

**REVENUE LOSS TO JAWAHARLAL NEHRU PORT  
TRUST (JNPT)**

**MINISTRY OF PORTS, SHIPPING AND WATERWAYS**

**PUBLIC ACCOUNTS COMMITTEE  
(2023-24)**

**HUNDRED AND NINTH REPORT**

**SEVENTEENTH LOK SABHA**



**LOK SABHA SECRETARIAT  
NEW DELHI**

# HUNDRED AND NINTH REPORT

## PUBLIC ACCOUNTS COMMITTEE (2023-24)

(SEVENTEENTH LOK SABHA)

### REVENUE LOSS TO JAWAHARLAL NEHRU PORT TRUST (JNPT)

MINISTRY OF PORTS, SHIPPING AND WATERWAYS



*Presented to Lok Sabha on:* 08-02-2024

*Laid in Rajya Sabha on:* 08-02-2024

LOK SABHA SECRETARIAT  
NEW DELHI

February 2024/ Magha 1945 (Saka)

**COMPOSITION OF THE PUBLIC ACCOUNTS COMMITTEE**  
**(2023-24)**

Shri Adhir Ranjan Chowdhury - Chairperson

**MEMBERS**

**LOK SABHA**

2. Shri Subhash Chandra Baheria
3. Shri Thalikkottai Rajuthevar Baalu
4. Shri Bhartruhari Mahtab
5. Shri Jagdambika Pal
6. Shri Pratap Chandra Sarangi
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10. Dr. Satya Pal Singh
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12. Shri Rajiv Ranjan Singh alias Lalan Singh
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**RAJYA SABHA**

16. Shri Shaktisinh Gohil
17. Dr. K Laxman
18. Shri Derek O'Brien\*
19. Shri Tiruchi Siva
20. Dr. M. Thambidurai
21. Shri Ghanshyam Tiwari
22. Dr. Sudhanshu Trivedi

**SECRETARIAT**

1. Shri Sanjeev Sharma - Joint Secretary
2. Shri Partha Goswami - Director
3. Shri Alok Mani Tripathi - Deputy Secretary
4. Shri Vijay Mishra - Committee Officer

<sup>1</sup> Elected w.e.f. 19.08.2023 consequent upon retirement of Shri Sukhendu Sekhar Ray, MP on 18.08.2023.

<b>CONTENTS</b>		
	COMPOSITION OF THE PUBLIC ACCOUNTS COMMITTEE (2023-24)	(v)
	INTRODUCTION	(vii)
	<b>PART- I</b>	
	<b>REPORT</b>	
	<b>PART – II</b>	
	<b>OBSERVATIONS/ RECOMMENDATIONS OF THE COMMITTEE</b>	
	<b>APPENDICES</b>	
I*	Minutes of the Sitting of Public Accounts Committee (2023-24) held on 31.10.2023.	
II*	Minutes of the Sitting of the Public Accounts Committee (2023-24) held on 05-02-2024.	

\*Not appended to the Report

## **INTRODUCTION**

I, the Chairperson, Public Accounts Committee (2023-24) having been authorized by the Committee, do present this Hundred and Ninth Report (Seventeenth Lok Sabha) on “**REVENUE LOSS TO JAWAHARLAL NEHRU PORT TRUST (JNPT)**” based on para 19.1, C&AG's Report No. 4 of 2018 (Performance Audit) relating to the Ministry of Ports, Shipping and Waterways.

2. The Report of Comptroller and Auditor General of India was laid on the Table of the House on 04-04-2018.

3. The Public Accounts Committee took oral evidence of the representatives of Ministry of Ports, Shipping and Waterways on 31-10-2023. The Committee considered and adopted this Report at their sitting held on 05-02-2024. The Minutes of the sittings of the Committee are appended to the Report.

4. For facility of reference and convenience, the Observations and Recommendations of the Committee have been printed in bold and form Part-II of the Report.

5. The Committee would like to express their thanks to the representatives of the Ministry of Ports, Shipping and Waterways for tendering evidence before them and furnishing the requisite information to the Committee in connection with the examination of the subject.

