



सत्यमेव जयते

महाराष्ट्र शासन राजपत्र

असाधारण भाग दोन

वर्ष ८, अंक ३१(३)]

सोमवार, एप्रिल २५, २०२२/वैशाख ५, शके १९४४

[पृष्ठे २५, किंमत : रुपये १२.००

असाधारण क्रमांक ५४

प्राधिकृत प्रकाशन

MUMBAI PORT AUTHORITY

No. FA/0EA-L/8(12)/Gen/32

NOTIFICATION

In exercise of the power conferred on it under sub-section (1) of section 27 of the Major Port Authorities Act, 2021 and Clause 7 of the Major Port Authorities (Fixation and Implementation of the Scale of Rates, Fees and Conditions) Rules, 2021, the Board of Mumbai Port Authority has approved to adopt existing Scale of Rates, Fees and Conditions, as approved by TAMP *vide* Notifications Nos. 396 dated 12.10.2017 and 463 dated 8.12.2017, that were existing immediately prior to the commencement of the Major Port Authorities Act, 2021. Accordingly, the Board of Mumbai Port Authority hereby publishes Scale of Rates for information of all concerned as required under Clause 6(2) of Major Port Authorities (Fixation and Implementation Scale of Rates) Rules, 2021. The Scale of Rates approved by Notification No.396 will be valid upto 10.11.2022 and the Scale of Rates approved by Notification No.463 will be valid upto 6.12.2022.

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

TARIFF AUTHORITY FOR MAJOR PORTS

G.No. 396

New Delhi,

12 October, 2017

NOTIFICATION

In exercise of the powers conferred under Section 49 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal received from Mumbai Port Trust (MBPT) for fixation of lease rent for allotment of land for bunkering terminal and way leave fees for laying pipelines at Marine Oil Terminal - Jawahar Dweep (MOT-JD), as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/26/2017-MBPT

Mumbai Port Trust

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Applicant

QUORUM

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

ORDER

(Passed on this 15th day of September 2017)

This case relates to a proposal filed by the Mumbai Port Trust (MBPT) for fixation of lease rent for allotment of land for bunkering terminal and way leave fees for laying pipelines at Marine Oil Terminal - Jawahar Dweep (MOT-JD).

2.1. The MBPT vide its letter No. FA/OEA-L/9(2015)/1376 dated 17 March 2017 has forwarded the proposal on the subject cited above. The main points made by the MBPT in its proposal are summarized below:

- (i). A large number of foreign going and coastal vessels have been visiting Mumbai Port. About 6000 ships visit the port every year. Apart from these coastal and international vessels, movement of barges in the harbor area, presence of fishing harbor, luxury yachts, and ferry services in Mumbai Harbour are also significant. In addition to these vessels, there are a number of vessels that also come to JNPT.
- (ii). If cost effective and quality service for bunker Fuel is made available at reasonable competitive pricing in India, the ships would prefer to take Bunker Fuel at Mumbai which may lead to bringing of additional cargo thereby reducing the dead freighting which will be beneficial to maritime trade.
- (iii). In addition to benefits to maritime trade, the Bunkering Terminal will bring the additional business potential in the form of services such as bunker supply, barge operation, maintenance, repairs, etc.
- (iv). Therefore, MBPT has initiated to develop Bunkering Facilities at Jetty No.2 (JD- 2) at MOT- Jawhar Dweep to increase throughput of bunker fuel by modifying JD-2 for berthing of barges for bunkering the ships/ vessels in and around Mumbai Harbour and to enable Hindustan Petroleum Corporation Limited (HPCL) and Bharat Petroleum Corporation Limited (BPCL) to tap market potential in Bunkering Business. Providing Fuel/ Bunker is one of the basic requirements which will be met through this project.
- (v). In this regard, the Board vide TR No.56 of 28-09-2016 has accorded sanction to the proposal to lease out two land parcels admeasuring A-14496.37 sq. m. and B-2091.96 sq. m. at Jawahar Dweep (JD) to HPCL for the bunkering activities for 30 years and way leave permission for the pipelines covering area admeasuring 341.60 sq. m. subject to the sanction of TAMP for lease Rental and Way Leave fees.
- (vi). The Lease rental has been calculated on the basis of Stamp Duty Ready Reckoner 2016. The land value at Mahul Zone is ₹19200/- per sq. mtr. Considering the letting rate of 6% p.a in terms of TR No.157 of 2014, the rate works out to ₹96/- per sq. mtr. per month and there would be 4% increase every year in the Month of October.
- (vii). The calculation of Rate of Lease Rent for Bunkering Terminal at MOT-JD as given by MBPT is as follows:

1	Rate for Open developed land (per sq.mtr. per annum (As per Zone no. 90/419 of Ready Reckoner 2016)	₹19200.00
2	6% return (per Sq.mtr. Per annum)	₹1152.00
3	Rent per month	₹96 per Sq.Mtr.
4	Area of "A" part	14496.37 Sq.Mtr.
5	Rent per month for "A" Part	₹1391651.52 (X)
6	Area of "B" part	2091.96 Sq.Mtr.
7	Rent per month for "B" Part	₹200828.16 (Y)
	TOTAL RENT PER MONTH (X +Y)	₹1592479.68

- (viii). The Way Leave Fees has been calculated on the basis of stamp Duty Ready Reckoner 2016 rate at Mahul Zone at ₹19200/- per sq.mtr. Considering the letting rate of 15% p.a. in terms of TR No.138 of 2009, the rate works out to ₹240/- per mtr. per month and there would be 4% increase in every year in the Month of October. Further, the rate will be revised after every 5 years or as may be decided by the competent Authority.
- (ix). The Calculation of Way Leave Fees, Security Deposit and Way Leave Agreement Charges in Respect of Bunkering Terminal at MOT-JD for Furnace Oil Pipeline, as given by MBPT are as follows:

1	Length of pipeline	122.00 mtrs, (Approx). (Subject to verification/ joint survey)
	Diameter	800.00 mm
2	Area to be considered for calculation of Way Leave Fee $122 \times ((0.800 + 0.600) = 1.4)$	170.80 sq.mtrs.
3	Rate for Open developed land per sq.mtr. per annum (As per Zone no. 90/419 of Ready Reckoner 2016)	₹19200.00 per sq.mtr.(p.a)
4	15% return on ₹ 19200.00 per Sq.mtr. Per annum	₹2880.00 per Sq.Mtr. (p.a)
5	Rent per month	₹240.00 per Sq.Mtr.
6	Way Leave Fees p.m. (for 1 pipeline) (170.80 sq.mtr. x ₹.240)	₹40992.00 p.m. (will increase by 4% every October)
7	Security Deposit (₹.40,992 x 2 x 12)	₹983808/- [81984x12 (rounded)]
8	Way Leave Agreement Charges	₹147571/- (15% of Security Deposit)

Note:

- 15% Onetime supervision charges on estimate of pipelines
- The calculations are subject to audit verification
- The Length and diameter subject to verification/ joint survey
Service Tax as applicable.

