to liquid bulk, liquid chemicals at Jawahar Dweep and Pir Pau vessels achieved marked efficiency and lesser turnaround time. The overall average turnaround time does not reveal the actual deficiency levels. Any average / common breakbulk operator cannot deceive himself and admit that the operational efficiencies and the cost are competitive and hence he should continue and stick to the business in Mumbai, if the costs are further steeply escalated in the wake of 5.75% hike recently.	
2D.	**MANSA email letter dated 11.3.19** Addressed to MBPT and copy endorsed to TAMP.	**MBPT Letter dated 16 April 2019 addressed to TAMP.**
	The MBPT is making efforts for maintaining existing basic amenities as required in any Port for ensuring services which have to be provided for carrying out the day to day operations in accordance with the Rules under the Major Port Trust Act. Our Members feel that at present the operations are suffering extremely due to lack of adequate back up facilities such as routine maintenance of sheds in transit, internal roads, and covered accommodation for long term storage of cargo, shortage and lack of deployment of full tonnage pilots etc. In your lengthy letter, you have expressed that Port has been incurring heavy expenses and Annual Revenue is falling short of these expenses. Accordingly, it is observed that Port has been increasing the tariffs in the past one year by 5.45% whereas the facilities made available are marginal or even peripheral in nature. The expenses are observed to be on account of various other factors and Port's earlier liabilities. To meet the expenses of this old baggage being carried	1. MbPT has already explained that the proposal is based on Annual Revenue Requirement (ARR) as per Tariff Policy, 2018 and also justified that the increase is reasonable by various letters forwarded to TAMP. 2. TAMP guidelines allows the ports to implement the indexation provided the performance standards are achieved. The port had achieved the performance standards prescribed and was thus eligible for availing indexation benefits. The indexation is based on WPI index to cover the inflationary trends and thus should not be considered as increase in tariff. Accordingly, Mumbai, Port enhanced the Tariffs @ 2% in vessel related charges w.e.f. 01.05.2017 and @ 3.45% in vessel related charges and only dry bulk cargo w.e.f. 10.08.2018. 3. As regards the contention of MANSA about reduction in traffic, a

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<td>year on year the Port is attempting to generate additional income from the existing drastically depleted traffic especially general cargo and dry bulk cargo. You might have observed that the Port has already lost its Container traffic. For the past almost 2 years, the general cargo also is declining due to facilities available at neighbouring Ports. It is our Members view that any attempt to increase the charges on general cargo vessels will adversely affect the business of the Ship Agents as the vessels / cargo will be diverted to other Ports. To the best of our knowledge no other Port has approached TAMP for such drastic revision of SOR for the forthcoming Financial Year w.e.f. 01.04.2019.</td>
<td>Comparative Analysis of Traffic of general cargo (excluding POL) for 2017-18 vis – a- vis 2016-17 is tabulated below:
<table>
<tr><th>Particular</th><th>2017-18</th><th>2016-17</th></tr>
<tr><td>Dry Bulk Cargo</td><td>4.26</td><td>5.11</td></tr>
<tr><td>Break Bulk Cargo</td><td>4.23</td><td>4.30</td></tr>
<tr><td>Containerized Cargo</td><td>0.56</td><td>0.56</td></tr>
<tr><td>Steam (Anch.)</td><td>13.06</td><td>13.61</td></tr>
<tr><td>Moto Vehicles</td><td>229692</td><td>210179</td></tr>
<tr><td>Others</td><td>1.083</td><td>0.65</td></tr>
<tr><td>Total TEUs</td><td>42387</td><td>41917</td></tr>
</table>
It is relevant from the above table that the traffic handled by MbPT is almost stable during the years 2016-2017 and 2017-2018. In fact, in certain categories, there is an increase. Thus it can be safely concluded that there is no impact on traffic handled due to indexation.
4. MBPT has already explained and justified the proposal of revision of SOR vide letters dated 02.03.2019 and 25.03.2019 with respect to MANSA's comments vide its letter dated 11.03.2019.</td>
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<td>1. TAMP Guidelines
With regard to comments of MbPT that the targets have been achieved and they are eligible for upward revision for indexation as per TAMP as repeatedly mentioned by our Members and reiterated that during the period 2016-17 and 2017-18 the liquid bulk vessels which have been given priority in providing facilities for their quicker turnaround time have contributed improvements in overall Ports operational targets. On the contrary the operations of break bulk / bulk vessels are not at all upto the mark. There are hardly any pulses vessels for the past couple of years. As already pointed out the Port has not achieved the target for these vessels as per Guidelines.</td>
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<td></td>
<td>2. Berth Hire Charges
It was pointed out that at Kandla Port the productivity levels of bulk cargoes are very high i.e. upto 10,000 MT per day vis-à-vis MbPT 3,000 MT per day. Both Major Ports are situated in West Coast and hardly there is any difference in their topography. Despite this, there is no comparison between Mumbai and Kandla Port in vessel operation. Even Chennai is much cheaper compared to Mumbai in levy of berth hire charges. The turnaround time taken by the vessels in Mumbai is much higher than the other Ports.</td>
<td></td>
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</table>