6. The Committee also place on record their appreciation of the assistance rendered to them in the matter by the Committee Secretariat and the Office of the Comptroller and Auditor General of India.

**NEW DELHI**  
**05 February, 2024**  
**16 Magha, 1945 (Saka)**

**ADHIR RANJAN CHOWDHURY**  
**Chairperson,**  
**Public Accounts Committee**

## REPORT

### PART-I

#### INTRODUCTORY

The Committee learnt that the CAG in their audit report of Jawaharlal Nehru Port Trust (JNPT) identified a significant revenue loss resulting from the award of an adjacent berth to the same entity operating the existing berth at a lower revenue share without adequately safeguarding the financial interests of JNPT. The diversion of traffic from the existing berth to the new one led to a revenue loss of ₹54.72 crore over the period 2015-17. The audit revealed that the adjacent berth awarded to **M/s Nhava Sheva (India) Gateway Terminal Pvt. Ltd (NSIGT)**, a wholly-owned subsidiary of M/s DP World Pvt. Ltd, lacked proper scrutiny during the bidding process. The concession agreement with NSIGT, signed in June 2013, specified a lower revenue share of 28.09% compared to the existing terminal, Nhava Sheva International Container Terminal Pvt. Ltd. (NSICT), which paid a higher royalty of 79.92% to JNPT. Audit raised the concern about the commissioning of the new terminal before completion, with a supplementary agreement allowing partial operations in April 2015. Despite these concerns, NSIGT continued operations, leading to a decline in traffic at NSICT and a subsequent loss of revenue for JNPT. The audit also highlighted the inadequate safeguards in agreements to prevent vessel diversion between NSICT and NSIGT. NSIGT's refusal to accept a penalty clause for vessel transfer and the inclusion of a clause with no actionable effect in the supplementary agreement further contributed to the revenue loss. Despite management's justifications, the audit found the response of the Port Trust Management untenable. The lack of an increase in traffic as envisaged by JNPT, the acknowledgment of difficulties in revenue accounting since 2007, and the existence of significant disparities in royalty and revenue share rates underscored the failure to safeguard JNPT's financial interests. The overall impact was a loss of ₹54.72 crore to JNPT due to the diversion of traffic from the existing NSICT terminal to the new NSIGT terminal. The Ministry was issued the audit report in November 2017.

2. The Committee took up para 19.1 titled "Revenue Loss to Jawaharlal Nehru Port Trust (JNPT)" based on Report No. 4 of 2018 for detailed examination and the representatives from the Ministry of Ports, Shipping and Waterways tendered evidence before the Committee in addition to the written submissions and documents relating to the subject under examination. The major findings are detailed in the ensuing paragraphs.

3. To a query as to why was M/s Nhava Sheva (India) Gateway Terminal Pvt Ltd (NSIGT) awarded a concession agreement to develop and operate a container berth of 330 m north of and adjoining the existing NSICT terminal while it was only an extension of the existing berth of NSICT terminal, the Ministry in a written reply stated as under: -

"The Board in its meeting held on 15<sup>th</sup> March 2007 had discussed & deliberated the report of consultant along with the various options for sharing of the length of berth between JNPA and NSICT and alternative option to go for BOT Project as a standalone container Terminal. After detailed discussion, it was approved by the Board that the JNPA should proceed with standalone container terminal of BOT basis as recommended by the consultant through competitive bidding to maintain the transparency instead of giving on nomination basis and also to follow Government guidelines of Private Investment through BOT. Accordingly, global bids were invited. Hence action taken was in interest of JNPA to utilize the optimum available water front to earn the revenue to the Port."

4. As regards the need for extension in the first instance, the Ministry in a written reply stated as under:-

"There was a tremendous growth envisaged in the container traffic and hence after the Techo-Economical feasibility study, it was decided to extend the existing container terminal by 330 metre as a standalone container terminal to make use of optimum available water front of the port and to meet demand from trade."

5. Asked about any financial constraints that may have been faced in completion of the project within the given time frame, the Ministry replied in the negative.