2.2. Accordingly, the proposal of MBPT seeks approval for the following:

Sl. No	Location	Rate in ₹ per month per sq.m
1.	Bunkering Terminal at MOT-JD (Lease Rent)	96/-
2.	Bunkering Terminal at MOT-JD (Way Leave charges)	240/-

3. Based on initial scrutiny of the proposal, some information/ clarification were sought from MBPT vide our letter dated 30 March 2017. In response, the MBPT vide its letter dated 05 May

2017 has responded. The information/ clarification sought by us and the response of MBPT thereon are tabulated below:

Sl. No.	Information/ clarification sought by us	Response of MBPT
(i)	(a). The letting rate of 6% per p.a. for lease rentals is proposed for the land at Mahul Zone, whereas, the letting rate for the Way leave charges is proposed at 15% p.a. for the same zone of land at Mahul. The port to clarify, why the differential rate for letting is proposed for the lease rentals/ way leave charges.	Letting rate at 6% return adopting land values for Mahul Zone works out to ₹88/- per sq.mtr. per month based on Ready Reckoner 2015 in terms of TR No.157 of 2014 was incorporated in the MoU signed on 02.12.2015. Since, the lease was to be granted from the date of actual handing over of the area to HPCL i.e. in the year 2016, the lease rent was worked out on the basis of Stamp Duty Ready Reckoner 2016 i.e. adopting land value of ₹19,200/- for Mahul Zone and letting rate at 6% p.a. return works out to ₹96/- per sq. mtr. Per month with 4% annual increase every year in the month of October. Further, regarding way leave fee, as per the clause 14 of policy guidelines for Land Management for Major Port adopted by MBPT by TR No.224 of 2014, the right of permission for laying pipelines within and outside port area shall be with the approval of the Board. The said guidelines includes a provision for one-time supervision charges besides the way leave fee and it also stipulates that <u>the policy for giving the Right of Way permission and terms and conditions shall be formulated by the respective Port Trust Boards.</u> The Board by TR No.269 of 2014 has accorded sanction to follow the existing practice for the fixation of way leave charges. The existing practice is as per TR No. 138 of 2009 according to which the way leave for all new permission shall be on the basis of 15% return on the land value as per Stamp Duty Ready Reckoner.
	(b). The MBPT to examine whether clause 14 (governing Right of way permission) of the amended Land Policy Guidelines, 2014 permits MBPT to load letting rate of 15% per annum on the reported Market Value of Land i.e. ₹19,200/- per Sq. Mtr./ per annum.	
(ii)	MBPT to confirm that there are no actual relevant transactions in the last three years in the vicinity of the area under reference and no tender-cum-auction has been accepted for the similar transactions for the area under reference.	There are no actual relevant transactions in the last three years in the vicinity of the area under reference.
(iii)	MBPT to explain the reason why an approved valuer has not been appointed for the purpose by the Port.	Valuer in this case has not been appointed for following reasons : (a). There is a provision for allotting the land to CPSU on nomination basis in the Policy Guidelines for Land Management as issued by the Ministry at para 10.1(b). (b). The MBPT Board, has approved to allot land admeasuring 16588.33 sq. mtrs. At MOT-JD to HPCL for 30 years subject to the sanction of TAMP for lease rental. (c). Entire island is in possession of MBPT. There is no residential or commercial use of the land at Jawahar Dweep other than the oil handling by MBPT.

		(d). The rate adopted is of Mahul village from the ready reckoner as the same is nearest land to Jawahar Dweep listed in the ready reckoner. (e). Appointed valuers in two past cases also confirmed the same rate as per the ready reckoner in their valuation reports.
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4. In accordance with the consultative procedure prescribed, a copy each of the MBPT letters dated 17 March 2017 and 05 May 2017 was forwarded to the concerned users/ user organizations vide our letter dated 22 May 2017 seeking their comments. None of the users/ user organisations have furnished their comments till the case was finalised.

5. Based on a further scrutiny of the MBPT proposal, we have vide our letter dated 06 June 2017 sought some additional information/ clarification from the MBPT. After reminders, the MBPT has responded vide its letter dated 18 July 2017. The information sought by us and the response of MBPT thereon are tabulated below:

Sl. No.	Information/ clarification sought by us	Response of MBPT
(i).	Though the MBPT has furnished the Land Allotment Committee Report, the MBPT has not furnished any document to reflect that the recommendations of the Land Allotment Committee has the approval of the Board of Trustees of the MBPT, inspite of a specific request made by us in this regard vide our above referred letter. The approval of the Board of Trustees of the MBPT to the recommendations of the Land Allotment Committee to be furnished.	Board vide TR No. 56 dated 28.9.2016 has already accorded sanction to lease out a piece of MBPT land at MOT-JD admeasuring "A"- 14,496.37 Sq.Mtrs and "B"-2091.96 Sq.mtr. For lease rent of Rs. 96/- per sq. mts. per month with 4% escalation per annum subject to sanction of TAMP for lease rental and way leave fees. However, as per the direction from TAMP vide letter dated 30.3.2017, TAMP has requested MBPT to furnish the report of LAC duly approved by the Board to comply with the Land Policy Guidelines. Accordingly, LAC recommendations are put up for the approval of Board which will be intimated in due course. [Subsequently, the MBPT vide its letter dated 14 August 2017 has furnished the approval of the Board of Trustees of the MBPT to the recommendations of the Land Allotment Committee.]
(ii).	As per the extract of the Stamp Duty Ready Reckoner Mumbai 2016-17 furnished by MBPT, the Land value at Mahul Zone area (Zone: 90/419) is reflected at ₹19200/- per sq.m. Since this land value is applicable for the year 2016-17, the MBPT to examine whether the land value requires updation to make it applicable for the year 2017-18, given that the lease rental is being fixed in the year 2017-18.	The issue of updation of land value was examined. In this regards, it may be noted that the project was envisaged in the year 2014-15 and the MOU for Transfer, Development & Operation of existing Tank farm at Marine Oil terminal – Jawahar Dweep between HPCL and MBPT was executed on 2.12.2015 in which the lease rent was indicated as Rs.88/- per sq. mtrs. Subsequently, the agreement was executed on 18.7.2016 in which the lease rent was indicated as Rs. 96/- per sq. mtrs considering the value of land as per the Ready Reckoner 2016-17. It is to state that HPCL has invested a considerable amount for modification of JD2 for bunkering project as per Tripartite agreement. Further, it is to inform that during the joint hearing at TAMP office on 20.6.2017, HPCL has informed their point of view that the lease rent of ₹. 96/- is on higher side.
(iii).	In the draft Scale of Rates, the MBPT has proposed a note to the effect that 'Terms and Conditions as per agreement'. The MBPT to replace the proposed note with	Corrected schedule of Scale of Rates of Lease Rent and Way Leave fees for bunkering terminal at MOT-JD is furnished, which prescribes a note that All the terms and conditions as per the extant Land Policy Guidelines will be applicable

	"All the terms and conditions as per the extant Land Policy Guidelines will be applicable".	
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6. A joint hearing on the case in reference was held on 20 June 2017 at the office of this Authority in Mumbai. The MBPT and the HPCL have made their submissions.

7. As decided at the joint hearing, the Hindustan Petroleum Corporation Limited (HPCL) has furnished its comments vide its e-mail dated 21 June 2017. After reminders, the MBPT has responded to the comments of HPCL vide its letter dated 18 July 2017.

8. 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 MBPT and HPCL will be sent separately to the concerned parties. These details will also be made available at our website <http://tariffauthority.gov.in>.

