



सत्यमेव जयते

महाराष्ट्र शासन राजपत्र

असाधारण भाग दोन

वर्ष ९, अंक २७]

बुधवार, एप्रिल २६, २०२३/वैशाख ६, शके १९४५

[पृष्ठे ६५, किंमत : रुपये १२.००

असाधारण क्रमांक ४३

प्राधिकृत प्रकाशन

MUMBAI PORT AUTHORITY

NOTIFICATION

No. FA/OEA-L/GEN/31(2022).—In exercise of the power conferred under Section 22(2) and Section 27(1) of the Major Port Authorities Act, 2021 and Clause 7.5 of Tariff Policy for Major Port Authorities, 2021 and Rule No.4 of Major Port Authorities (Master Plan and Application of Funds from Non Port related Use) Rules,2021, the Board of Mumbai Port Authority has approved the review/revision of Scale of Rates *vide* Board Resolution No. 24 in its meeting dated 25th April, 2023. The Scale of Rates shall be applicable for the period from 1st October 2022 to 30th September 2027 and effective from 1st June 2023 subject to annual escalation of 2% every October. Accordingly, Board of Mumbai Port Authority hereby publish revised Scale of Rates for information of all concerned as required under Clause 4.7 of Tariff Policy, 2021.

MUMBAI PORT AUTHORITY

SCALE OF RATES FOR MUMBAI PORT AUTHORITY (MbPA) LANDS, PORT'S OWNED STRUCTURES, SPL. WAY LEAVE FEES, SERVICE CHARGES AND CHARGES FOR TEMPORARY USE OF MUMBAI PORT'S LAND AND STRUCTURES FOR THE PERIOD FROM 01.10.2022 TO 30.09.2027 EFFECTIVE FROM 01.06.2023.

ORDER

(Passed on this 25th day of April 2023)

This order relates to revision of lease rentals of Mumbai Port lands for the period from 01.10.2022 to 30.09.2027 effective from 01.06.2023.

2. The revision of rentals of the MbPA land was last approved by Tariff Authority for Major Ports (TAMP) as per Policy Guidelines for Land Management by Major Ports (PGLM), 2015 for the period 01.10.2017 to 30.09.2022 vide Order No. TAMP/42/2021-MbPT dated 01.11.2021, TAMP/43/2021-MbPT dated 22.10.2021, TAMP/49/2021-MbPT dated 25.10.2021, TAMP/51/2021-MbPT dated 01.11.2021, TAMP/52/2021-MbPT dated 01.11.2021, TAMP/53/2021-MbPT dated 01.11.2021, TAMP/54/2021-MbPT dated 01.11.2021, TAMP/55/2021-MbPT dated 01.11.2021, TAMP/59/2021-MbPT dated 01.11.2021, TAMP/60/2021-MbPT dated 01.11.2021 and notified vide Gazettes No.552 dated 02.11.2021, No.521 dated 25.10.2021, No.535 dated 26.10.2021, No.553 dated 02.11.2021, No.554 dated 02.11.2021, No.555 dated 02.11.2021, No.556 dated 02.11.2021, No.557 dated 02.11.2021, No.558 dated 02.11.2021, No.559 dated 2021 respectively. The revised rentals approved in the said Orders were effective from 01st October 2017 for five years i.e. upto 30th September 2022. Board extended the applicability of SoR 2017-2022 for 8 months i.e. upto 31st May 2023 or till finalisation of Revision of SoR, whichever is earlier, which was notified by Gazette Notification – Extraordinary No. 126 dated 14th September 2022 and No. 26 dated 21st March 2023.

3. Provisions of MPA Act 2021 for revision of SoR

3.1. Earlier the Major Ports were governed by the Major Port Trusts Act, 1963 (MPT Act 1963). On promulgation of the Major Port Authorities Act, 2021 (MPA Act 2021), with its effective date being 3rd November 2021, the MPT Act, 1963 stands repealed. The revision of SoR 2022-2027 effective from 1st June 2023 is thus required to be done as per the Section 22(2) and Section 27 (1)(b) of the MPA Act, 2021. Under Clause 7.5 of Tariff Policy for Major Port Authorities, 2021 and Rule No.4 of Major Port Authorities (Master Plan and Application of Funds from Non Port related Use) Rules, 2021, the Board is empowered to frame scale of rates at which and a statement of conditions under which, the access to, and usage of the port assets may be allowed by the Board in consonance with the norms prescribed. The norms for **fixation of Scale of Rates are governed by the Land Policy Guidelines** issued by the Government from time to time.

4. Provision of PGLM 2015

4.1 As per the Para 13 (c) of the PGLM 2015, issued by the Government of India, the SoR would be re-fixed once in every 5 years by this Authority.

Para 13 of PGLM 2015

“Market Value of land and SoR:

- (a) *Land Allotment Committee may normally take into account the highest of the factors mentioned herein below to determine the latest market value of Port land. In case the land allotment committee is not choosing the highest factor, the reasons for the same have to be recorded in writing.*
 - i. *State Government's ready reckoner of land values in the area, if available for similar classification/ activities.*
 - ii. *Highest rate of actual relevant transactions registered in last three years in the Port's vicinity (the vicinity of the Port is to be decided by the respective Port Trust Boards), with an appropriate annual escalation rate to be approved by 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.*
 - v. *Any other relevant factor as may be identified by the Port.*
- (b) *The Land Allotment Committee shall, while recommending the latest Market Value for any land would normally take into account the highest of the factors mentioned in Para 13 (a) above. Reserve Price in terms of the annual lease rent would be latest SoR determined in accordance with Para 13(a) and 13 (c) and would in no case be less than 6% of the latest market value recommended by the Port Trust.*
- (c) *The Port Trust would make a proposal as outlined in para 13(a) to TAMP for fixing the latest SoR of the land. The TAMP would notify the latest SoR of the land after following due process of consultation with stake holders within 45 days of receipt of the proposal. The Port Trust Board will fix a rate of annual escalation which would not be less than 2%. SoR would be re-fixed once in every 5 years by TAMP.*
- (d) **Reserve Price for Auction:**

The reserve price should be the latest SoR with due escalation for all leases within and outside the Custom Bonded Area.”

(With the repeal of the Major Port Trusts Act, 1963 and the coming into force of the Major Port Authorities Act, 2021, the fixation of SoR is exclusively within the purview of the Board)

5. Mumbai Port had engaged Shri. Avinash Pendse, IBBI registered valuer in asset category of 'Land and Buildings' for Undertaking Ready Reckoner Zone Wise Valuation & Determination of Fair Market Value of Immovable Properties (Land & Buildings) of MbPA letout lands through Tender. Shri. Pendse has done valuation of various Central and State Government departments, PSUs such as BARC, Oil Companies, Banks, Coal India Limited, adjudicator in High Court of Mumbai, etc. He was president of PAVI which is Registered Valuers Organisation.

5.1 Methodology:

Valuation of 3 sample plots in each RR Zone was done by the valuer and average of 3 plots was recommended as FMV for determination of SoR for the respective RR zones. Sale instances within 2-3 KM radius of the respective zones were considered to determine FMV. The land value derived from sale instances of built up structures is after deduction of construction cost, profits, charges and other expenses to arrive at FMV. Rates arrived are considering leasehold nature of land. Valuation has been done as per Para 13 of PGLM 2015.