6. To a query as to why only one bid was received for the new terminal JNPT and the steps taken to ensure a competitive bidding process in future, the Ministry in a written reply stated as under: -

“The global bids were invited for development of standalone container terminal on PPP mode based on its feasibility studies and in the first round (May2008), JNPA received eight RFQ bids. Out of the eight bids received, only two bids qualified. Due to the poor response, JNPA was directed by Ministry of Ports, Shipping and Waterways (MoPSW) to discharge the tender and invite fresh

bids with increased capacity from 0.6 million TEUs to 0.8 million TEUs

Accordingly, second round of global bids were re invited in November 2009with capacity of 0.8 million TEUs as increased by MoPSW. In response to second round, JNPA received 8 RFQs out of which five were short listed. Out of five, one bidder was not granted security clearance. Under monopoly guidelines of GOI another bidder was not considered based on court verdict. Out of the balance three bidders, only one RFP was received on 4<sup>th</sup> October 2012.

The Port has followed the transparent and prescribed procedure of GOI to invite the bids and even after reinviting the bids and having more participation in RFQ(1<sup>st</sup> Stage), JNPA could receive only one bid.

Subsequently JNPA is following prescribed guidelines of GOI for PPP Projects giving more publicity in newspaper during invitation of tenders to invite more bids”.

7. When asked whether the Ministry and JNPT had taken into account the findings of the Techno-Economic Feasibility Report while awarding the contract to NSIGT, the Ministry in a written reply stated as under:-

“The Techno-Economic Feasibility Report was considered and also shared with potential bidders during RFQ process. As pointed out by Public Accounts Committee (2023-24) that the Techno-Economic Feasibility Report (February 2007) for developing the stand-alone 330 m container berth had pointed



out that “in the event of NSICT operating both berths, it would be difficult to separately account for revenues earned from them which could have implications on assessment of revenue sharing with JNPT,” it is stated that the Board after due deliberation in March 2007 arrived at the decision to go through global tender to award the project instead of nomination basis in order to maintain transparency. Since global tender based on Model concession agreement issued by Ministry of Shipping was invited, the condition to deter diversion of vessel from NSICT to NSIGT cannot be included during the tendering process and the concession agreement so as to bring all the prospective bidders at par. The global tender was prepared on the basis of model documents issued by the Government taking into consideration the global market but not only the existing terminal operators. Thus, JNPA invited global tenders to bring all the world’s interested bidders at one platform without any conditions”.

8. When asked whether any provisions were put in place to ensure that revenue collection from both terminals, namely NSICT and NSIGT was done separately, the Ministry in a written reply stated:-

“NSICT and NSIGT have separate Concession.”

9. To a specific query regarding the rationale behind acceding to two different revenue sharing agreements with NSICT and NSIGT, even though both terminals were adjacent to each other and are wholly owned by one company, the Ministry in a written reply stated as under:-

“The initial agreement with NSICT was based on prevailing guidelines of Government of India and model document which is based on royalty model. Subsequently, the guidelines have been modified by GOI and NSIGT terminal was bidden out based on prevailing guidelines of Government of India during that time based on revenue share model. At present, the latest guidelines of Government of India are based on royalty basis. Thus the tenders are invited based on prevailing guidelines of GOI from time to time”.

10. The Committee wanted to know about the logic behind the change in the policy and the level at which it was initiated and at what level the

decision was taken. In this regard, the Representative of the Ministry responded as under:-

" It was not a short period that royalty was changed to revenue share. It was almost ten years during which the royalty was changed to revenue share. Now, this is because of the response of the system. Originally when it was royalty, the PPPs were not performing optimally because the royalty continued, but they were not able to make the payments to the ports. So, there were lot of litigations."

11. While responding to a question regarding revenue loss on account of reference given to the same entity for award of bid for contiguous terminal, the representative of the Ministry during the course of evidence responded by stating as under.

"Sir, revenue loss part cannot be concluded because revenue loss would have been, had that system been there at that time. What is said is that some of the traffic was shifted from NSICT to NSIGT so that they could avoid the royalty model and get the revenue share model. The answer to that is that by that time, between 1997 and 2016, there were two more private terminals, including our own JNPCT, where the rates were much lower. When we say that this whole business is dealt with by the shipping lines, which container they will go to, this company definitely cannot decide. When we talk about the whole ecosystem whether NSIGT got better cranes, whether there was better efficiency and better moves, that is a fact. In fact, they were higher in grade. Then also, they went there. This is a regulated thing where TAMP was the authority which was regulating these tariffs. Since the tariff guidelines also changed two to three times, the whole arithmetic changed accordingly. Now, if we start comparing that arithmetic, in that sense, in a lot of terminals, I have made much more surplus than this".