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

- (i). With a view to develop the Jetty No. 2 at Jawahar Dweep of the Mumbai Port Trust (MBPT) as a Bunkering hub so as to provide bunker fuel at competitive prices, the MBPT intends to lease out two parcels of land admeasuring 14496.37 sq. m. and 2091.96 sq. m. respectively at Jawahar Dweep (JD) to Hindustan Petroleum Corporation Limited (HPCL) for a period of 30 years as well as grant Way Leave permission for laying the pipelines covering area admeasuring 341.60 sq. m. Therefore, the MBPT has come up with a proposal for fixation of lease Rental for allotment of land for bunkering terminal and Way Leave fees for the pipelines, following the provisions of the amended Land Policy Guidelines, 2014.
- (ii). The MBPT has filed its proposal vide its letters dated 17 March 2017 and 05 May 2017. The MBPT has furnished the additional information/ clarification sought by us on 14 August 2017. The proposal of MBPT along with the information/ clarification furnished by the MBPT during the proceedings of the case, is considered in this analysis.
- (iii). This Authority is mandated to follow the Land Policy Guidelines issued by the Government from time to time for the purpose of determining lease rentals for the lands belonging to the Port Trusts. The Ministry of Shipping in the Government of India has announced Land Policy Guidelines for Major Ports, 2014, which came into effect from 2 January 2014. Subsequently, the Ministry of Shipping has issued amended Land Policy Guidelines, 2014 under Section 111 of the MPT Act, 1963 for implementation with effect from 17 July 2015. The MBPT has, come up with a proposal for fixing Scale of Rates (SOR) for allotment of land for bunkering facility to HPCL and way leave charges for the pipelines based on the provisions of the Land Policy Guidelines for Major Port Trusts, 2014, as amended in July 2015.
- (iv). As per clause 13(a) read with clause 11.2(e) of the amended Land Policy Guidelines 2014, a Land Allotment Committee (LAC) constituted by the Port Trust Board consisting of Deputy Chairman of the Port, and Heads of Departments of Finance, Estate and Traffic shall determine the market value of land as per the methodology prescribed in clause 13(a). Accordingly, the MBPT has reported constitution of a Land Allotment Committee (LAC) headed by the Dy. Chairman of the Port and consisting of the Heads of Departments of Finance, Traffic and Estate as the other members.
- (v). Para 13(a) of the Land policy guidelines of July 2015 prescribes the methodology for determination of market value of the land based on the five factors as prescribed therein. In terms of the said para of the amended Land policy guidelines of 2014, the Land Allotment Committee may normally take into account the highest of the factors mentioned therein, viz. (i). State Government ready reckoner of land values in the area if available for similar classification/ activities, (ii). Highest rate of actual

relevant transactions registered in the last three years in the Port's vicinity with an appropriate annual escalation rate to be approved the Port Trust Board, (iii). Highest accepted tender-cum-auction rate of Port land for similar transactions, updated on the basis of the annual escalation rate approved by the Port Trust Board, (iv). Rate arrived at by an approved valuer appointed for the purpose by the Port and (v). Any other relevant factor as may be identified by the Port. The amended Land Policy guidelines of 2014 also stipulates that in case the LAC is not choosing the highest factor, the reasons for the same have to be recorded.

In this connection, the MBPT has confirmed that there are no actual relevant transactions and tenders in the last three years in the vicinity of the area under reference as the entire island is in possession of MBPT and that there is no residential or commercial use of the land at Jawahar Dweep other than the oil handling by MBPT. Also, the MBPT has reported to have not engaged a Valuer on the ground that Clause 10.1(b) of the Land Policy Guidelines provides for allotting the land to Central Public Sector Undertakings (CPSU) on nomination basis. Taking note of the above factors, the LAC in its Report has recommended to take into account the value of the land as reflected in the Stamp Duty Ready Reckoner of 2016-17 for Mahul village at ₹19200/- per sq.m., on the ground that it is the land nearest to Jawahar Dweep.

Land being a valuable resource, a port must strive to ensure the maximum income from its landed estates. Even the Clause 10.1(b) of the Land Policy Guidelines provides for allotting the land to CPSU on nomination basis based on the latest Scale of Rates arrived based on the market value of the land as determined based on the five factors as listed at Clause 13(a) of the amended Land Policy Guidelines, 2014. Though the MBPT is seen to have adopted the rates based on the single factor of Stamp Duty Ready Reckoner 2016-17 amongst the five factors mentioned in para 13 (a), determining the market value of land based only on a single approach may not always reflect the correct position. Nevertheless, taking into account the position that the recommendation of the LAC has the approval of its Board of Trustees and also taking into account that the Memorandum of Understanding (MOU) for Transfer, Development and Operation of existing Tank farm at MOT- JD between HPCL and MBPT has already been executed during July 2016, based on the market value of land as per Stamp Duty Ready Reckoner 2016-17, this Authority is relying upon the approach adopted by the MBPT in this regard.

- (vi). Clause 13(b) of the guidelines stipulates that Reserve Price in terms of annual lease rent would be arrived, as a percentage of latest market value of land determined based on the five factors in accordance with para 13(a) and that the percentage should not be less than 6% which is to be fixed by the Port Trust Board. The Annual Lease Rent for the lands has been recommended by the LAC at ₹99.84 per sq.m per month. In this regard, it is relevant to mention here that the MBPT in its proposal had proposed the Annual Lease Rent at ₹ 96/- per sq.m per month worked out based on 6% of the Stamp Duty Ready Reckoner 2016-17 of ₹ 19200/- per sq.m. The LAC has updated the lease rent as of the year 2017-18.

Considering that the Annual Lease Rent derived taking into account the market value of the land as reflected by the Stamp Duty Ready Reckoner as duly updated has been recommended by the LAC and given that the Board of Trustees of MBPT has approved the recommendation of the LAC, this Authority is inclined to prescribe the Reserve Price in terms of Lease Rent for the land under reference at ₹99.84 per sq.m per month.

- (vii). With regard to Way leave charges for the pipelines, MPBT has derived the way leave fees by considering a letting rate of 15% of the market value of land, as per the Stamp Duty Ready Reckoner, 2016. The letting rate of 15% considered to derive the way leave charges is reported to be based on the decision taken by the Board of Trustees of MBPT way back in the year 2009. The amended Land Policy Guidelines of 2014 does not explicitly prescribe any specific letting rate to be adopted to arrive at the way leave charges. The broad Terms and Conditions for

issuance of Right of way Permission for laying Pipelines/ conveyors etc., forming part of the amended Land Policy Guidelines of 2014, stipulate that each Port Trust Board would formulate and approve their own policy for one time supervision charges, MGT and additional compensation charges if any for granting way leave permission. Thus, considering the Stamp Duty Ready Reckoner 2016-17 of ₹19200/- per sq.m. and considering the letting rate of 15%, the MBPT has proposed the Way Leave charges at ₹ 240/- per sq.m per month.

Considering that the reserve price in terms of the Lease Rent for the land under reference has been updated as of the year 2017 - 18, it may not be appropriate to prescribe the way leave charges based on 2016-17 Stamp Duty Ready Reckoner rate of ₹19200/- per sq.m. Hence, it is apt to update the way leave charges also from ₹240 per sq. mtr per month to ₹249.60 per sq.m per month applying 4% escalation following the approach adopted by MBPT to update the lease rent as brought out in the previous paragraph.