6. Deliberations of Land Allotment/SoR Committee:

6.1 Land Allotment / SoR Committee constituted under Rule no. 4 of Major Port Authorities (fixation and Implementation of Scale of Rates, Fees and Conditions) Rules, 2021, deliberated in detail on methodology adopted for earlier revision of SoR 2017-22, studied SoR revisions carried out by Kolkata, JNPA, Cochin, Kandla and Chennai ports for lands outside custom bond areas, Market Research reports on rentals and sale published by National Housing Bank, CREDAI, Colliers, Knight Frank, 99 Acre, Global Property Guide and Cushman Wakefield and various parameters involved in revision of SoR. There is decline in Ready Reckoner rates of Mumbai when compared to Ready Reckoner rates of 2017 and 2022. The Market Research reports on rentals and sale obtained from sources who are considered experts in the field indicates that the rates post 2017-2018 has either stabilised or even undergone reduction in many places and one of the reason for the same being the Covid-19 pandemic and the consequent global recession. There has also been change in the work culture with adoption of work from home culture among Corporates resulting in reduction in requirement of office spaces. Even the land rates as per the latest Stamp Duty Ready Reckoner for the year 2022-2023 in the vicinity of MbPA area indicates a decline. The land area owned by the Port are comparatively less developed than the land area in the immediate vicinity or other parts of the city and taking into account the constraints in transfers/developments in the leased land, the land area under the Port commands lower market rate as compared to the rates of the land in the vicinity, except for the areas of Colaba and Mody Bay Estate/Ballard Estate. Taking all these factors into consideration, the SOR for the year 2022-2027 have undergone a downward revision based on the existing market conditions and market trends.

7. Joint Hearing:

The SoR approved by the Board in its meeting held on 27.03.2023 was posted on the MbPA website on 29.03.2023 and wide publicity given through 5 major local newspapers in different languages inviting comments from the tenants/lessees/stakeholders on the proposed SoR 2022-27 granting 15 days' time. Subsequently, a joint hearing through video conference was held on 13.04.2023 with the tenants/lessees/stakeholders through Video Conferencing on Zoom. Summary of comments received during the period 29.03.2023 to 12.04.2023 and response of MbPA on the same are tabulated at the end of this Notification. Similarly, the issues raised during the joint hearing held on 13.04.2023 and response of MbPA on the issues raised are also tabulated at the end of this Notification.

8. Scale of Rates for the period 01.10.2022 to 30.09.2027 effective from 01.06.2023:

Based on the above, the Board in its meeting held on 25.04.2023 approved the SoR for land, Structure, Special Wayleave, Service Charges and Temporary Use of MbPA lands/structures for the period 01.10.2022 to 30.09.2027 effective from 01.06.2023 as follows

8.1. SoR for MbPA Lands

Sr.No	RR Zone 2022-23	RR Division	Location	FMV for SoR 2022- 23 in Rs. Per sqm.	SoR per sqm. p.m. @6% return per annum as on 01.06.2023 Rs. Ps.
1	1/3B	COLABA	COLABA CAUSEWAY ROAD	281708.00	1408.54
2	1/3C	COLABA	OUTSIDE COLABA COLONY	284518.00	1422.59
3	1/4A	COLABA	PILOT BUNDER	247830.00	1239.15
4	1/6B	COLABA	SASOON DOCK NEAR GATE	248535.00	1242.68
5	1/6C	COLABA	APPOLO RECLM & SASOON DOCK	227194.00	1135.97
6	2/9A	FORT	MODY BAY	195730.00	978.65
7	2/12A	FORT	DHANRAJ MAHAL	221400.00	1107.00

Sr.No	RR Zone 2022-23	RR Division	Location	FMV for SoR 2022- 23 in Rs. Per sqm.	SoR per sqm. p.m. @6% return per annum as on 01.06.2023 Rs. Ps.
8	2/13B	FORT	G.P.O. YELLOWGATE P.D'MELLO RD	195933.00	979.67
9	2/22A	FORT	BALLARD ESTATE	201948.00	1009.74
10	2/23A	FORT	INDIRA DOCKS / BPX		
			COMMERCIAL ACTIVITIES	330000.00	1650.00
			PORT RELATED ACTIVIITES	152100.00	760.50
			EXISTING LETTINGS	195120.00	975.60
11	2/34A	FORT	INDIRA DOCKS (NORTH)	170730.00	853.65
12	3/35C	PRINCESS DOCK	ELPHINSTONE ESTATE (TPS)	85690.00	428.45
13	3/35D	PRINCESS DOCK	MANSON ROAD	80980.00	404.90
14	3/36A	PRINCESS DOCK	VICTORIA DOCK (VD)	142400.00	712.00
15	3/36B	PRINCESS DOCK	P&V DOCKS & UPTO WORKSHOP		
			COMMERCIAL ACTIVITIES	330000.00	1650.00
			PORT RELATED ACTIVIITES	152100.00	760.50
			EXISTING LETTINGS	83513.00	417.57
16	7/64B	CUMBALA HILL	CUMBALA HILL (CHAIRMAN BUNGLOW)	596770.00	2983.85
17	7/66G	CUMBALA HILL	CUMBALA HILL (ABUTTING TO ROAD)	596770.00	2983.85

Sr.No	RR Zone 2022-23	RR Division	Location	FMV for SoR 2022- 23 in Rs. Per sqm.	SoR per sqm. p.m. @6% return per annum as on 01.06.2023 Rs. Ps.
18	10/78G	MAZGOAN	EKTA NAGAR	103560.00	517.80
19	10/78H	MAZGOAN	AREA BTN LINK RD & P.D'MELLO RD	93043.00	465.22
20	10/79B	MAZGOAN	REAY ROAD GHODAPDEO	82810.00	414.05
21	10/79C	MAZGOAN	COTTON DEPOT (SOUTH)	70980.00	354.90
22	10/80A	MAZGOAN	DARUKHANA/MDL	88960.00	444.80
23	11/84J	PAREL SEWRI	COTTON GREEN KALACHOWKEY	111350.00	556.75
24	11/84H	PAREL SEWRI	SEWRI (WEST)	115844.00	579.22
25	11/84I	PAREL SEWRI	SEWRI B.D.D.CHAWL	119450.00	597.25
26	11/85B	PAREL SEWRI	COTTON DEPOT / COAL DEPOT UPTO HAY BUNDER	76788.00	383.94
27	11/85C	PAREL SEWRI	PART COTTON DEPOT & RCD	71558.00	357.79
28	11/86B	PAREL SEWRI	SEWRI (E)/STP/SEWRI FORT	77748.00	388.74
29	13/97A	WORLI	WORLI	229040.00	1145.20
30	14/101C	DADAR NAIGOAN	WADALA EAST - OIL COMPANIES	69470.00	347.35
31	14/101D	DADAR NAIGOAN	WADALA EAST - COLONIES	74930.00	374.65
32	15/105F	SALT PAN	SALT PAN	74400.00	372.00
33	16/110A	MATUNGA	WADALA NORTH, RAVALI JUNCTION	160230.00	801.15