	3. **Port Dues** As explained a Port has to maintain the draughts at Channels and at Berth pockets as a routine. This activity is included already in the tariffs and recovered from the tariffs levied on vessels and cargo operations. It was also highlighted that the income generated from the cargo /vessel operations is already surplus and it does not therefore necessitate and justify any further increase presently.	
	4. **Shortage of Pilots** This was a problem faced by the operators which has been reported to the Port repeatedly and also sighted in our previous submissions with the names of the vessels suffered. This has been a problem for the past 3-4 years and lack of deployment of full pilot tonnage is the set back and remedy is the need of the hour. The pilots newly engaged are not eligible for movement of higher tonnage vessels.	
	5. **Vessel from Sea to Stream & Back** It was observed that shifting of vessel from Anchorage to Anchorage is costlier than the Pilotage charged from sea to stream or stream to sea. This was pointed out earlier also. It was also requested that shifting charges from Berth to Berth and Anchorage to Anchorage should be different and cannot be the same.	
	6. **24x7 Working of the Port** We agree that the Port has introduced 24x7 working but there is heavy shortage of workers and those available are aged and their performance has reduced despite their skills and experience with years of hard working besides elderly supervisory staff. The operational efficiency levels of the vessels by manual method should be more or less same in all Ports. It cannot be justified that the operational levels vary from region to region without any reason. We also pointed that the third shift in the Port has to be managed by engaging private labour for which factually the Agents end up in spending full time wages for the private labour besides paying additional 50% charges for the tonnage handled to the Port. Definitely this is hurting the trade heavily since Port is recovering the amount without providing any service. Added to this the Ship Agent has to cope with the hampered working hours as the private trailers engaged by the Ship Agent have to be refueled in the Petrol Pumps available only at the adjoining heavily congested P. D'Mello Road. Our	

	Members suggestion to provide the refueling facility of the trailers inside the Dock has not been acceded to by the Port.	
	7. **MbPT Hiring Tugs and Launches** In this aspect it was pointed out that MbPT has not appropriately replenished the outdated / age old Tugs and Crafts for quite some time and no procurements have been done. There is no replacement or maintenance repairs to ensure that Ports own Tugs are in proper condition for meeting the requirements. Aged Dock Tugs which are available are used only for servicing the Port Dredgers. Security Launches are used for Port Police. Though you have mentioned 2 Pilot Launches availability many times they are not available at all for the general cargo vessels. 2 Tugs which were hired from a private Company have gone out of service for several days and the Port has to take up with the concerned suppliers to replace or recommission them quickly.	
	8. **Concessional Rates to Cargo for Storage in the Port** It was pointed out that concessions to cargo related charges are welcome but no way the cost incurred for vessel operation is helped in reduction through any amount of concessions granted to the cargoes. Further with increased free days , it would be necessary to monitor and ensure that the delivery is commensurate with rate of discharge to make room available without cargo getting accumulated at transit or in long term storage places.	
	9. **Port Related Projects** We humbly agree with you that the Port is in the anvil of enhancing numerous new infrastructural projects such as additional Oil Berth at JD, Creation of Cruise Terminal and handing over of the Dry Dock activity to Cochin Shipyard and other notable developments. As vessel operators our Members look forward for creation of better facilities to the vessel operations for quicker landing / storage and shipment of EXIM Cargo to achieve quicker turnaround time of the vessels. It is also pointed out that the automobile hub available in Mumbai Port is no way comparable to Mundra & Pipavav and in fact a major chunk of this traffic has been handled at other Ports due to lack of adequate receipt / shipment facilities in Mumbai though it has geographical advantage and proximity of automobile industries.	
	As regards other comments on Port related Projects, encouraging Port Users by enhanced	