- (viii). The MBPT is seen to have proposed a note to the effect all the terms and conditions as per the extant Land Policy Guidelines will be applicable. Since the proposed note would ensure that the terms and conditions governing application of the rates will be in line with the Land Policy Guidelines, the proposed note is approved.
- (ix). The MBPT has proposed a note to the effect that the rates shall automatically be escalated by 4% per annum after expiry of one year. In this regard, it is relevant here to mention that Clause 13(c) of the Land Policy Guidelines of 2014 gives flexibility to the ports to fix annual escalation which would not be less than 2%. Accordingly, the annual escalation rate of 4% recommended by the LAC, and approved by the MBPT Board of Trustees is as per the provision of the Land Policy guidelines of 2014. The proposed rate of 4% annual escalation is approved.
- (x). The MBPT has also proposed a note to the effect that any levy or levies including increase therein of taxes, duties, cess and the hike on account of/ in respect of amount payable to the State Government or any statutory authority shall be met and paid by the Licensee/ lessee at actual. In this regard, it is to state that the tariff approved by this Authority is exclusive of any taxes and statutory duties. The taxes and statutory duties as applicable are to be levied by the Port at the applicable rates on the tariff so approved by this Authority. In view of this position, the note as proposed by the Port is approved.
- (xi). The annual lease rent and way leave charges shall come into effect after expiry of 30 days from the date of notification of the Order passed in the Gazette of India. Clause 13 (C) of the amended Land Policy Guidelines, 2014 stipulates that the rates will be revised once in every five years by this Authority. Accordingly, a note is prescribed in the Rent Schedule that the annual lease rentals shall remain in force for a period of five years, which is approved.

10.1. In the result, and for the reasons given above, and based on a collective application of mind, this Authority accords approval for the Schedule of lease rental for allotment of land to develop bunkering facility and way leave charges for granting way leave permission for laying pipelines at MOT-JD of MBPT, which is attached as **Annex**.

10.2. The Schedule of Lease Rentals will come into force after expiry of 30 days from the date of notification of the Order passed in the Gazette of India and shall remain in force for a period of five years. The approval accorded shall automatically lapse thereafter unless specifically extended by this Authority.

(T.S. Balasubramanian)
Member (Finance)

Annex**Schedule of Lease Rentals for allotment of land for bunkering terminal and way leave fees for laying pipelines at Marine Oil Terminal (MOT) – Jawahar Dweep (JD), Mumbai Port Trust.**

Sr. No.	Location	Description	Rate in ₹ per Sq. mtr. Per Month
1.	Bunkering Terminal at MOT-JD	Lease Rentals	99.84
		Way leave Fees	249.60

Note:-

1. All the terms and conditions as per the extant Land Policy Guidelines will be applicable.
2. All the rates provided in the above schedule shall get automatically escalated by 4% per annum after expiry of one year.
3. Any levy or levies including increase therein of taxes, duties, cess and the hike, on account of/in respect of the amount payable to the State Government or any statutory authority shall be met and paid by the Licensee/lessee at actual.
4. The lease rentals/ way leave charges shall remain in force for a period of five years from the date of effect of this schedule.

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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.

- F. No.TAMP/26/2017- MBPT** - **Proposal received from Mumbai Port Trust (MBPT) for fixation of lease rent and way leave fees for allotment of land for bunkering terminal at Marine Oil Terminal - Jawahar Dweep (MOT-JD).**

A joint hearing on the case in reference was held on 20 June 2017 at the office of the Authority in Mumbai. The MBPT and the HPCL have made the following submissions:

Mumbai Port Trust (MBPT)

- (i). MBPT has envisaged to allot land to HPCL on nomination basis at MOT-JD for developing Bunkering facilities at MOT JD and for the purpose, MBPT would recover lease rent for the land and way leave charges for the pipelines. We intend to transfer 4 or 5 Tanks of MBPT to M/s HPCL on as is where basis on the basis the valuation report. We have come to TAMP for fixation of rental for land and way leave charges only.
- (ii). The proposed lease rentals and Way leave fees has been calculated on the basis of Land value at Mahul Zone as per Stamp Duty Ready Reckoner 2016. It we go by 2017-18 valuation, the rate will further increase. HPCL may opt out.
- (iii). The rates have been recommended by LAC and approved by the Board. Board has approved allotment of land on nomination basis to HPCL. HPCL is a PSU.

M/s Hindustan Petroleum Corporation Limited.

- (i). The Lease rent of ₹ 96 per sq. mtr is very high.
- (ii). Considering the Ready Reckoner 2016 Land Value of Mahul Zone for the proposed Land is not correct, as the land at Mahul Zone is within the city limits whereas the Land under reference is an isolated area of Butcher Island and has no connectivity to the city.

[MBPT: Ready Reckoner note is not available for Butcher Island]

- (iii). M/s BPCL is paying relatively less for the land allotted to them, which is adjoining the land under reference. It is requested to adopt the same lease rental for the proposed allotment of land to HPCL also. We will give our written comments.

Mumbai Port Trust (MBPT)

- (i). Lease rental has been calculated as per the Land Policy Guidelines.
- (ii). There is no separate Land value for the proposed area of land at JD. Nearest place listed in the Ready Reckoner 2016 is referred.
- (iii). M/s BPCL was allotted land long back at the prevailing rates as per the agreement entered during that time. The Lease rental applicable for M/s BPCL cannot not be made applicable to M/s HPCL, as per the prevalent Land Policy guidelines.

TAMP

- (i). One of the notes proposed under the calculations of way leave fees is that calculations are subject to audit verification. Are the calculations audited?

Mumbai Port Trust (MBPT)

- (i). Yes, the calculations have been audited.
- (ii). We will reply TAMP on their queries within 2 or 3 days.

2. As decided at the joint hearing, a summary of comments received from the users/ user organisations and the comments of Mumbai Port Trust (MBPT) thereon are tabulated below:

Sl. No.	Comments of HPCL	Comments of MBPT
(i).	The lease rental and way leave charges have been benchmarked against Ready Reckoner rates of Mahul city whereas the Plot is in MOT (Jawahar Dweep) an island in sea approx.. 18 km away. Hence, village rates should be applied.	The lease Rentals & Way Leave Charges for the Tank farm area at MOT-JD to be handed over to HPCL for the subject project was calculated considering the Ready Reckoner Rates of Mahul village due to the non-availability of Stamp Duty Ready Reckoner Rate for MOT-JD. In 2004, in one of the cases of HPCL, the TAMP had given consideration to the rate of Mahul village for arriving at the lease rental for MOT-JD.
(ii).	The lease rentals and way-leave charges should be same for all existing and future tenants.	In the event of future allotment/ renewal of land lease at MOT-JD, the prevailing rates of Ready Reckoner of Mahul village will be made applicable to avoid ambiguity.

(Published in Part - III Section 4 of the Gazette of India, Extraordinary)
Tariff Authority for Major Ports

G.No. 463

New Delhi,

08 December 2017

NOTIFICATION

In exercise of the powers conferred by Section 49 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal received from Mumbai Port Trust (MBPT) for fixation of lease rentals for land and structures at MBPT workshop, Mazgaon, as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports**Case No. TAMP/49/2017- MBPT****Mumbai Port Trust**

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Applicant**QUORUM:**

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

ORDER(Passed on this 14th day of November 2017)

This case relates to a proposal filed by the Mumbai Port Trust (MBPT) for fixation of rental for allotment of alternate site for pollution response team of Indian Coast Guard (ICG).