Sr.No	RR Zone 2022-23	RR Division	Location	FMV for SoR 2022- 23 in Rs. Per sqm.	SoR per sqm. p.m. @6% return per annum as on 01.06.2023 Rs. Ps.
34	17/116A	MAHIM	MAHIM	149570.00	747.85
35	17/119	MAHIM BUNDER	MAHIM BUNDER	144933.00	724.67
36	90/419D	MAHUL	AMBAPADA, PIRPAU (MAHUL)	22880.00	114.40
37	96/436E	ANIK	PART OF THE MbPA PIPELINE ROAD IN RR 96/436E	64480.00	322.40
38	99/463A	BORLA	GOVANDI	156350.00	781.75
39	100/471C	DEONAR	GOVANDI	156350.00	781.75
40	JD Island	JAWAHAR DWEET	JAWAHAR DWEET	24628.00	123.14
41	26/81	TITWALA	TITWALA	23400.00	117.00
42	Karanja	KARANJA	KARANJA	2780.00	13.90
43	124/574	PALM ACRES	MULUND	102240.00	511.20
44	22/140A	BANDRA QUARTERS	BANDRA (WEST)	311160.00	1555.80
45	Thal	THAL	THAL- ALIBAUG	5160.00	25.80
46	Kanhoji Angre	KANHOJI ANGRE	ALIBAUG	5160.00	25.80

Notes:

- SoR is applicable for the period 1.10.2022 to 30.9.2027 effective from 1.6.2023.
- Annual escalation of 2% every October would be applicable on the SoR. First such escalation will be on 1.10.2023.
- This SoR is applicable to all Expired leases, Fifteen Monthly leases, Monthly Tenancies, Licenses & Leave Licenses, etc.
- The Reserve Price i.e. upfront premium or annual rent for renewal of expired leases and fresh allotments as per PGLM 2015 shall be based on this SoR.
- The above rates are for FSI 1.00 which would be the minimum chargeable and actual quantum of Rent/compensation will be worked out on the base rate and factor as may be recommended by the committee appointed for the purpose of applicability of FSI.

- (vi) SoR rates are exclusive of all Taxes (GST, Municipal Taxes, etc.), Service Charges, Penalties, and Interest etc. Same are separately payable by lessees/ tenants/ licensees, as may be applicable.
- (vii) The above rates are applicable for Non-Home Occupations. For existing Home occupations as on MbPA record, the rates would be 75% of the SoR. The rate for Mixed user being in the proportion of respective use.
- (viii) The rate applicable for Fish based user would be 50% of SoR.
- (ix) Rate for water bodies is applicable at 50% of the SoR rates of abutting land.
- (x) These rates are not applicable to occupations given on nominal rent basis.
- (xi) If any of the area outside custom bonded and bunder area in the respective RR Zone is used for Dock related use, then for such limited area the Dock Scale of Rates (DSR) would be applicable with recommendation of LAC and after approval of Board and not the above SoR.
- (xii) The applicable MCGM cesses will be billed separately over and above the SoR rates for monthly tenants and licenses for tenures less than 1 year or wherever applicable.
- (xiii) Whether demanded or not, rent/compensation/ license fee for a month would have to be paid by the tenants/lessees/ licensees/ occupants on or before the 15th day of each succeeding month and delayed payment of rent/compensation would attract levy of interest in term of Board's policy from time to time. The rate of interest chargeable at present is 15% per annum.
- (xiv) Board may review this SoR for implementation in terms of the Policy Guidelines issued by Ministry or Government from time to time.

8.1.2 SoR for Port Authority owned buildings/structure would be as follows:

The base lease rentals as on 01.06.2023 for the Port Authority Building/ Structures will be calculated based on the following formula:

Lease Rentals as on 01.06.2023 per sqm per month= Approved Land Lease Rentals applicable for the zone per sq.m per month + [6% X (80% of Cost of PT structure as given in the TABLE -1 based on the type of the building/structure x Percentage value after depreciation as given in TABLE-2 based on age of the Building and type of building)/ 12]

TABLE – 1
Cost of new construction as per types of construction
(based on Stamp Duty Reckoner, Mumbai 2022-23)

Sl.No	Type of Construction	Cost per Sq.Mtr. (Built-up) in Rs.
A)	R.C.C. Construction R.C.C. slabs, Brick / Concrete wall, joint with cement mortar, cement plastered wall, tiles flooring	30250
B)	Other Pukka Construction Load bearing Structure, R.C.C slab, Brick wall, cement plastered, kaccha or cement flooring	24544
C)	Semi/Half Pukka Construction Load bearing structure, wall made of brick or stone with mud, Shahbad floor, mud or other type of flooring, roof other than slab	17325

D)	Kaccha Construction Wall of Mud bricks, Mud Gilav, with roof of clay tiles/asbestos or tin	11117
----	--	-------

Notes:

- RCC Construction – RCC Frame structure, RCC slab, Brick/Concrete wall, joint with cement mortar, cement plastered wall, tiles flooring.
- Other Pucca Construction – Load bearing structure, RCC slab, Brick wall, inside and outside plaster, kaccha or cement flooring.
- Semi/Half Pukka Construction – Load bearing structure, wall made of brick or stone with mud, Shahbad floor, mud or other type of flooring roof other than slab.
- For Industrial shed less than 9 meter in Height 75% rate of RCC construction rate should be considered and for Industrial Shed more than 9 meter in Height 100% rate for RCC construction rate should be considered.
- For construction upto Jota (plinth) level 20% of new construction cost as per above table is to be considered.
- For construction upto stilt parking slab level 30% of new construction cost as per above table is to be considered.

TABLE-2
Depreciation rates of Buildings
(As per Stamp Duty Ready Reckoner, Mumbai, 2022-23)

Completed age of building in year	Value in percent after Depreciation	
	RCC structure / other Pukka Structures	Cessed Building, Half or Semi Pukka Structure & Kachha structure
0 to 2 years	100%	100%
Above 2 & upto 5 years	95%	95%
Above 5 years	After initial 5 year for every year 1% deprecation is to be considered. However maximum deduction available as per this shall be 70% of market value rate.	After initial 5 year for every year 1.5% deprecation is to be considered. However maximum deduction available as per this shall be 85% of market value rate.

Notes:

- Type of construction and percentage of depreciation based on age of structure will be considered for calculation of Port structure rentals as given in Table-1 and Table 2 respectively.
- The above lease rentals with annual escalation shall be for the period 01.10.2022 to 30.09.2027 and shall be effective for the period 01.06.2023 to 30.09.2027.
- The lease rent is subject to an increase @ 2% p.a. and the first such increase shall be effective from 1st October 2023.
- Rent will be worked out on the basis of actual Built- Up Area, subject to minimum of FSI 1.00.

- (v) Above rates are exclusive of all Taxes (GST, Municipal Taxes, etc.), Service Charges, Penalties, and Interest etc. Same are separately payable by lessees/ tenants/ licensees, as may be applicable.
- (vi) The rates are applicable to all the Expired Leases, Monthly Tenancies, Fifteen Monthly Leases, Licenses and Leave Licenses, etc. falling in the respective Ready Reckoner Zones.
- (vii) These rates are not applicable to occupations given on nominal rents to public bodies and for public amenities.
- (viii) If any of the area outside custom bonded and bunder area in the respective RR Zone is used for Port related use, then for such limited area, the Dock Scale of Rates (DSR) can be made applicable with recommendation of LAC and after approval of Board. This decision will be taken on case to case basis.
- (ix) Whether demanded or not, rent/ compensation/ license fee for a month would have to be paid by the tenants/ lessees/ licensees/ occupants on or before the 15th day of each succeeding month and delayed payment of rent/compensation would attract levy of interest in term of Board's policy from time to time. The rate of interest chargeable at present is 15% per annum.