	performance etc. our Members agree that Port is endeavouring to extend the facilities despite numerous setbacks both natural and manual historically inherited by the Port. Our Members appreciate deeply in this regard. Our contention is that there is need for the Port to ensure that the burden of all liabilities are not passed on to the cargo /vessel operations. As per our knowledge these expenses (pension fund etc.)are to be met from the funds / corpus which were collected from earlier revenues during the course of the employees' services, independent of current surplus income. Further, we reiterate that if a vessels cargo operations are completed but still it is compelled to remain at Berth beyond 4 hours, the berth hire charges should not be levied as per the SOR. The Port is not strictly implementing this regulation. In view of the above the Port Users cannot agree for any upward revision in the tariffs. In fact, our Members will be highly grateful if the Port can help the Trade enormously by planning proper use of their vast landed property and other sea facing infrastructure. By this the Port can generate sumptuous revenues and pass on the benefits by levy of concessional tariffs on the vessel operations for encouraging and attracting more cargo.	
3.	**Indian Barge Owners' Association (IBOA) through Advocate and Solicitors, M/s. Hariani & Co.** (forwarded by MBPT vide its letter dated 30.1.19) and Letter dated 14.3.19 received from Hariani & Co.	**MBPT's letter dated 1 April 2019**
	IBOA has instructed to M/s. Hariani & Co, Advocate and Solicitors to furnish its comments on behalf of them	The comments are received from M/s. Hariani & Co., who is not a MbPT user / users organizations.
(i).	The issue pertaining to levy of double banking charges and levy of excessive water conveyance tax is presently sub-judice before the Hon'ble High Court. This levy of double banking charges and water conveyance tax now has a chequered history. In the Scale of Rates issued in the Gazette dated 19 January 2015, there was no provision for double charges to be levied on pass pilot vessels and barges. As per the Scale of Rates dated 19 January 2015, was collected conveyance tax from our client's barges at the rate of INR 39.85 GRT per month.	The Port levies "charges" for the services / facilities provided as per Scale of Rates of MbPT which has been approved by the Tariff Authority for Major Ports (TAMP) and does not recover 'tax' as has been contended in the letter.
(ii).	Surprisingly and shockingly, in the next Scale of Rates, which was approved by Tariff Authority for Major Ports ("TAMP**"**) on 14 July 2016, arbitrary and discriminatory changes were made to the existing Scale of Rates of	The justification for levy of double banking charges leviable to the barges has already been furnished by the port in the general revision proposal submitted in 2015 and accordingly TAMP has

	2016 as approved by TAMP, An addition was made in Clause 2.2 of the Scale of Rates and double banking charges were levied on "Pass Pilot Vessels and Barges", thereby affecting all barges owned by members of our clients. MBPT and TAMP completely ignored the fact that the barges of members of our clients are providing essential services to mother vessels of lighterage activities, as mother vessels are unable to dock at the port. These barges are not using any services of the port trust, in order to be liable to pay any penal tax in the form of double banking charges. In any event, these barges were paying water conveyance tax, for using the territory / jurisdiction of your clients. There was no occasion for adding a separate source of revenue, in the form of double banking charges, which was nothing but an additional burden on our clients' barges. Further, under this SOR of 2016, the conveyance tax was revised to INR 43.84 GRT per month.	approved the Scale of Rates vide Order dated 21.06.2016. Subsequently, amendment proposal was forwarded to TAMP alongwith working to justify to increase the rates of water conveyance and lighterage. TAMP has passed order on 08.06.2018 approving increase in water conveyance charges and lighterage after consultation with user / user organization. The bills are raised as per the approved scale of rates by TAMP.
(iii).	Aggrieved by the said SOR of 2016, our clients along with its members filed a writ petition being Writ Petition No. 596 of 2018, in the Hon'ble High Court of Bombay, inter alia challenging the levy of double banking charges on the barges of members of our clients. The said writ petition came up for hearing on 16 March 2018, when the Hon'ble High Court orally directed Advocates appearing for MBPT, not to take any coercive steps against our clients and its members. This oral direction was time and again extended and recorded by our clients in various letters including in letters dated 17 March 2018 and 15 June 2018.	MbPT has not taken any coercive steps such as stoppage of services or cancellation registration of barge etc.
(iv).	During the pendency of this writ petition, TAMP passed an order on 8 June 2018, accepting a new proposal for revised rates made by MBPT. In this revised rates, the TAMP admitted that the issue of levy of double banking charges is sub-judice before the Hon'ble High Court, however having admitted the same, the TAMP surprisingly proceeded and allowed apportionment of double banking charges under the water conveyance tax. The water conveyance tax was accordingly revised from the existing INR 43.84 GRT per month to INR 67.08 GRT per month, which was an increase of almost 50% in the existing rate. This absurd and abnormal increase in water conveyance charges was without any justification and it was increased without due application of mind.	
(v).	Our clients immediately on 26 July 2018 objected to this order dated 8 June 2018, and pointed out various deficiencies in the manner in which the water conveyance tax was sought to be revised and increased by approximately	No specific comments received by MBPT.