2.1. The MBPT vide its letter No. FA/OEA/L-40(89)/DT II/859 dated 1 June 2017 has filed the proposal on the subject cited above. The main points made by the MBPT in its proposal are summarized below:

- (i). The Board vide T.R. No.98 dated 29.11.2016 has sanctioned allotment of 1638 sq. mtrs. (approx.) area to Indian Coast Guard (ICG) for a period of 5 years, which includes 2 sheds of boiler Shop and Loco Repair Shop of MBPT Workshop admeasuring approx.1415 sq. mtrs. area and adjoining office space approx.223 sq. mtrs. area, for housing their Pollution Response Team.
- (ii). The Valuer, i.e. M/s. G.A. Advisory Pvt. Ltd., has considered five factors for the valuation as per Land Policy-2014. Land allotment committee noticed that values for three factors are not stated in the report by Valuer on account of non-availability of values in the Port or in their search. Since the rates available in the Ready Reckoner-2016 for building plus land under 4 categories are not comparable with this type of sheds and office space, the methodology adopted by Valuer for carrying out the valuation of the sheds and office is considered.
- (iii). The summary of the valuation submitted by the valuer is as under:

Plot description	State Govt. Ready Reckoner 2017* (in ₹)	Rate as per Actual Transaction	Highest Accepted Tender-Cum-Auction Rate	Adopted Rate By Valuer (in ₹)	Rate as per Estate Department
Boiler Shop Shed	27,100	As per our search and discussion with the officials of Port Trust there is no similar recent transactions in past three years having 30 years lease policy in the vicinity of subject properties of such magnitude in nature	As per our search and discussion with the officials of Port Trust there is no similar recent transactions in past three years having 30 years lease policy in the vicinity of subject properties of such magnitude in nature.	27100.00*	As per discussion with the Port Trust Estate Department there is no similar recent transactions in past three years having 30 years lease policy in the vicinity of subject properties of such magnitude in nature
Loco Repair Shed				10000.00** 8500.00***	
Extension Center (Office Space adjoining to Boiler Shop)				27100.00* 8500.00**	

- Legend :-
- * Rate of the Land per sq.mt.
 - ** Rate of the Construction per sq. mt.
 - *** Rate of the Double Storey Office structure of boiler shop and temporary office shed of Loco Repair Shop inside the shed.

- (iv). The MBPT has forwarded the Report of Land Allotment Committee (LAC) dated 15 April 2017. For the Land, the LAC has recommended the rate as per the Ready Reckoner 2017 and has accepted the methodology adopted by the Valuer for carrying out Valuation of sheds and office.
- (v). The Stamp Duty Ready Reckoner, 2017, for the land at Mazgaon zone has been considered at the rate of ₹27,100/- per sq. mtr. Further, as per the draft valuation report submitted by MBPT along with the proposal, the building value for loco repair shop, boiler shop and extension office has been assessed by the valuer considering their life of the structure, residual life and the rates prevailing for new construction for Municipal Corporation 2016 – 17. The relevant extract of the valuation report is reproduced below:

Sr. No.	Particulars	Loco repair shop	Temporary office sheds	Boiler shop	Double storey office structure	Extension office centre
1	Year of construction	1956	1956	1956	1956	1956
2	age (in years)	60	60	60	60	60
3	Built-up area (in sq.mtr.)	741	59	780	46.86	218
4	Rates of new construction for Municipal corporation area (2016-17)	25000	21250	25000	21250	21250
5	Adjustment factor due to lower construction specification (%)	0.75	0.75	0.75	0.75	0.75
6	Construction rate adopted (Rs./Psm)	18750	15937.5	18750	15937.5	15937.5
7	Gross current replacement cost (INR.)	13893750	940312.5	14625000	746831.3	3474375
8	Salvage value @10% (INR)	1389375	94031.25	1462500	74683.13	347437.5
9	Life	90	90	90	90	90
10	Residual life	30	30	30	30	30
11	Net current replacement cost (INR.)	12504375	846281.3	13162500	672148.1	3126938
12	Residual value	4168125	282093.8	4387500	224049.4	1042313
14	Depreciated replacement cost – as given in the valuation report	5557500	378016	5850000	298732.5	1391792

2.2. Thus, the proposal of the MBPT seeks approval for the following:

Location	Area (Sq.mtr)	Rate adopted by Valuer (per Sq. Mtr.) (per annum)	Market Value	Rate per Sq. Mt. per month	Total rental Charges with 75% concession (per annum)
		₹	₹	₹	₹
Boiler Shop					
Land	780	27100	21138000	135.50	317070
Roof	780	10000	7800000	50.00	117000

Office Cabin	46.86	8500	398310	42.50	5974.65
Total (A)			29336310		440044.65
<u>Loco Repair Shop</u>					
Land	741	27100	20081100	135.50	301216.5
Roof	741	10000	7410000	50.00	111150
Office Cabin	59	8500	501500	42.50	7522.5
Total (B)			27992600		419889
<u>Office Space adjoining to Boiler shop - Extension</u>				-	
Land	218	27100	5907800	135.50	88617
Roof	218	8500	1853000	42.50	27795
Total (C)			7760800		116412
Total (A+B+C)			65089710		976345.65

Note:-

1. Term and Condition as per agreement and Tender.
2. All the rates provided in the above schedule shall get automatically escalated by 4% per annum after expiry of one year.
3. Any levy or levies including increase therein of taxes, duties, cess and the hike, on account of/in respect of Payable to the State Government or any statutory authority shall be met and paid by the Licensee/lessee at actual.

3. Based on an initial scrutiny of the proposal, the following information was sought from MBPT while acknowledging the proposal vide our letter dated 12 June 2017. After reminders, the MBPT has responded in piecemeal vide its letters dated 23 June 2017, 28 July 2017 and 20 September 2017. The information sought by us and the response of MBPT thereon are tabulated below:

Sl. No.	Information/ clarification sought by us	Response of MBPT
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(i).	There are some calculation errors while arriving the depreciated replacement cost in respect of temporary office sheds and extension office center in the valuation report. The MBPT, to, therefore, examine the calculations for arriving the depreciated replacement cost and rectify the same.	While arriving at the depreciated replacement cost in respect of temporary office shed and extension office center in the valuation report has been corrected by the valuer and the copy of the same is furnished by MBPT. The revised working given by the Valuer is given below: <table><tr><th>Sr. No.</th><th>Particulars</th><th>Temporary office sheds</th><th>Extension office centre</th></tr><tr><td>1</td><td>Year of construction</td><td>1956</td><td>1956</td></tr><tr><td>2</td><td>age (in years)</td><td>60</td><td>60</td></tr><tr><td>3</td><td>Built-up area (in sq.mtr.)</td><td>59</td><td>218</td></tr><tr><td>4</td><td>Rates of new construction for Municipal corporation area (2016-17)</td><td>21250</td><td>21250</td></tr><tr><td>5</td><td>Adjustment factor due to lower construction specification (%)</td><td>0.75</td><td>0.75</td></tr><tr><td>6</td><td>Construction rate adopted (Rs./Psm) (4 x 5)</td><td>15938</td><td>15938</td></tr><tr><td>7</td><td>Gross current replacement cost (INR.) (3 x 6)</td><td>945040</td><td>3474375</td></tr><tr><td>8</td><td>Salvage value @10% (INR) (7 x 10%)</td><td>94504</td><td>3474378</td></tr><tr><td>9</td><td>Total Life of Shed structure</td><td>90</td><td>90</td></tr><tr><td>10</td><td>Age of structure (2016 – 1956)</td><td>60</td><td>60</td></tr><tr><td>11</td><td>Residual life (9 – 10)</td><td>30</td><td>30</td></tr><tr><td>12</td><td>Depreciation (@ 1% per year) (10 x 1% x 7)</td><td>567024</td><td>2084625</td></tr><tr><td>13</td><td>Depreciated replacement cost (INR.) (7 – 12)</td><td>378016</td><td>1389750</td></tr></table>	Sr. No.	Particulars	Temporary office sheds	Extension office centre	1	Year of construction	1956	1956	2	age (in years)	60	60	3	Built-up area (in sq.mtr.)	59	218	4	Rates of new construction for Municipal corporation area (2016-17)	21250	21250	5	Adjustment factor due to lower construction specification (%)	0.75	0.75	6	Construction rate adopted (Rs./Psm) (4 x 5)	15938	15938	7	Gross current replacement cost (INR.) (3 x 6)	945040	3474375	8	Salvage value @10% (INR) (7 x 10%)	94504	3474378	9	Total Life of Shed structure	90	90	10	Age of structure (2016 – 1956)	60	60	11	Residual life (9 – 10)	30	30	12	Depreciation (@ 1% per year) (10 x 1% x 7)	567024	2084625	13	Depreciated replacement cost (INR.) (7 – 12)	378016	1389750
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(ii).	The documentary evidence in support of the rates of new construction cost for Municipal corporation area (2016-17) considered in the proposal for arriving depreciated replacement cost in the valuation report to be provided.	The documentary evidence in support of the new construction cost for Municipal Corporation area (2016-17) considered by the valuer in the valuation report is furnished by MBPT. (MBPT has furnished the relevant extract of the Ready Reckoner Book which reflects the rates of new construction for Municipal Corporation area in Mumbai city and Mumbai suburban district for Valuation for charging stamp Duty for the year 2016-17 as per annual statement of rates for the period from 01.04.2016 to 31.03.2017, which is reproduced below: <table><tr><th>No.</th><th>Type of Construction</th><th>Cost per sq.m (built-up) in ₹</th></tr><tr><td>1)</td><td>RCC Construction RCC slab, brick wall made and plastered with cement mortar inside the wall, tiles flooring</td><td>25000</td></tr><tr><td>2)</td><td>Other pukka Construction Load bearing structure, RCC slab, brick wall plastered with cement, kaccha or cement flooring</td><td>21250</td></tr><tr><td>3)</td><td>Semi/ Half pukka Construction Load bearing structure, wall mad of brick or stone with mud, shahbad floor, mud or other type of flooring, and construction other than slab</td><td>15000</td></tr><tr><td>4)</td><td>Kaccha Construction Mud wall with bricks, mud gilav, with roof of clay tiles/ asbestos or tin</td><td>8750</td></tr></table> Note: For industrial shed, 75% for RCC construction rate should be considered	No.	Type of Construction	Cost per sq.m (built-up) in ₹	1)	RCC Construction RCC slab, brick wall made and plastered with cement mortar inside the wall, tiles flooring	25000	2)	Other pukka Construction Load bearing structure, RCC slab, brick wall plastered with cement, kaccha or cement flooring	21250	3)	Semi/ Half pukka Construction Load bearing structure, wall mad of brick or stone with mud, shahbad floor, mud or other type of flooring, and construction other than slab	15000	4)	Kaccha Construction Mud wall with bricks, mud gilav, with roof of clay tiles/ asbestos or tin	8750																																									
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(iii).	The valuer has adopted adjustment factor of 0.75 towards lower construction	The basis for the valuer adopting adjustment factor of 0.75 is given as self-explanatory note in the above Table.																																																								

	specifications while arriving at the construction rate. The basis for adopting adjustment factor of 0.75 to be furnished.	
(iv).	On perusal of the enclosed Board Resolution, it is found that it pertains to leasing of 2.5 ha. for setting up bagging plant and is not found relevant to the proposal. The MBPT to, therefore, furnish the Broad Resolution approving the proposal in reference.	[The MBPT vide its letter dated 20 September 2017 has furnished the copy of the Board Resolution, which reflects the Board's approval for acceptance of recommendations of the Land allotment committee proposing yearly rental of ₹ 976346/- with 4% escalation and the total rental for a period of 5 years at ₹ 52,88,206/- excluding taxes, cesses, stamp duty and registration charges, which at actuals will be recovered from Indian Coast Guard].
(v).	To arrive at the market value of Boiler shop, Loco repair shop and office space adjoining to Boiler shop-extension, the MBPT is seen to have considered the rate of Roof at ₹10000/- per sq.m. and rate of office cabin at ₹8500/- per sq. mtr. respectively. This rate is reported to be based on depreciated cost calculated by Valuer (refer Annexure – I of LAC report). However, the depreciated cost as in the Valuation Report is seen to be entirely different from the depreciated cost reflected in Annexure – I of LAC report. MBPT to clarify the position and rectify the workings, if necessary.	The Valuer has adopted adjustment factor of 0.75 towards lower construction specification which was rejected by the Estate Division of MBPT's Civil Engineering Department. Hence, as per their suggestion proposal was prepared by this Dept. (MEED) without considering said adjustment factor and submitted to the Land Allotment Committee (LAC) which has looked into this aspect and hence has already approved the same. Due to non-considering of above adjustment factor (0.75) therefore, rates of roof and office cabin are different from the depreciated cost stipulated in the valuation report.
(vi).	The MBPT to also note that the Authority is mandated to prescribe lease rentals for the lands belonging to the Ports. The allotment of the lands and quantum of concession to be granted may have to be decided by the Port as per the stipulation of the Land Policy Guidelines.	As the ICG is a defense security organization hence as per the extant Land Policy Guidelines and detailed deliberation of the LAC, in this regard concession of 75% in rental charges has been considered.
(vii).	The MBPT to also furnish the final Valuation Report of the Valuer.	[The MBPT vide its letter dated 28 July 2017 has furnished the final Valuation Report].

4. In accordance with the consultative procedure prescribed, a copy of the MBPT letter dated 1 June 2017 was forwarded to the concerned users/ user organizations vide our letter dated 12 June 2017 seeking their comments. Only the Office of Indian Coast Guard (CG PRT, West), (ICG) has responded vide its letter dated 28 June 2017. We have not received any comments from any of the users / user organizations, till the case was finalised.

5. A joint hearing on the case in reference was held on 20 June 2017 at the office of the Authority in Mumbai. At the joint hearing, MBPT has made its submissions.

6. 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>.