8.1.3 Special Way Leave charges:

Sl. No	RR Zone 2022-23	RR Division	Location	SDRR 2022-23 Land Value per sqm. (FMV) in Rs.	Proposed SoR per sqm. p.m. @ 6% return per annum effective from 1.6.2023 Rs. Ps.
(A)	(B)	(C)	(D)	(E)	(F)
1	1/3B	COLABA	COLABA CAUSEWAY ROAD	267850.00	1339.25
2	1/3C	COLABA	OUTSIDE COLABA COLONY	229670.00	1148.35
3	1/4A	COLABA	PILOT BUNDER	147830.00	739.15
4	1/6B	COLABA	SASOON DOCK NEAR GATE	220860.00	1104.30
5	1/6C	COLABA	APPOLO RECLM & SASOON DOCK	192050.00	960.25
6	2/9A	FORT	MODY BAY	142690.00	713.45
7	2/12A	FORT	DHANRAJ MAHAL	221400.00	1107.00
8	2/13B	FORT	G.P.O. YELLOWGATE P.D'MELLO RD	176390.00	881.95
9	2/22A	FORT	BALLARD ESTATE	107650.00	538.25
10	2/23A	FORT	INDIRA DOCKS / BPX	104890.00	524.45

Sl. No	RR Zone 2022-23	RR Division	Location	SDRR 2022-23 Land Value per sqm. (FMV) in Rs.	Proposed SoR per sqm. p.m. @ 6% return per annum effective from 1.6.2023 Rs. Ps.
(A)	(B)	(C)	(D)	(E)	(F)
12	3/35C	PRINCESS DOCK	ELPHINSTONE ESTATE (TPS)	85690.00	428.45
13	3/35D	PRINCESS DOCK	MANSON ROAD	80840.00	404.20
14	3/36A	PRINCESS DOCK	VICTORIA DOCK (VD)	90430.00	452.15
15	3/36B	PRINCESS DOCK	P&V DOCKS & UPTO WORKSHOP	64860.00	324.30
16	7/64B	CUMBALA HILL	CUMBALA HILL (CHAIRMAN BUNGLOW)	219770.00	1098.85
17	7/66G	CUMBALA HILL	CUMBALA HILL (ABUTTING TO ROAD)	336000.00	1680.00
18	10/78G	MAZGOAN	EKTA NAGAR	61830.00	309.15
19	10/78H	MAZGOAN	AREA BTN LINK RD & P.D'MELLO RD	40650.00	203.25
20	10/79B	MAZGOAN	REAY ROAD GHODAPDEO	75510.00	377.55
21	10/79C	MAZGOAN	COTTON DEPOT (SOUTH)	31310.00	156.55
22	10/80A	MAZGOAN	DARUKHANA/MDL	36060.00	180.30
23	11/84J	PAREL SEWRI	COTTON GREEN KALACHOWKEY	88970.00	444.85
24	11/84H	PAREL SEWRI	SEWRI (WEST)	62980.00	314.90
25	11/84I	PAREL SEWRI	SEWRI B.D.D.CHAWL	96800.00	484.00

Sl. No	RR Zone 2022-23	RR Division	Location	SDRR 2022-23 Land Value per sqm. (FMV) in Rs.	Proposed SoR per sqm. p.m. @ 6% return per annum effective from 1.6.2023 Rs. Ps.
(A)	(B)	(C)	(D)	(E)	(F)
26	11/85B	PAREL SEWRI	COTTON DEPOT / COAL DEPOT UPTO HAY BUNDER	37090.00	185.45
27	11/85C	PAREL SEWRI	PART COTTON DEPOT & RCD	45080.00	225.40
28	11/86B	PAREL SEWRI	SEWRI (E)/STP/SEWRI FORT	35080.00	175.40
29	13/97A	WORLI	WORLI	144370.00	721.85
30	14/101C	DADAR NAIGOAN	WADALA EAST - OIL COMPANIES	42230.00	211.15
31	14/101D	DADAR NAIGOAN	WADALA EAST - COLONIES	74930.00	374.65
32	15/105F	SALT PAN	SALT PAN	53800.00	269.00
34	17/116A	MAHIM	MAHIM	141790.00	708.95
35	17/119	MAHIM BUNDER	MAHIM BUNDER	95970.00	479.85
36	90/419D	MAHUL	AMBAPADA, PIRPAU (MAHUL)	22880.00	114.40
37	96/436E	ANIK	PART OF THE MbPA PIPELINE ROAD IN RR 96/436E	47210.00	236.05
38	99/463A	BORLA	GOVANDI	69290.00	346.45
39	100/471C	DEONAR	GOVANDI	156350.00	781.75
40	JD Island	JAWAHAR DWEEP	JAWAHAR DWEEP	-	-
41	26/81	TITWALA	TITWALA	8600.00	43.00
42	Karanja	KARANJA	KARANJA	2780.00	13.90

Sl. No	RR Zone 2022-23	RR Division	Location	SDRR 2022-23 Land Value per sqm. (FMV) in Rs.	Proposed SoR per sqm. p.m. @ 6% return per annum effective from 1.6.2023 Rs. Ps.
(A)	(B)	(C)	(D)	(E)	(F)
43	124/574	PALM ACRES	MULUND	59950.00	299.75
44	22/140A	BANDRA QUARTERS	BANDRA (WEST)	282910.00	1414.55
45	Thal	THAL	THAL- ALIBAUG	3350.00	16.75
46	Kanhoji Angre	KANHOJI ANGRE	ALIBAUG	5160.00	25.80

SoR for Special Way Leave Rates for the pipelines laid on TRESTLE at Pir Pau for the period from 01.10.2022 to 30.09.2027 effective from 1.6.2023 to 30.9.2027.

Sl. No,	Period	Rate per sq. mtr. Per month for 300 mm dia pipeline laid at old Pir Pau Jetty and First Chemical Berth (Rs.)	Rate per sq. mtr. Per month for 300 mmdia pipeline laid at Second Chemical Berth (Rs.)
1.	1.06.2023 to 30.09.2023	265.49	309.57
2.	1.10.2023 to 30.09.2024	270.80	315.76
3.	1.10.2024 to 30.09.2025	276.21	322.08
4.	1.10.2025 to 30.09.2026	281.74	328.52
5.	1.10.2026 to 30.09.2027	287.37	335.09

Notes:

- Special Way Leave charges for land are calculated as per the Board's policy from time to time based on 6% per annum return on the land values as per the Stamp Duty Ready Reckoner for the year 2022-23 and would be applicable for the period from 01.10.2022 to 30.09.2027 effective from 1.6.2023 to 30.9.2027.
- Way leave fees will increase annually by 2% every October. First such 2% increase will be effected from 1.10.2023.
- Formula for calculation of Way Leave fee would be as follows:

(a) Way Leave Fee per sq.m.per month on land

= length of pipeline X $\frac{(\text{External dia including insulation} + 600 \text{ mm})}{1000}$ X Rate applicable
mm

(subject to a minimum of width one meter)

(b) Way Leave Fee per month applicable for pipeline on trestle

= length of pipeline X $\frac{(\text{External dia in mm including insulation})}{300 \text{ mm}}$ X Rate applicable

(c) Way Leave Fee per month for Marine Loading Arm

= Length of loading Arm on Trestle X $\frac{(\text{External dia including insulation})}{300 \text{ mm}}$ X Rate applicable

+ (Area of base plate + Area of Control Panel & Hydraulic Power Pack) X Rate applicable