	50%. Our clients further explained that this apportionment of double banking charges towards separate heading under "water conveyance tax" is nothing but an attempt to bypass and overreach to oral restraining order passed by the Hon'ble High Court not to take coercive action against our clients.	
(vi).	Our clients gave the following reasons to exhibit that the revision of conveyance tax was unjustified.	No specific comments received by MBPT.
(a).	Firstly, the sole objective of MBPT behind proposal to revise the water conveyance charges is the apportionment of double banking charges in lighterage charges to mother vessel and water conveyance charges to barges. The same is reflected in paragraph 4 of the letter dated 14 February 2018 issued by MBPT, which is summarized by TAMP in its order dated 8 June 2018 in paragraph 3.1 (ix). Therefore, in attempt to be innovative to consider source of revenue, the MBPT has proposed nothing but charged under "water conveyance charges". As stated hereinabove, the issue of double banking charges is already pending before the Hon'ble High Court in the said Writ Petition, wherein the High Court has restrained MBPT from taking any steps towards levy of double banking charges on barges. When the said issue is still pending before Hon'ble High Court, who is seized of the issue as to whether double banking charges can at all be levied on barges, it is unfair to apportion the said charges under the heading "water conveyance charges". This virtually means that after having stopped by Hon'ble High Court to levy the double banking charges, the MBPT is now trying to recover the same charges under a different heading, with the sole objective to render the writ petition infructuous or redundant. Our clients respectfully submit that what is not permissible directly, cannot be allowed to be achieved indirectly. This is exactly what MBPT is trying to do by apportioning double banking charges into water conveyance charges. You ought to restrain the MBPT from doing so.	
(b).	Without prejudice to the above, the proposal of MBPT is based upon incorrect projections. Our clients submit that the MBPT in its reply dated 20 April 2018 has given an estimated revenue with a working sheet. Under the heading of "water conveyance calculation" it seems they have only taken into consideration 137 vessels. Our clients respectfully submit that water conveyance charges are payable by all barges, regardless, of their nature and services. Such barges are approximately 250 in numbers in operation in Mumbai Port. 137 barges are active in lighterarge activities, however there are other 125 barges, which	