12. Regarding the major issues highlighted by Audit in the Audit para, the representatives of the Ministry during the course of evidence stated as under:-

"Sir, there are two big points to this. The first point raised by Audit was that the second terminal, which is a 330 meters terminal or

berth, has been given on a certain revenue sharing basis. Had it been given on the original royalty principle basis, we would have got more money. That is the first big point. It is true that both the terminals that have gone to two subsidiaries of the same private entities, that is, DP World. However, for our purposes, these are two are legal entities. One is Nhava Sheva International Container Terminal (NSICT) and the other is Nhava Sheva India Gateway Terminal (NSIGT). Legally speaking, it was a global tender with full RFP, RFQ, all the permissions taken from the Ministry, from the board and from the competent authority. This new legal entity NSIGT participated in that. The question, why it paid lesser to us is directly related to why the royalty principle was not in force at that time. It was due to policy change. Originally that policy was there in 1999, and this is 2016 when it was given. Now, again the dispensation has changed. We have again gone back to royalty principle. But first there was the royalty principle, then it came like revenue share principle. So, to the point that this loss is notional or not, the fact is that the dispensation had changed. It had to be done on a revenue share basis only, and it could not have been done on royalty principle”.

13. While clarifying the Ministry’s position regarding the rationale behind offering the job at an adjacent contiguous terminal to the same entity and resultant revenue loss, representative of the Ministry, during the course of the evidence stated as under:-

“There are two things – whether it can be called a revenue loss and whether it can be called as offering it to a single person. Regarding the first issue, it was not offered to a single person. We went through the full global tender process. After that, they won this bid”.

14. The representative of the Ministry further elaborated as under:-

“Sir, revenue loss part cannot be concluded because revenue loss would have been, had that system been there at that time. What is said is that some of the traffic was shifted from NSICT to NSIGT so that they could avoid the royalty model and get the revenue share model. The answer to that is that by that time, between 1997 and 2016, there were two more private terminals, including our own JNPCT, where the rates were much lower. When we say that this whole business is dealt with by the shipping lines, which container they will go to, this company definitely cannot decide. When we talk

about the whole ecosystem whether NSIGT got better cranes, whether there was better efficiency and better moves, that is a fact. In fact, they were higher in grade. Then also, they went there. This is a regulated thing where TAMP was the authority which was regulating these tariffs. Since the tariff guidelines also changed two to three times, the whole arithmetic changed accordingly. Now, if we start comparing that arithmetic, in that sense, in a lot of terminals, I have made much more surplus than this”.

15. When asked as to why was the concession agreement for operating the new 330 m terminal not given to the already existing NSICT under similar parameters on revenue sharing, the Ministry in a written reply informed as under:-

“There is no provision in the concession agreement with existing terminal NSICT for giving extended length of 330 meter on nomination basis. Hence it was decided by JNPA Board to go for tendering process based on the existent rules and prevailing guidelines to have transparency”.

16. On a query as to why did JNPT allow NSIGT to commence partial operations in the terminal, the Ministry in a written reply stated as under:-

“A decision was taken by the Board after completion of project facilities required for handling vessels with safety and security and it is in the interest of Port and to cater for EXIM trade. There was no financial loss/revenue leakage for JNPA in the matter, on the contrary the revenue generation for Port had started early on the container handling operation. It is pertinent to note that NSIGT handled cargo to the tune of 1.54 lakhs during the period from 1st March 2016 to 30th June 2016 i.e. during partial commissioning of the project facilities as a special arrangement to cater for EXIM trade which is observed to be minimal as compared to total traffic to be handled during entire concession period. There was also Government directives to implement the project in time bound manner under the monitoring system of Ministry i.e. RFD. Therefore, JNPA decided to allow commercial operation after completion of the project facilities. It is clarified that as per the Article 9.2 (d) the revenue share is payable by the concessionaire from the date of commercial operation. The para 9.2 (d) of Concession Agreement states that payment shall commence in