- (iv) SoR rates are exclusive of all Taxes (GST, Taxes, etc.), Penalties, and Interest, etc. Same are separately payable by lessees, as may be applicable.
- (v) The Special Way Leave fee for Optical Fibre Cable will be applicable as per the above rates but taking the width subject to a minimum of half a meter for computation of area instead of 1 mtr.
- (vi) In the event of failure to achieve Minimum Guarantee Throughput (MGT) wherever applicable, the user should compensate the port by paying additional wharfage charges for the shortfall quantity.
- (vii) **Transfer** – The Way Leave permission are not transferable. In case of specific requirement/request of the user, the Board has discretion to grant or reject such request. The cases of past transfers, billed Arrears and the differential dues on account of the prevailing SoR at the time of transfer if applicable, shall be paid by the transferee. In addition, transfer fee equivalent to 12 months' way leave fee as per prevailing SoR would be leviable where prior permission is sought and the unauthorized assignment/transfer of way leave permissions in the past due to merger, amalgamation, etc. be regularized by levy of 24 months revised way leave fee as per prevailing SoR.
- (viii) In case of multi-layer stacks, the physical area occupied by the multilayer pipelines/ conveyor stacks shall be considered and the respective users shall be billed accordingly.
- (ix) Other aspect related to Right of Way permission will be dealt with as per Policy approved by the Board from time to time.
- (x) Charges for way leave for occupation of air space, underground, seabed and below seabed will be 50% of above rate. License fee for water area would be 50% of the license fee of abutting land. The way leave fee for over-ground service shall be based on full rate.
- (xi) The re-fixation of the Way Leave from 01.06.2023 would be subject to maximum of 150% of the Way Leave charges as on 31.05.2023.
- (xii) In case, the prevalent way leave fee is higher than the rate worked out on the above lines, the higher prevalent rate will be continued till the rate as per the current SoR exceeds the said rate, whereafter it would be subject to 2% increase p.a.
- (xiii) Wherever stamp duty RR values are not available, land values obtained by the Valuer will be considered.
- (xiv) Whenever there are existing agreement/MoU which are still subsisting, the agreement conditions will be prevalent over the new conditions. Whenever there are conflicts, such specific cases will be dealt on case to case basis with LAC recommendations and approval of the Board.
- (xv) Rates for way leave fee on trestle (i.e. trestle of OPP, FCB and SCB) applicable for the period from 01.10.2017 to 30.09.2022 as approved by the Board TR No.109 dated 20.08.2019 would continue to apply for the period from 01.10.2022 to 30.09.2027 effective from 01.06.2023 with 2% annual escalation. The said rates will be revised every 5 years or as decided by the Board from time to time.
- (xvi) The charges such as Supervision, Security Deposit, agreement charges, etc. on land and trestle (i.e. trestle of OPP, FCB, SCB and TCB) will be applicable as approved by the Board vide TR 109 of 2019 from

01.10.2022 to 30.09.2027 effective from 01.06.2023 to 30.09.2027, and will be revised every five years or as decided by the Board from time to time.

- (xvii) Rate applicable for loop length of pipeline on trestle – The rate for loop length of pipeline laid on trestle are taken at 60% of Special Way Leave fee rate of respective trestle in accordance with TR No.257 dated 27.03.2015.
- (xviii) Wherever, there is limited space/limited width of land available and multiple contenders in such cases the allotment of Right of Way leave will be by the tender-cum-auction on the basis of MGT or cargo related Way Leave or Special Way Leave fees for Non-Cargo related occupations. Any fresh grant of Way Leave on new terms for the pipelines to be laid on the trestle of OPP, FCB & SCB at Pir Pau will be with Board's approval.
- (xix) Way Leave/ Special Way Leave fee, whether demanded or not, shall be paid by the lessees/ tenants/ licensees on or before the 15th day of each month succeeding that for which Way Leave / Special Way Leave fee is due. Delayed payment of rent/compensation would attract levy of interest in term of Board's policy from time to time. The rate of interest chargeable at present is 15% per annum.
- (xx) In case of the Ready Reckoner zones not covered in the above table, the rates applicable will be as per prevailing Ready Reckoner zone, in which Way Leave falls.

8.1.4 Service Charges:

The Revised Service Charge applicable to let out plots for the period 01.10.2022 to 30.09.2027 effective from 01.06.2023 to 30.9.2027 shall be Rs.2.00 per sq. mtr. per month of the let out plot area.

8.1.5 Charges for temporary use of Port Authority land/structures:

Charges for temporary use of Port Authority land/structures for the period 01.10.2022 to 30.09.2027 effective from 01.06.2023 with 2% annual escalation in every October shall be as follows:

a)	Land area with prior permission	Rs. 16.00 per sqm per day for initial 90 days and two times the said amount for the subsequent 90 days.
b)	Land area without prior permission	Rs. 48.00 per sqm per day
c)	Covered or structure area with prior permission	Rs. 20.00 per sqm per day for initial 90 days and two times the said amount for the subsequent 90 days.
d)	Covered or structure area without prior permission	Rs. 60.00 per sqm per day

The said rate shall be for temporary use of Port Authority land/structures with prior permission in writing of the Traffic Manager or Estate Manager or any other officer empowered by the Board for the time being and the levy of the charges may be done by the respective department. For use of Port Authority land/structures without prior permission or after expiry of the permission granted, the charges applicable would be three times the said rate. Permission for temporary use of Port Authority land/structures shall be granted for a maximum period of

90 days only at a time and for the period beyond 90 days the user would be liable to pay the charges at twice the rate for a period upto further maximum period of 90 days. The charges shall be levied on storage of all goods/materials or rubbish or making any other temporary use of any such land or building for which no scale of charges is otherwise provided. Permission granted for temporary use of premises shall not be deemed to create a tenancy or other like interest in favour of the occupant, who will be liable to be evicted at any time without notice. The Authority is under no liability whatsoever in respect of any goods stored, or encroachments made on their premises and may remove them without incurring any liability and without prejudice to their rights to recover the charges or any equivalent amount by way of compensation or for wrongful use and occupation of the Authority's premises.

Note:

- (i) Permission for temporary use of Port Authority land/structure shall be granted for a maximum period of 90 days only and shall be levied on storage of all goods/materials or rubbish or making any other temporary use of any such land or building for which no scale of charges is otherwise provided. In case of exigencies the permission can be extended for a period of further 90 days but at twice the rate applicable for the initial 90 days.
- (ii) Activities such as art exhibitions, cultural programme, fairs, social gatherings, etc. which involve utilization of space for limited period, these can be permitted at 10% of the rate applicable for temporary use of land with prior permission provided the space to be used is vacant.
- (iii) A nominal rate of Rs.100/-per day or such amount as may be revised by the Board from time to time may be charged for temporary use of land for public celebration of Religious festivals.
- (iv) Permission granted shall be for temporary use of land or building only. Permission shall not be deemed to create a tenancy or other like interest in favour of occupant, who will be liable to be evicted at any time without notice.
- (v) The Port Authority is under no liability whatsoever in respect of any goods stored or encroachments made on their premises and may remove them without incurring any liability and without prejudice to their rights to recover the abovementioned charges or any equivalent amount by way of compensation or for wrongful use and occupation of the Port Authority premises.
- (vi) Any unauthorised occupation or encroachment on Port Authority land, Roads, Footpaths, vacant land, Building, structure without due approval would be liable to be removed on expiry of 12 hours' notice in terms of the provisions of Bye Law No.9 of the MbPA General Bye Law at it exists today or such other regulations as would be framed under the provisions of Major Port Authorities Act, 2021, and the charges towards such unauthorised storage and expenses so incurred on removals would be liable to be recovered from the unauthorised occupant.
- (vii) Use of Port Authority land/structure for any activity involving beautification of the Port area/assets or enhancement of the brand value of the Port could also be permitted at a nominal charges of Rs.100/- per annum for such period as may be decided by the Board provided the space to be used is vacant. Any such permission will be with the approval of the Board.