	are not in lighterage activity which is not at all considered for carrying out the projections. These barges also pay water conveyance charges and if these barges were considered, the projections would have been different. Therefore, the revenue calculated or estimated, is prima facie wrong and erroneous. It is the case of MBPT, after revision, the total revenue would be ₹.10.35 crores and the projected revenue from double banking charges would have been ₹.14.08 crores. Therefore, even after revision, there would be revenue gap of ₹.3.73 crore. Our clients respectfully submit that this projection is incorrect. Our clients state that this projected "would have been" revenue of double banking charges can be recovered from foreign vessels alone. MBPT in its representation has submitted an erroneous calculation of revenue collected for Foreign Mother Vessels by taking into consideration only 291 Mother Vessels, when the total number of Foreign Mother Vessels is more than 450. Also, the new GRT rate ought to be calculated as per the current rate of the dollar which is 69 Rupees per dollar as opposed to 64 Rupees per dollar. Further, the hours for which the Foreign Mother Vessels is docked in the mid-stream area is also erroneously mentioned as 101 hours when in reality they on an average are docked for six days aggregating to 144 hours. If the correct figures were given, then TAMP would have come to the conclusion that revenue expected from foreign mother vessels would itself have been ₹.14.65 Cr. Instead of ₹. 3.47 crores shown in the worksheet. That itself would have covered the intended apportionment of double banking charges without levying any charges on barges.	
(c).	Without prejudice to the above, even otherwise there is no explanation given by MBPT for seeking revision of the water conveyance charges. The letter dated 14 February 2018 does not give any reason whatsoever for increasing the water conveyance charges, except the reason of apportionment of double banking charges, which as explained above, is erroneous. The MBPT in the hearing held on 16 March 2018 argued that the water conveyance charges are towards the service of dredging, stoppage of oil pollution, patrolling and VTMS expenses. Our clients respectfully submit that they are already paying water conveyance charges of ₹..44.72 per GRT for the aforesaid service. In fact, most of the aforesaid services like dredging, stoppage of oil pollution do not even relate to barges. Therefore, there is no question of providing the service to barges. While seeking a revision, MBPT needs to	

	justify the reasons for revision, which is not done in the present case. It is the case of our clients that no incremental service is provided, which justifies such a humongous revision in water conveyance charges.	
(d).	The MBPT has also time and again neglected the very objective of operation of barges while determining the charges payable by barge owners, irrespective of whether that is double banking charges or water conveyance charges. The barges are in operation for lighterage operations midstream. This is an essential service provided by the barge owners to mother vessels, specially in a port like Mumbai, wherein the big ships and vessels cannot come to the port. In that sense the barges owned by our client's members are part of the broader service providing facilities of the Mumbai Port, and they are not consumers. Without these barges being in operation it would have been extremely difficult, if not impossible, to carry out lighetrage operation in midstream. If barge owners are subjected to such heavy toll and / or charges for carrying out services in the port, which only adds value to the overall services of the port, then it would be difficult for barges to operate. TAMP and MBPT ought to take into consideration the services provided by barges in the overall scheme of things before revision of charges payable in these barges.	
(e).	The service provided by the barges in Mumbai Port are solely for the benefit of mother vessels. The concept of double banking or the conveyance through the water ways is solely to benefit the mother vessels. The services reflected in the said order like dredging, oil pollution relate to mother vessels. Therefore, apportionment of double banking charges, if any, ought to be to the account of mother vessels. However, in the present case, lilghterage charges on the mother vessels has only been increased by meagre 10% whereas water conveyance charges for barges is increased by 50%. There is absolutely no nexus or reason for this discrimination. Apportionment of double banking charges ought to be solely borne by mother vessels as they are the consumers of all the services provided by MBPT in Mumbai Port.	
(vii)	Despite the aforesaid grounds raised by our clients in its letter dated 26 July 2018, the same was not considered by MBPT or TAMP, for reasons not known. Hence our clients was constrained to move the Hon'ble High Court again to amend the Writ Petition No. 596 of 2018. Our clients filed a Chamber Summons being Chamber Summons (L) No. 339 of 2018, to bring on record the subsequent facts and also to challenge the order of TAMP dated	No specific comments received by MBPT.