the month in which concessionaire to provide any project facilities and services and shall be irrespective of the date of commercial operation. It may be seen from the above facts that after completion of the port facilities, the concessionaire had requested for commencement of operation of the facilities. The question of not allowing operation does not arise as the concessionaire was ready to pay revenue as per the provision of the article 9 of the Concession Agreement. Accordingly, the matter was discussed and deliberated in the Board and it was decided by the Board to allow new terminal for the commissioning of the project to cater for the EXIM trade which will be beneficial to JNPA for getting early revenue and accordingly, supplementary agreement was signed between JNPA and concessionaire with the approval of the Board".

17. When asked about the reasons given by NSIGT for commencing operations at the partially commissioned terminal without a formal agreement, the Ministry in a written reply informed as under:-

"NSIGT had given the reason of catering to the EXIM trade for early commissioning of operation".

18. In regard to the ground on which the NSIGT did not agree to the additional clause incorporated in the supplementary agreement (November 2015) formulated to address the apprehension of Chairman, JNPT, the Ministry in a written reply stated as under:-

"Post bidding conditions were not accepted by NSIGT as the global tenders were invited for a standalone container terminal taking into consideration all potential bidders from the world".

19. To a query as to why the agreements, (concession agreement (June 2013) and supplementary agreement (November 2015) with NSIGT not made keeping in mind the interest of JNPT, the Ministry in a written reply stated as under:

"Supplementary agreement is for shorter period and it was valid till actual date of commercial operation i.e. 1<sup>st</sup> July 2016. Concession Agreement and Supplementary agreement are made as per tender conditions and such additional conditions cannot be incorporated thereafter.

Further, shifting of shipping service from NSICT to NSIGT do not takes place solely as per the decision of DP World. The choice of a terminal by a shipping line is based on a series of factors which provide a trade of between operation and financial factors. In JNPA, a shipping line had a choice for berthing at four terminals. Each of these terminals has their own set of tariff as approved by TAMP. The tariff rates at NSIGT are the highest much higher than the NSICT. Therefore, a shipping line will not shift to NSIGT from NSICT without adequate operational reasons. NSIGT being the newest terminal equipped with latest technology gave highest productivity. Hence, we cannot assume that vessels were diverted from NSICT to NSIGT”.

20. While elaborating the efforts made by JNPT to restrict diversion of vessels from NSICT to NSIGT, the Ministry in a written reply informed :-

“In the parlance of International Shipping, it is the shipping line which decides the terminal of call and not a terminal which can decide the “Terminal of call” for a shipping line. It can be seen that the shipping line had option of moving to GTI or JNPCT if it had to move away from NSICT as both these terminals offered lesser rates. As per the concession agreement signed by JNPA with all terminal operators, there is no restriction on shifting of window vessels from one terminal to another including shifting of window from any of the JNPA terminal to some other port. The JNPA regularly interacts with the Shipping lines and there have been no complaints from any line that they were forced to shift their vessel from NSICT to NSIGT. Considering the dynamics of shipping trade, one terminal cannot influence the decision of the Shipping line to divert from one terminal to another”.

21. When asked about the efforts made by JNPT to restrict the diversion of vessels from NSICT to NSIGT and whether any assessment of the loss of revenue due to the diversion of traffic from NSICT to NSIGT been conducted by JNPT as of October 31, 2023, the representative of the Ministry of ports, shipping and Waterways stated as under:

"Sir, our stated stand and I am stating it again is that diversion from one terminal to the other cannot happen because of a terminal operator. is decided by the shipping line is decided by

the shipping line. When it enters the port, my Marine Department takes over. So, it is not some arbitrary thing of saying that you can put one vessel here and one vessel there. It is a full-fledged system."

22. When asked whether JNPT had made any assessment of the loss of revenue due to the diversion of traffic from NSICT to NSIGT, the Ministry in a written reply stated as under:-

"There is no loss to JNPA. Infact, revenue was earned by JNPA".