8.1.6 The factors for fixation of Reserve Price for fresh allotment based on usage would be as follows:

- (i) Commercial/Office – 110% of SoR;
- (ii) Residential- 100% of SoR;
- (iii) Industrial / Warehousing – 80% of SoR (For Port Authority structures - 100% of the said rate for Ground floor, 90% for first floor, 80% for second floor, 50% third floor and beyond);
- (iv) Petrol Pump/Service station/LPG, CNG Station – 70% of SoR;

- (v) Educational Institutions: 50% of SoR for those run by Govt. and 100% of SoR for those run by other than Govt.;
- (vi) Health Facilities & Public Utilities run by Government Organisations and local bodies – 50% of SoR;
- (vii) Open Ground, Sports complex, (only 10% of construction is allowed) – 40% of SoR for open area only;
- (viii) Parking – 40% of SoR;
- (ix) Open plot for Commercial Activities where no construction is allowed – 40% of SoR for open area only ;
- (x) Startups – 50% of SoR in identified location & 25% of SoR for Incubation Centre for Startups;
- (xi) Fish based / related activities – 50% of SoR;
- (xii) For setting up of Environment Friendly Bio-fuel facility – 30% of SoR;
- (xiii) In case of non-responsive bids, Land Allotment Committee may lower the Reserve Price by 10% at a time (including terms and conditions thereof), for sufficient reasons to be recorded in writing;
- (xiv) In case a higher rate is discovered in a successful auction of land/building, the said rate would become the base rate for subsequent bids for land/building falling in the said Ready Reckoner Zone for similar use/classification.

Smt. P. M. DABHOLKAR (I/C),
Financial Advisor and Chief Accounts Officer.

SUMMARY OF COMMENTS AND MBPA'S RESPONSE TO THE COMMENTS

The comments received on the proposed revision of SoR 2022-2027 received during the period 29.03.2023 to 12.03.2023 (15 days) and MbPA's response/reply to the same has been summarised as follows:

Sr.No.	Comments	MbPA Reply
1	SOR Should be minimum Oppose New Rent NOT AGREEABLE The proposed rate sor marked as ' Fair Market Value ' is just absurd, there are no such rates anywhere in these area / location. I think the government / authority needs to work better on the pricing and affordability both ways. The price is absolutely not a Fair Market Value. We do not approve the proposed SOR rates The proposed rates are arbitrary, exorbitant & not acceptable I/We object the proposed SoR rates 2022-2027. I/We do not approve the proposed SOR rates. The proposed Rental Compensation is very steep, and totally unaffordable for tenants in the area. Sor must be 0.4% as per Supreme court order. We oppose new hike from 2012 - 2023. on Prima Facie this is illegal and bad in law and exorbitant increase is not justified. SHUD NOT BE REVISED, NOT ACCEPTABLE The increase in Rent on a year to year basis is already laid down through the Supreme Court Order and is being paid by us regularly which needs not to be revised any further. Vehemently object to such an increase in the Rent as it would make our existence unviable as a Tenant causing imminent closure being a MSME. Intended to take plot on lease/license tenants are entrepreneurs. progress happens when there is peace. new sor proposed is exorbitant, arbitary and disturbing the peace. request to revert to compromise formula of 2004 ratified by SC. tenants derive their livelihood from their work and workplace, live and let live.	At the outset taking into account the concerns of the tenants/ lessees/ stakeholder, the proposed SoR 2022-2027 on the average scale is lower by 51% compared to the rates as per SoR 2017-2022. LAC/SoR Committee has recommended upto 69% lower rates compared to rates as per SoR 2017-22 depending on the prevailing conditions existing in respective RR Zones. The claim of the proposed SoR being arbitrary and unreasonable and not sustainable are vague and unsubstantiated comments without any supportive facts/figures/ documents and are devoid of merits. MbPA is autonomous organisation under Ministry of Ports, Shipping and Waterways and is bound by the cabinet approved PGLM 2015 guidelines issued under Section 111 of the Major Port Trust Act 1963. In terms of the Cabinet approved PGLM 2015, the SoR has to be revised every 5 years. Even previous revisions approved by the Board have been for five years. The revisions are contemplated to ensure that the owner of the land gets suitably compensated against the inflationary trends. The proposed SoR are very fair and reasonable.

Sr.No.	Comments	MbPA Reply
	Too much exorbitant rate almost twenty five times of the present rate. Very exorbitant rates. It is contrary to the judgement by the Hon'ble Supreme Court of India. Previous requisition regarding SOR is pending in Bombay High Court. It is totally unworkable. If imposed 6% rate of return on market value, on Lower Middle Class Tenant, indirectly you are Killing us. Rates are very high. Please consider implementation of revised rents if required on a practical basis and keeping in view the various judgments passed by Apex Court as well as other Courts pertaining to litigations between tenants and MbPT. Also pls fulfill your obligations as contemplated in the Compromise Proposal. If tenant will earn, he has no problem to pay reasonable revised rent. Pls consider on humanitarian grounds. Give permissions to tenants wherein maximum potential of the property can be achieved thereafter which the same can be shared with you. I/ we state that the said Proposal under reply inter alia revising/ fixing the scale of rates of lease rents for the period from 1.10.2022 till 30.09.2027, and being made effective from 1.06.2023 - based on 6% rate of return on the market value of land for 2022; - is not only exorbitant and steep, but the same is also is ex-facie illegal, bad in law and contrary to every ratio, principle and directions of the Hon'ble Supreme Court under its judgement dated 13.01.2004 delivered in Jamshed Hormusji Wadia v. The Board of Trustees of the Port of Mumbai & Anr., (2004) 3 SCC 214 (Wadia's case); and is also ultra vires of Article 14 of the Constitution. The proposed revised scale of rent is in violation of the decision held by the Hon'ble Supreme Court in the Jamshed Hormusji Wadia Vs. The Board of Trustees of the Port of Mumbai & Anr., (2004) 3 SCC 214, ("Jamshed H. Wadia's case"). It may also be recorded that the ready reckoner rates of the State Government cannot be made the parameter based on which rents are to be collected. If that be so, then the state government lease renewal is done at merely 0.25 % of that rate. Rate for water bodies is applicable at 50% of the SoR of abutting land.	At the further outset, the Supreme Court had in its judgement dated 13.01.2004 resolved the dispute with regard to the rent under the compromise proposal only for the period upto 31.03.2000. The exact wordings are as follows: "by this judgement and in these proceedings the controversy as to the rates of rent applicable to the lessees shall be deemed to have been resolved for the period 01.04.1994 to 31.03.2000". Thus the contention that MbPA cannot revise letting rates to the letout plots (situated outside the port limits of the Mumbai port) is fallacious contention. The proposed SoR as approved by the Board for the period 2022-2027 is strictly in accordance with the provisions of cabinet approved Policy Guidelines for Land Management by Major Ports, 2015 (PGLM 2015) with the rate of return on land value being pegged at the barest minimum of 6% per annum with the annual escalation being pegged at the barest minimum of 2% as against the 10% return per annum and 4% annual escalation under the compromise proposals upheld by the Hon. Supreme Court under the Wadia Judgement. The Fair Market Value has been arrived at by Valuer Shri Avinash Pendse an expert and reputed IBBI approved valuer on the Bombay High Court Panel based on actual sale instances obtained from the office of the Registrar of Assurances and by applying adjustment factors based on leasehold nature, the locality, attributes, amenities, etc and hence the proposed SoR is fair & reasonable and there is therefore no question of withdrawal of the proposed SoR.