	8 June 2018, whereby water conveyance tax was increased by 50%. This Chamber Summons was allowed by the Hon'ble High Court and therefore the challenge of our clients to this excessive increase of water conveyance tax is presently sub-judice and subject to the adjudication of the Hon'ble High Court.	
(viii)	In view of the aforesaid facts, the draft Scale of Rate which is now been proposed by MBPT, again does not take into the fact that the excessive conveyance tax has been challenged by our clients. In the draft SOR, MBPT has proposed to charge water conveyance tax at the rate of INR 73.79 GRT per month. MBPT has obviously applied a marginal increase on the existing rate. However, what has been ignored by MBPT is that the existing rates itself is an excessive rate, which has been challenged by our clients and the same is pending before the Hon'ble High Court. At best, MBPT ought to have applied the marginal increase on the rates of water conveyance tax which was existing prior to Order dated 8 June 2018 i.e. INR 43.68 GRT per month. It is absurd that MBPT has revised the increase on a rate which is under challenge before the Hon'ble High Court.	The MBPT proposal for general revision / review of scale of rates is based on Annual Revenue Requirement (ARR) as per Tariff Policy, 2018 which works out to ₹.1738.29 Cr. Total Actual Income for 2017-2018 as per Annual Accounts - ₹.1224.20 Cr. Thus, ARR available for increase in SOR was ₹.514.09 Cr. (Revenue Gap). To cover the Revenue Gap of ₹. 514.09 Cr, there was a scope to increase the Tariff by 40% across the Board. However, the increase in the rate of SOR was restricted to 20% in respect of POL charges and 10% for all other charges. Thus, the proposed increase in Scale of Rates in within the ceiling ARR and the balance ARR / deficit works out to ₹..292.05 crore and is totally justified.
(ix).	In any event, this newly proposed water conveyance tax is also bad in law and is not tenable for the same reasons as submitted earlier.	The MBPT has forwarded a Legal opinion under a cover of its letter dated 6 May 2019 obtained from M/s. Motiwala & Co. as to whether the revision can be carried out in view of the pending court preceedings. In the said Legal opinion, M/s. Motiwala & Co. has opined that MBPT is entitled to frame draft Scale of Rates and TAMP is entitled to sanction (if thought fit) such scale of rates as there is no stay or injunction restraining the Board and TAMP from performing their respective statutory duties.
(x)	In view of the submissions made above, our clients call upon MBPT to withdraw the proposed SOR and calls upon MBPT to consider increasing the water conveyance tax on the rate existed prior to the order dated 8 June 2018, i.e. on INR 43.68 GRT per month and not on the rate which existed after the order dated 8 June 2018 passed by TAMP i.e. on INR 67.08 GRT per month.	
4.	**Hindustan Petroleum Corporation Limited (HPCL)** and **Bharat Petroleum Corporation Limited (BPCL)**	**MBPT Letter dated 4 April 2019**
(i).	During the current year, JD-1 was taken on shutdown from 12th November 2018 for one month. However till date JD- I remains closed due to maintenance job which led to operational constraints in handling Crude and POL vessels at Mumbai Port due to increased congestion. This had resulted in incurrence of high demurrage Cost to the HPCL. Currently due to draft restrictions at JD-4 at Mumbai port, HPCL Crude tankers t.e. Suezmax and Aframax vessels are brought dead freighted resulting in higher freight incurred by Oil Industry.	Major work of replacement of Dolphin Fender Linkage assembly at J1 has been completed. The balance work is in progress and is expected to be completed shortly. The capacity of the JD4 berth is 125000 DWT and the proposed JD5 berth shall be of 250000 DWT. Hence, the crude oil tankers i.e. Suezmax and Aframax vessels can be accommodated suitably either at JD4 or JD5 based on their DWT capacity. The available draft at J4 is about 12 meters.

	We have observed that there has been frequent breakdown of fender /berth/ firefighting facilities and mooring arrangements. Inadequate gangways/ ladder at JD resulting in additional cost for arranging the same by vessel owners. JD-5 project which is being jointly constructed by MBPT (50%), BPCL (30%) and HPCL (20%) was planned to be operationalize by March 2019, however, same has been delayed by around 4-6 months.	All the capstans of JD4 has been refurbished in 2018 and at present all the capstans are in fully working condition. Order has been placed for revamping of firefighting system at JD. Both the Yokohoma pneumatic fenders at JD4 are in working condition and the work of refurbishment of spare fenders is in progress. Gangway Tower shall be installed at J5 under J5 Project. On commissioning of J5 berth, all the crude vessels shall berth at J5 jetty instead of J4 and there shall be minimum requirement of Gangway Ladder. The various works under JD5 project viz. submarine pipeline, mechanical, electrical and firefighting works are in progress and expected to be completed by end of July 2019. Entire JD5 Project is expected to be completed by end of September 2019 for vessels operations. The delay in commissioning the project is attributed to various reasons which will be sorted by EIL and MbPT.
(vi)	MBPT had increased port dues, berth hire charges, pilotage by 2$ and wharfage by 10% w.e.f. 1 May 2017. Further, MBPT has again increased port dues, berth hire charges and pilotage by around 3.5% w.e.f. 10 August 2018.	The TAMP guidelines allows the ports to implement the indexation provided the performance standards are achieved. The port had achieved the performance standards prescribed and were thus eligible for availing indexation benefits. The indexation is based on WPI index to cover the inflationary trends and thus should not be considered as increase in tariff as the increase is to cover the inflation. Accordingly, Mumbai Port enhanced the Tariffs @ 2% w.e.f. 01.05.2017 and @ 3.45% w.e.f.10.08.2018. Further, the proposal is based on Annual Revenue Requirement (ARR) as per Tariff Policy , 2018 and also justified that the increase is reasonable . Annual Revenue Requirement (ARR) as per Tariff Policy , 2018 works out to ₹. 1738.29 Cr. Total Actual Income for 2017-18 as per Annual Accounts – ₹.1224.20 Cr. Thus, the ARR available for increase in SOR was ₹.514.09 Cr. (revenue gap). To cover the Revenue gap of ₹.514.09 Cr., there was scope to increase the Tariff by 40% across the Board. However, the increase in the rate of SOR was restricted to 20% in respect of POL charges and 10% for all other charges.
(vii)	Now within a span of 6-7 months again revision in berthing charges, pilotage and port dues by 10% is very high and unjustified considering the present inflation trend in India.	