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

- (i). The Mumbai Port Trust (MBPT) has decided to allot some area of Land alongwith some structures to Indian Coast Guard (ICG) as an alternative site for pollution response team, on lease rental basis for a period of 5 years Accordingly, the MBPT has come up with a proposal for fixation of lease rent for the land and the structures based on the provisions of the amended Land Policy Guidelines, 2014.
- (ii). The MBPT has filed its proposal vide its letter dated 01 June 2017. The said proposal alongwith the information/ clarification furnished by MBPT during the processing of the case, is considered in this analysis.
- (iii). This Authority is mandated to follow the Land Policy Guidelines issued by the Government from time to time for the purpose of determining lease rentals for the lands belonging to the Port Trusts. The Ministry of Shipping in the Government of India has announced Land Policy Guidelines for Major Ports, 2014 in January 2014 which has come into effect from 2 January 2014. Subsequently, the Ministry of Shipping has issued amended Land Policy Guidelines, 2014 under Section 111 of the MPT Act, 1963 for implementation with effect from 17 July 2015. The MBPT has, thus, come up with a proposal for fixing Scale of Rates (SOR) for allotment of land and structures of MBPT workshop to Indian Coast Guard (ICG) for a period of 5 years as an alternative site for pollution response team of Indian Coast Guard (ICG) based on the provisions of the Land Policy Guidelines for Major Port Trusts, 2014, as amended in July 2015. The proposal of MBPT has the approval of its Board of Trustees
- (iv). As per clause 13(a) read with clause 11.2(e) of the Land Policy Guidelines 2014, a Land Allotment Committee (LAC) constituted by the Port Trust Board consisting of Deputy Chairman of the Port, and Heads of Departments of Finance, Estate and Traffic shall determine the market value of land as per the methodology prescribed in clause 13(a). Accordingly, the MBPT has reported about constitution of a Land Allotment Committee (LAC) headed by the Dy. Chairman of the Port and the Heads of Departments of Finance and Traffic and Chief Engineer being the other members.
- (v). (a). Para 13(a) of the Land policy guidelines of July 2015 prescribes the methodology for determination of market value of the land based on the five factors as prescribed therein. In terms of the said para of the amended Land policy guidelines of 2014, the Land Allotment Committee is to normally take into account the highest of the factors mentioned therein, viz. (i). State Government ready reckoner of land values in the area if available for similar classification/ activities, (ii). Highest rate of actual relevant transactions registered in the last three years in the Port's vicinity with an appropriate annual escalation rate to be approved the Port Trust Board, (iii). Highest accepted tender-cum-auction rate of Port land for similar transactions, updated on the basis of the annual escalation rate approved by the Port Trust Board, (iv). Rate arrived at by an approved valuer appointed for the purpose by the Port and (v). Any other relevant factor as is identified by the Port. The amended Land Policy guidelines of 2014 also stipulates that in case the LAC is not choosing the highest factor, the reasons for the same have to be recorded.
- (b). In this connection, the LAC has observed from the Valuer's Report that there are no actual relevant transactions and tenders in the past three

years in the vicinity of the area under reference of such magnitude in nature. Therefore, for the land component, the LAC in its Report has recommended to take into account the value of the land as reflected in the Stamp Duty Ready Reckoner 2016-17 at ₹27100/- per sq.m., which was also considered by the Valuer.

- (c). Though the MBPT is seen to have adopted the rates based on the single factor of Stamp Duty Ready Reckoner 2016-17 amongst the five factors mentioned in para 13 (a), determining the market value of land based only on a single approach may not always reflect the correct position. Nevertheless, taking into account the position that the recommendation of the LAC has the approval of its Board of Trustees, this Authority is constrained to rely upon the approach adopted by the MBPT in this regard.
- (vi). Clause 13(b) of the guidelines stipulates that Reserve Price in terms of annual lease rent would be arrived, as a percentage of latest market value of land determined based on the five factors in accordance with para 13(a) and that the percentage should not be less than 6% which is to be fixed by the Port Trust Board. Accordingly, the lease rental for the land component has been arrived by the LAC at 6% of the market value of the land at ₹27100/- per sq.m which works out to ₹135.50 per sq.m per month for the land located at the Boiler shop, Loco Repair Shop and the office space adjoining to Boiler Shop. Considering that the Annual Lease Rent derived taking into account the market value of the land as reflected by the Stamp Duty Ready Reckoner has been recommended by the LAC and given that the Board of Trustees of MBPT has approved the recommendation of the LAC, this Authority is inclined to prescribe the Lease Rent for the land under reference at ₹135.50 per sq.m per month.
- (vii). (a). The amended Land Policy Guidelines lay down the procedure and methodology to be followed for determining the market value and lease rental of the port lands. No specific Guidelines are prescribed in Land Policy for fixation of lease rent for the structures owned and constructed by a Port Trust.
- (b). This Authority is statutorily mandated under Section 49(1) of the Major Port Trusts Act, 1963 to frame Scale of Rates (SOR) and conditionalities governing application of the SOR from time to time for any property belonging to or in the possession of a Port Trust. Further, Land as per Section 2(K) of the MPT Act, 1963 includes, inter alia, things attached to the earth or permanently fastened to anything attached to the earth. That being so, the methodology prescribed in the Land Policy Guidelines to determine the market value and reserve price in terms of annual lease rent for port "land" is to be applied mutatis-mutandis for determination of market value and reserve price in terms of lease rent for "buildings" also.
- (c). With regard to fixation of rentals for the structures, it is relevant here to draw reference to the Order no. TAMP/32/2015-MOPT dated 27 February 2016 passed by this Authority fixing rentals for the various port structures of the Mormugao Port Trust (MOPT). To determine the rentals for the structures, the Port had arrived at valuation of structures considering the total value of land and constructed areas adopting the five factors prescribed in the Land Policy Guidelines. The valuer engaged by MOPT had considered the total value of land and constructed areas as the base for arriving the valuation of the structures. Under the cost approach adopted for valuation of structure, the replacement cost (i.e.) the cost of constructing a new structure with same type of construction, same or similar specifications, design, building materials, etc. was computed. To this replacement cost, a suitable discount/ allowance towards the age of the structure, locality and other factors, balance economic life based on the present state, strength, maintenance, was considered. The 'fair

market value' of the property was arrived at by MOPT after considering all the discount/ allowance/ depreciation from the cost of a new construction for each of the structure. The approved valuer had confirmed that the methodology followed by them is a standard method for valuation of properties. The MOPT had also conclusively clarified that the valuation of structure is not the current construction cost or replacement cost of structures, but the present value of the premises. Thus, this Authority in its Order no. TAMP/32/2015-MOPT dated 27 February 2016 had gone with the proposal of the port and prescribed rentals for the structures of MOPT, as proposed by the Port.

- (d). In the case of MBPT, for the structures viz., Loco Repair shop, Temporary office sheds, Boiler shop, Double storey office structure and Extension Office structure to Boiler shop, the Valuer has determined the replacement cost of each of the structure. To arrive at the replacement cost, the Valuer has taken into account the rates of new construction for Municipal Corporation area in Mumbai city for the year 2016-17 and thereafter applied an adjustment factor of 75% to account for construction specifications used in subject MBPT property. In other words, the Valuer has applied a discounting factor of 25% on the new construction cost to account for the lower construction specification at the work shop of MBPT. Thereafter, the said replacement cost has been depreciated over the age of the building to arrive at the depreciated replacement cost of the structure as on 2016-17.
- (e). The methodology adopted by MBPT for valuation of its structures is seen to be comparable to the methodology of valuation of structures adopted by MOPT, as discussed earlier. In view of this position, the methodology adopted in the valuation of structures by MBPT as discussed above, is relied upon.
- (f). However, the LAC, on the ground that the structures are in relatively sound condition considering their good quality teakwood used and steel riveted construction, has rejected the adoption of discounting factor of 25% used by the Valuer to arrive at the market value of the structures. Thereafter, annual rent has been calculated by the LAC at 6% of the value of the structure so determined. The market value for each of the structure as considered by the LAC and the lease rent thereon is tabulated below:

Sr. No.	Particulars	Loco repair shop	Temporary office sheds	Boiler shop	Double storey office structure	Extension office centre
1	Year of construction	1956	1956	1956	1956	1956
2	Age (in years)	60	60	60	60	60
3	Built-up area (in sq.mtr.)	741	59	780	46.86	218
4	Rates of new construction for Municipal corporation area (2016-17) (in ₹)	25000	21250	25000	21250	21250
5	Gross current replacement cost (3 x 4) (in ₹)	18525000	1253750	19500000	995775	4632500
6	Salvage value @ 10% (5 x 10%) (in ₹)	1852500	125375	1950000	99578	463250
7	Life (in years)	90	90	90	90	90
8	Residual life (in years)	30	30	30	30	30
9	Net current replacement cost (5 - 6) (in ₹)	16672500	1128375	17550000	896197	4169250
10	Residual value (9 / 7 x 8) (in ₹)	5557500	376125	5850000	298732.5	1389750

11	Depreciated replacement cost (10 + 6) (in ₹)	7410000	501500	7800000	398310	1853000
12	Lease rental @ 6% per sq.m per month (11 x 6% /12 months / 3) (in ₹)	50	42.50	50	42.50	42.50

- (viii). Considering that the Lease Rent derived at 6% of the market value of the structure has been recommended by the LAC and given that the Board of Trustees of MBPT has approved the recommendation of the LAC, this Authority is inclined to prescribe the Lease Rent for the various structures viz., Loco repair shop Temporary office sheds, Boiler shop, Double storey office structure and Extension office centre at ₹50/- per sq.m per month, ₹42.50 per sq.m per month, ₹50/- per sq.m per month, ₹42.50 per sq.m per month and ₹42.50 per sq.m per month respectively.
- (ix). Clause 11.2 (h) of the amended Land Policy Guidelines, *inter alia*, stipulates about grant of concession upto 75% in lease rent by the ports in the event of allotment of land to government departments which are essential to the functioning of the Port like customs, electricity department, and health department and for core security functions. At the same time, the guidelines also stipulates that such concession can be given for only small extent of land required for core operational purposes imperative for Port functioning and not otherwise and that the issue of granting concession and the quantum is to be decided on a case to case basis by the Port Trust Board, after recording the reasons in writing. This Authority is mandated to prescribe lease rentals for the lands belonging to the Ports. The allotment of the lands and quantum of concession to be granted is to be decided by the Port on a case to case basis, adhering to the provisions of the Land Policy Guidelines. In view of this position, this Authority prescribes the lease rentals for the area under reference, without drawing reference to any particular allottee.
- (x). The MBPT is seen to have proposed a note to the effect that 'Terms and Conditions as per agreement'. In order to ensure that the terms and conditions governing application of the rates have to be in line with the Land Policy Guidelines, the proposed note is replaced with the note that "All the terms and conditions as per the extant Land Policy Guidelines will be applicable".
- (xi). The MBPT has proposed another note to the effect that the rates shall automatically be escalated by 4% per annum after expiry of one year. In this regard, it is relevant here to mention that Clause 13(c) of the Land Policy Guidelines of 2014 gives flexibility to the ports to fix annual escalation which would not be less than 2%. Accordingly, the MBPT has proposed 4% annual escalation. Since the annual escalation rate of 4% is recommended by the LAC, approved by the MBPT Board of Trustees and is as per the provision of the Land Policy Guidelines of 2014, the proposed rate of 4% annual escalation is approved.
- (xii). The MBPT has also proposed a note to the effect that any levy or levies including increase therein of taxes, duties, cess and the hike on account of/ in respect of payable to the State Government or any statutory authority shall be met and paid by the Licensee/ lessee at actual. In this regard, it is to state that the tariff approved by this Authority is exclusive of any taxes and statutory duties. The taxes and statutory duties are to be levied by the Port at the applicable rates on the tariff so approved by this Authority. In view of this position, the note as proposed by the Port is approved.
- (xiii). The annual lease rent shall come into effect after expiry of 30 days from the date of notification of the Order passed in the Gazette of India. Clause 13 (C) of the amended Land Policy Guidelines, 2014 stipulates that the rates will be revised once in every five years by this Authority. Accordingly, a note is prescribed in the Rent Schedule that the annual lease rentals would remain in force for a period of five years.

8.1. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves the Schedule of lease rental, for allotment of land and structures at Mumbai Port Workshop at Mazgaon, which is attached as **Annex**.

8.2. The Schedule of Lease Rentals shall come into force after expiry of 30 days from the date of notification of the Order passed in the Gazette of India and shall remain in force for a period of five years. The approval accorded shall automatically lapse thereafter unless specifically extended by this Authority.

(T.S. Balasubramanian)
Member (Finance)

Annex**Schedule of Lease Rentals for land and structures at Mumbai Port Trust (MBPT)**
Workshops, Mazagaon.

Sl. No.	Location	Lease Rentals per Sq. Mt. per month in ₹
A.	<u>Boiler Shop</u>	
A.1	Land	135.50
A.2	Roof	50.00
A.3	Office Cabin	42.50
B.	<u>Loco Repair Shop</u>	
B.1	Land	135.50
B.2	Roof	50.00
B.3	Office Cabin	42.50
C.	<u>Office Space adjoining to Boiler shop - Extension</u>	
C.1	Land	135.50
C.2	Roof	42.50

Note:-

1. All the terms and conditions as per the extant Land Policy Guidelines will be applicable.
2. All the rates provided in the above schedule shall get automatically escalated by 4% per annum after expiry of one year.
3. Any levy or levies including increase therein of taxes, duties, cess and the hike, on account of/in respect of Payable to the State Government or any statutory authority shall be met and paid by the Licensee/lessee at actual.
4. The lease rentals shall remain in force for a period of five years from the date of effect of this schedule.

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

F. No.TAMP/49/2017- MBPT - **Proposal received from Mumbai Port Trust (MBPT) for fixation of rental for allotment of alternate site for pollution response team of Indian Coast Guard (ICG).**

The Office of Indian Coast Guard (CG PRT, West), (ICG) has responded vide its letter dated 28 June 2017. We have not received any comments from any of the users / user organizations, till the case was taken up for finalization. The comments of ICG are as follows:

- (i). The procedure adopted by land allotment committee of Mumbai Port Trust to arrive lease rent for the land earmarked for CG PRT (W) is complying with guidelines mentioned in land allotment policy guidelines for Major Ports, 2014 issued by Ministry of Shipping.
- (ii). The rental charges calculated for the new location works out to be ₹9,76,346/- per year and ₹ 52,88,206/- for 05 years. The rental charges has been arrived after giving 75% concession on the land market value as applicable to security agencies and 4% increase in rent per year law land allotment policy guidelines for Major Ports, 2014.
- (iii). The lease rent calculated as above is accepted by this office.

2. A joint hearing on the case in reference was held on 20 June 2017 at the office of the Authority in Mumbai. The MBPT has made the following submissions:

Mumbai Port Trust (MBPT)

- (i). MBPT proposes to allot an alternate site situated at MBPT workshop to Indian Coast Guard (ICG) for their pollution response. The land is proposed to be allotted for a period of 5 years on nomination basis.
- (ii). The proposed lease rental is as per the valuation report given by the approved valuer. The valuer has considered five factors for valuation as per the amended Land Policy Guidelines 2014 and recommended the rates calculated as per the Stamp Duty Ready Reckoner 2017 in respect of land.
- (iii). A separate valuation methodology has been adopted by the valuer in respect of structures viz. Loco Repair Shop, Boiler shop and extension office structures to Boiler Shop. The Pollution Response Team requires the structure to keep their equipment.

Mumbai,
Dated 25th April 2022.

SMT. P.M. DABHOLKAR,
Financial Adviser and
Chief Accounts Officer (I/c).