Sr.No.	Comments	MbPA Reply
	The Schedule of rent/lease charges has to be decided in accordance with the COMPROMISE PROPOSAL sanctioned by The Hon'ble Supreme Court in case of Jamshed H. Wadia vs. The Board of Trustee of the Port of Bombay (2004) (3) SCC 214 and based on the principles of the said judgement, the rates need to be computed with 4% yearly enhancement or in any event, they can be decided now by working out a fresh compromise proposal by and between the tenants/ lessees on the one hand and the Port Trust on the other. The proposed revised scale of rent is contrary to the terms of the Trustee Resolution No.204 of 1997 and Trustee Resolution No. 31 of 2004. Further benchmark rate of 6% return needs to be tested to prevailing market rate of rentals for premises less depreciation for building which is not done. The proposed revision of rate of rent is exorbitant and has no basis whatsoever. No clarification or substantiation has been provided by the MPA as to on what basis such a high rate of revision of rent is sought to be imposed. I/ we with utmost vehemence call upon to you to forthwith withdraw the Proposal under reply, and (not in any manner whatsoever) act upon the same; failing which we shall be constrained to challenge the same by initiating appropriate proceedings against you – which would entirely be at your sole risk and to cost and consequences.	
2	That the proposed revised scale of rates for home/non-commercial cannot be the same as non-home/commercial occupants.	The contention is incorrect. In the proposed SoR for existing Home occupations as on MbPA record, the rates would be 75% of the SoR. The rate for Mixed user being in the proportion of respective use. (Kindly refer Note No. (viii) under SoR Table (Para 2 of Proposed SoR 2022-27))
3	Any revision in rent cannot be unilateral and has to be done with consultation and/or the approval of the lessee. We request you to keep all action in abeyance till a meeting is held and policy is arrived at. That we seek personal hearing in the matter so as to explain why this rates are unreasonable, arbitrary and unaffordable.	A joint hearing through video conference with stakeholders was held on 13.04.2023. The comment received and MbPA response would be placed before Board and the SoR as approved by the Board would be notified for implementation.

Sr.No.	Comments	MbPA Reply
	We request you to kindly have a separate hearing for our Unit/RR Zone so that the distinguishing factors and problems of the tenants of the Zone would be specifically discussed before the passing of any scale of rates.	
4	The newly proposed matter is Subjudice before the Bombay High Court in more than 50 Writ Petitions pending the outcome. Pertinently, the scale or rent earlier issued by you has been challenged by various persons and entities before the Hon'ble Bombay High Court. In fact, we have also challenged the same by way of Writ Petition (L) No. 8944 of 2023. Hence, issuing of any revised scale of rent is a matter sub judice and thus cannot be revised until adjudicated upon by the Hon'ble Bombay High Court. The Proposal under reply (based on 6% rate of return on the market values of lands) - is also similar to the earlier SORs for 2012-2017 and for 2017 to 2022 (as applicable to my/ our plot; and fixed by the Tariff Authority for Major Ports); - and for which I/ we have already submitted my/ our reply to you and TAMP for rejection thereof. Moreover, and upon the said for SOR 2012-2017 and for SOR 2017-2022 (as proposed by MbPT) being approved and fixed by TAMP; the same have been challenged under a batch of about 30 Writ Petitions before the Hon'ble Bombay High Court including my/our Writ Petition No.3143 of 2022. I/ we state that my/ our comments/ objections to the present Proposal in reply - are similar and identical to my/ our earlier comments/ objections/ contentions as raised in my/ our replies already submitted to you; and also identical to my/ our contentions under my/ our Writ Petition No.3143 of 2022 Therefore, in order to avoid repetition of my/ our objections; I/ we adopt all our comments/ contentions/ averments under all my/ our reply/ies addressed to you earlier - seeking rejection of your earlier SORs from 2012 onwards; and also all my/ our contentions under my/ our said Writ Petition No. 3143 of 2022 ; - as if the same forms part of the present reply. CONVERSION OF LEASE HOLD LAND TO FREE HOLD LAND WOULD RID LEASEHOLDERS OF	No comments are warranted on the matters which are not related to SoR 2022-27 and on issues which are subjudice. Fair Market Value has been arrived at by Shri Avinash Pendse an expert and reputed IBBI approved valuer on the Bombay High Court Panel based on actual sale instances obtained from the office of the Registrar of Assurances and by applying adjustment factors based on leasehold nature, the locality, attributes, amenities, etc and hence the proposed SoR is fair & reasonable

Sr.No.	Comments	MbPA Reply
	THE AGONY & FRUSTRATION CAUSED BY ENDLESS LEGAL HASSLES CAST UPON HELPLESS TENANTS AND CITIZENS Refer Consumer Complaint no 35 of 2023 scheduled for admission on 12 April 2023. Detailed explanation is contained therein alongwith note on admission which will be serviced to the MUMBAI PORT AUTHORITY shortly. Further issues on transmission of tenancy abated for long still remains pending on agenda while the MPA's docks team is still fuming over the demolition and removal of unauthorised occupancies of slums which has caused irreparable damage and alteration to the prevailing rental structure than what is presumed by TAMP. Serious grievances for certain sections of tenancies remain unaddressed with unethical, unfair and unjust scale which equates lease holders with PURCHASED MONTHLY TENANCIES like in this case. SoR is bad in law and deserves to be quashed for monthly tenancies particularly those affected by the inhospitable environment created by hutments and the drastic change in rentals caused by lack of infrastructural facilities including roads, street lighting, drainage, sanitation, drinking water, electrical power substation, internet connectivity, public transport, banking infrastructure, security environment amongst others.	
5	The rates of rent under your own "compromise proposals" (as upheld under Wadia's case) - are applicable to the my/ our plot (situated outside the port limits of the Mumbai port) – beyond 30th September 2012 till 31st March 2024; and therefore, till such time, no question arises of framing any other SOR, in terms of the PGLM 2015, and/ or otherwise by applying any other policy; In any event, you are not entitled to frame, fix, levy, and/ or charge any SOR - contrary to the ratios and principles laid down by the Hon'ble Supreme Court in Wadia's Case (vis-à-vis State and its Instrumentalities framing/ revision their rates of rent); MbPT/ MbPA have willfully circumvented, and have failed to adhere to the express ratios, principles and directions of the Hon'ble Supreme court in Wadia's case; The Central Government had erred in extending the applicability of the PGLM 2015 to the township area of the Mumbai port (which are situated outside the limits of	Tbhe Judgement of the Supreme Court of India in SLP(C) No.5559 of 2001, Jamshed Hormusji Wadia V/s. Board of Trustees of the Port of Bombay reported in AIR (2004) 3 SCC P-214 (hereinafter referred to for the sake of convenience as "the Wadia Judgement") has ratified and upheld the Board's Compromise Proposals subject to modifications contained in the said Judgement and in Para 6 of Supreme Court Judgement has clearly provided that "notwithstanding the fixation of letting rates for 20 years for good and sufficient reasons, Board may review and revise the letting rates". Therefore, the comment and issues raised herein that the rates approved by Hon'ble Supreme Court is valid upto 31.03.2024 is completely false and has