(viii)	Further Crude Oil and POL products are transferred through MBPT pipeline for which MBPT charges us wharfage. There has been no new investment w.r.t. wharfage infrastructure for crude oil and POL products, hence increase in wharfage of 10% is not justifiable.	MBPT has furnished a statement of expenditure incurred on various major new assets and up gradation / additional of existing major assets during last 5 years.
5.	**Volkswagen India Pvt. Ltd**	**MBPT Letter dated 25 March 2019**
	This has reference to the Mumbai Port letter No. TM/D-4/4673 dated 03.01.2019 addressed to The Tariff Authority of Major Ports (TAMP) proposing increase in wharfage charges effective 1st April, 2019. A 10% increase in wharfage from existing 0.48% to 0.53% will substantially impact the cost of exporting cars and may also increase in cost for importers and may be counterproductive to the Government drive of 'Make in India' and 'Export from India'. Volkswagen India currently exports above 70,000 cars annually from Mumbai Port. Volkswagen India has built up its exports over a period of time in good partnership with the Mumbai Port. It is currently the largest passenger car exporter using Mumbai Port. Paying an increased wharfage charges will make exports from Volkswagen India uncompetitive and may lead to a decline in exports.	MBPT shall provide the following minimum additional facilities to the export of motor vehicle on common users basis : (a). Pre-shipment storage facilities inside the docks free of demurrage for 30 days. (b). Arrangement for supply of water for vehicles for cleaning purposes including permission of recycling plants inside docks. (c). Unloading ramp for motor vehicles received by rail for export free of cost. In view of above, 10% increase in the wharfage of motor vehicle is justified and reasonable.

2. A joint hearing on the case in reference was held on 25 February 2019 at the Office of this Authority. At the joint hearing, the MBPT made a brief power point presentation on the proposal. At the joint hearing, the users/ user organisations and the MBPT have made the following submissions:

Mumbai Port Trust (MBPT)

(i). Revision of SOR falls due from 1st April 2019. Our proposal is filed under Tariff Policy, 2018. Ceiling Annual Revenue Requirement (ARR) is ₹.1738.29 crores. The VRC (excluding anchorage), Cargo and Container related charges, storage changes are proposed to be increased by 10% and increase of POL wharfage charges by 20% in the proposed SOR. The Revenue estimation as per proposed SOR will be ₹.1446.24 crores. The MBPT will still have a revenue gap of ₹. 292.05 crores.

(ii). Certain development works like upgradation of fifth oil jetty, improvements in Roads at Indira Docks, repairs of sheds and warehouses etc. with a cost of ₹.199 crores are envisaged. The benefits of the facilities will be available to the users in the next 1-2 years.

(iii). We are offering volume discounts in the handling/ storage charges for certain categories of cargoes.

MANSA

(i). What upgradation works are being taken up?

MBPT

(i). Changing roofs of storage sheds, development of roads and face lift of Indira Dock etc. are envisaged.