23. Regarding the legal opinion that incorporation of the clause in the supplementary agreement would have no actionable effect for JNPT, and the rationale behind incorporating the clause, the Ministry in a written reply stated as under:-

"Diversion of traffic is not in the hands of terminal but shipping line. However, to have some control and manage traffic at other terminals smoothly by having proper co-ordination of traffic movement, the clause of "the concessionaire shall berth the vessel only at the request of the customer and not shift any vessel in any arbitrary manner. The Concessioneing authority will be kept informed of any change in the terminal for vessel berthing." Was incorporated in the Supplementary agreement".

24. As regards the steps taken by the Ministry and JNPT to ensure strict compliance of the clause, the Ministry in a written reply stated as under:-

"Periodic meetings were undertaken with Shipping lines and their associations to discuss any issues faced by them where the matter of diversion of traffic by terminals was never reported by any shipping line or their associations".

25. When asked as to what measures were taken by the Ministry and JNPT to ensure that the operators at the port do not in any way exert influence on the customers of their berth preference, the Ministry submitted:

"Periodic meetings are organized with Shipping lines and their associations where they are asked to set up the agenda for the meeting. N

oneoftheshippinglines or their associations have even submitted a complaint of any influence exerted by any terminal operator to divert traffic to a particular terminal till date”.

26. To a query as to whether JNPT was exploring suitable ways to safeguard the financial interest of the port by bridging the significant disparity in royalty from NSICT Terminal and revenue share from NSIGT terminal, the Ministry in a written reply stated as under:-

“The request of NSICT for brining parity in royalty and revenue share is being analysed through conciliation process.”



## PART-II

### Observations/ Recommendations

1. The Committee are concerned to note the findings of the audit report on Jawaharlal Nehru Port Trust (JNPT), particularly with regard to the award of the concession agreement to M/s Nhava Sheva (India) Gateway Terminal Pvt Ltd (NSIGT) for the development and operation of a container berth. The limited response in the bidding process raises concerns about the competitiveness of JNPT's tendering procedures. In the light of this fact, the Committee recommend a thorough review to be undertaken by the Ministry in regard to the tendering framework to enhance competitiveness, preferably through market studies, stakeholder engagement, and the incorporation of industry best practices.

2. The Committee while acknowledging the Ministry and JNPT's responses, observe that Audit has reported about significant revenue loss as result of diversion of traffic between the existing NSICT and the new NSIGT terminal. The Committee recommend that the Ministry may direct JNPT to establish clear and enforceable measures to prevent diversions, including stringent penalties or deterrent clauses in the concession agreements. The Committee further desire that regular monitoring and internal audits may be undertaken to ensure compliance with these measures, thereby safeguarding the financial interests of JNPT.

3. The Committee note that there are two different revenue sharing agreements within NSICT and NSIGT. They also note that these terminals are adjacent to each other and wholly owned by one company. From the replies of the Ministry, the Committee note that the initial agreement with NSICT was based on royalty model, whereas agreement with NSIGT was based on the revenue sharing model. The Committee find that there were discrepancies in revenue-sharing agreements between NSICT and NSIGT, both wholly-owned

subsidiaries of DP World Pvt. Ltd. The Committee, in tandem, recommend a review of JNPT's approach to concession agreements and extensions to existing terminals to ensure consistency in revenue-sharing models. This may involve revisiting existing agreements and developing a transparent and uniform framework for future concessions while expanding on existing guidelines and incorporating industry best practices in vogue. The Committee, here, also emphasize upon the need to prioritize the financial interests of the Port in these endeavors.

4. The Committee note from the Audit observation that the flow of traffic has been diverted from NSICT to NSIGT. However, they also note that the Ministry of Ports, Shipping and Waterways have claimed that the diversion cannot happen because of the terminal operator. The same is decided by the shipping line and the Marine Department. The Committee also observe in this regard that the statistics clearly demonstrate the repercussions of the frequently changing rate regime at India's major ports, wherein the benefits arising from new tariff structures do not flow to existing operators, but rather benefit those who come subsequently.

NEW DELHI  
05 February, 2024  
16 Magha, 1945 (Saka)

ADHIR RANJAN CHOWDHURY  
Chairperson,  
Public Accounts Committee

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