MANSA

(i). Repairs to roads and sheds are normal routine works. We are facing this problem since 10 years. Whenever the port seeks an increase in tariff, the point about changing roofs of sheds is brought up by MBPT. But nothing has been done. At the same time, we agree that MBPT has carried out development of roads.

[MBPT: Paving the roads, changing roofs of sheds are not regular day to day maintenance works. It is a capital expenditure. The impact of these capital works will be visible in 1-2 years. Entire Road and land at Indira Dock are paved. The existing railway line lying in the Harbour Wall Berth area is being removed, as it was creating hurdles in handling cargo. After removing of tracks, we will concretise, to enable smooth handling of cargo.]

(ii). Due to lack of storage facility at Indira Dock and over utilization of the existing shed, ships are waiting for a long time to discharge the cargo. The problem is aggravated during monsoon. The sheds are more than 15 years old. The traffic of pulses handled at MBPT has gone down in the past few years.

[MBPT : There are several instances where we have given concession in rates. We are offering more free days. We have given special waivers for sugar. We can take steps and offer discounts, based on request from trade. The rates proposed by us are ceiling rates.]

(iii). Further, though the Port is working 24 hrs. X 7 days, labour is not available in the 3rd Shift. We have to engage private labour, which increases the cost. The rebate of 50% given by MBPT for not providing the labour is not sufficient to meet the expenses incurred by us, especially for dry bulk cargo.

[MBPT : 50% rebate should be sufficient].

(iv). Further, due to shortage of pilots/ non allocation of pilots for movement of vessels, the Ships are missing the tidal window period and have to wait for long periods, thereby increasing the freight charges/ transaction cost of the EXIM trade.

[MBPT: We are exploring the possibility of hiring additional 14 pilots to cope with the operational requirements]

(v). The ship productivity at other neighboring ports i.e. Kandla etc, is more than the MBPT. Due to less productivity at MBPT, the ship has to spend more time at berth, due to which, Berth hire payable is more at MBPT as compared to neighboring ports. In view of new ports coming up, the MBPT may consider to improve its ship productivity and cost effectiveness, else traffic will go to other ports.

(vi). The ship owners/ ship agents are completely ignored and no discounts are offered on vessel related charges. Discounts are given only on cargo related charges. For the increased vessel related charges, the vessel owners get no facility.

(vii). We are okay for a little increase in tariff. Any increase in tariff should have a prospective effect only and should be with a one month notice.

Volkswagen, India

(i). The only thing that we need from MBPT is space. The availability of car parking space is insufficient. Piecemeal spaces are made available to us, which is resulting in additional cost for us.

(ii). Though we have a free period of 20 days, we do not store for more than 10 days. The MBPT may look into this.

Tata Motors

(i). Toll cost is an additional expenditure for us. The MBPT may look into this and waive the toll cost.

M. Pallonji

(i). The TAMP has passed order dated 8 June 2018 for apportionment of double banking charged under the water conveyance charges and increased the water conveyance charges by 50% from ₹. 43.48 to ₹. 67.08 per GRT per month. We have filed the writ petition on levy of Water Conveyance charges and double banking charges which is pending in the Hon'ble High Court of Bombay.

(ii). The water conveyances charges was increased by 50% only some 8-10 months back. A further increase now is not warranted. Also the matter is subjudice.

BPCL

(i). We are incurring additional charges due to lighterage operations, which has to be re-looked.

[MBPT : Double banking permission has been granted at JD. However, JD-1 will be made operational within a week's time.].

(ii). The wharfage for POL was increased by 10% in 2017. Now, again seeking a 10% increase in wharfage is on a higher side. For POL, the existing rate should be maintained.

MANSA

(i). Priority is being given to Naval vessels, passengers, vessels for ID / anchorage for deep draft vessels on high tide. Window period for other vessels is very less. Now with Cruise vessels visiting MBPT for 4 days a week, the situation for cargo vessels is not clear.

[MBPT : MBPT being developed as a Cruise hub, which has to give priority for cruise vessels at OCT. We understand the genuine concerns of cargo vessels. The BP berth which is of 800 meters length will be ready within 4 weeks, which may ease the problems for other vessels]

(ii). On an ending note, we would like to submit that a reasonable increase in rate can be considered. There are areas where infrastructure needs to be developed, which can be looked into by the port. At the same time, we state that we are happy with the services offered by port.

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