Sr.No.	Comments	MbPA Reply
	the Mumbai port, and where my/ our said Plot/s are situated); In any event, the PGLM 2015, which prescribes a procedure for revision of rates of lease rent in line with hypothetical market values of open land - is bad in law, and violative of Article 14 of the Constitution.	no legal validity. Board vide it's resolution i.e. TR No.204 of 1997 has approved that "Approval is accorded to grant of fresh lease under the compromise proposals in case of expired leases from 1.4.1994 with 4% annual increase in rents every October till expiry of the fresh lease." Hon'ble Supreme Court in the said Wadia Judgement (at page 229 of the SCC placita f-g) clearly ratified and upheld Board's Compromise Proposals which inter-alia states that in case of expired leases, a fresh lease on new terms shall be at the sole discretion of the Board. Therefore, Board of Mumbai Port Authorities, in law, entitled to review and revise SoR w.e.f.01.10.2012. MbPA being autonomous body under Major Port Authority Act, 2021 (erstwhile Major Port Trust Act 1963) is bound to follow Policies/Guidelines issued by Government of India from time to time. MbPA proposed SoR is based on PGLM 2015 issued by Cabinet, GoI and principles laid down in Wadia Judgement. As per the MPA Act, 2021, the Board is the competent Authority for fixation of SoR and TAMP has no role in the matter. The proposed SoR is fair and reasonable and is in terms of the provision of PGLM and also conforming to the ratio laid down in the Wadia Judgement.
6	At the outset, it may be recorded that the purported powers conferred upon The Board of Mumbai Port Authority u/s. 27(1)(b) & 22(2) of The Major Ports Authorities Act, 2021 r/w Clause. 7.5 of The Tariff Policy for Major Ports Authority, 2021 and Rule. 4 of the Major Ports Authorities (Masterplan and Application of Funds from non-port related use), 2021 are misconceived in so far as the purported powers under the said provisions are	The contentions are based on misplaced interpretation of facts and it is denied that any issue arising out of the MPA Act, 2021 r/w Clause 7.5 of the Tariff Policy for Major Ports Authority, 2021 and Rule 4 of the Major Ports Authorities Master Plan and Application of Funds from non-port

Sr.No.	Comments	MbPA Reply
	subject to judicial scrutiny and review and the powers have been impugned before the Hon'ble High Court of Judicature at Bombay. In the circumstances, it would be in the fitness of things if you desist from passing any Scale of Rates pending the adjudication of such an issue before the Hon'ble Constitutional Court.	related is pending adjudication before the Hon'ble Constitutional Court.
7	Moreover, in our case, due to the existence of a super structure which is protected under the section 4(4A) of the Rent Act, the new schedule cannot be allowed as the Rent Act permits only an increase of 4% year on year with such further permitted increases as considered reasonable. We say that, our predecessor in title were residents/occupants since 1943 and now we are and therefore, we says and submits that we were lawful tenants/occupants of the suit premises and are protected by the provisions of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 and/or by the Maharashtra Rent Control Act, 1999. We say that, the decree obtained by the Plaintiffs in the above suit is not binding upon the present Occupants/Obstructionists.	Neither the provisions of Bombay Rent, Hotel and Lodging House Rates Control Act, 1947 nor the Maharashtra Rent Control Act, 1999 are applicable to the let out lands of MbPA. No comments are warranted on issues not relating to SoR 2022-2027.
8	In view of the extremely short time given to us to submit our reply, we may have made inadvertent errors and/or omissions in the above points and we reserve our right to make suitable amendments/corrections/additions/alterations to the same.	Sufficient time was granted in accordance with Tariff Policy for Major Port Authorities 2021 and there is no question of grant of additional time.
9	Since our detailed objection is not able to fit in the limited space in your form. Our prima facie objection to the proposed SOR rates may be noted and we may be permitted to submit our detailed objections when required.	Google form has sufficient space to offer comments on proposed SoR 2022-27 and representations through email and Hard Copy have also been accepted.
10	Certain properties have their own unique characteristics & circumstances, drawbacks & challenges, and hence, the valuation of such properties vis-vis other properties, in the same area / R.R.Zone and based on the classification provided in the SDRR, will not be the same and will be drastically different. By merely valuing all properties by using the yard stick of location, a fair and legitimate valuation has not been	The claim of the incorrect or erroneous valuation are vague and unsubstantiated comments without any supportive facts/figures/ documents. It can be seen from the land values and rates adopted for proposed SoR that for each different RR Zones, the land values and SoR are different based on the location, attributes and values derived

Sr.No.	Comments	MbPA Reply
	made and subsequently, the S.O.R computed, is erroneous & unfair. In our case, the valuation and subsequently the rates demanded are absolutely incorrect and erroneous, reasons for which have been provided. The R.R.Zone in which the Foreshore Plots are purportedly located, is incorrect. We state that this is irrational & unfair and object to the same on the grounds that water bodies which cannot be put to any use, especially due to circumstances beyond the lessees' control, cannot be valued in relation to the abutting land, which may be usable developable and have access to civic amenities, utilities, and facilities. Valuation based on proximity & location is incorrect, unfair & erroneous. It is also requested that clarity be got in so far as the amounts are concerned pertaining to each of the units owned by the Port Trust, separately. We suggest that every property would have a different calculation based on the merits of the matter of such property and hence a generic working and a one-size-fits-all approach is neither possible nor desirable. It is also a matter of concern as to how the residents residing on land allegedly owned by BPT since 80-100 years are served these notices with just about a couple of weeks' time to respond.	from actual sale instances and after applying adjustment factor and applying the standard reduction by the Valuer in arriving at the land values. Thus the contention that one-size-fits all approach is adopted is strongly denied. As far as water bodies are concerned, it has been clearly brought out that the rate in respect of water area would be 50% of the SoR for abutting land in accordance with the provisions of PGLM 2015.
11	The divisions of RR Zones and the locations are quite different from the divisions and zones carved out in the earlier proposals. The comments sought to be invited by you also seem to be a singular public notice issued across all units and there is no spate notification issued seeking objections for our zone. Do kindly appreciate that each zone/ unit of MbPA land has distinguishing features and different sets of problems which ought to be addressed independently and there cannot be a one size fits all formula for MbPA Land across the various RR Zones. For instance, our RR Zone No.1/6A which is mentioned on the Demand Notice dt . 12.10.22 sent to us for rates from 2012-17 & 2017-22 and is not reflecting as 1/6A in the SOR for 2022-2027.	In the SDRR 2022-23, state Government has reorganised its RR Zones and created new zones for MbPA lands and hence there is mismatch in RR Zones considered in the current SoR 2017-22 and proposed SoR 2022-27.
12	The storage charges are proposed to be revised from Rs. 1/- per sq.mtr.per month to Rs.16/- per sq.mtr.per month for authorized permission and for unauthorized permission rate of Rs.4.50 per sq.mtr.per month to	Charges for Temporary occupation per sq.m. per month were last revised in 1986. In the proposed revision of SoR 2022-27, 25% increase on the rates

Sr.No.	Comments	MbPA Reply
	Rs.48/• per sq.mtr.per month w.e.f. 1.10.22 to 30.9.2027 effective from 1.6.2023. The said rate of storage charges framed by MbPA is exorbitant without following due process Of law. We therefore, deny said revision in toto.	arrived at on the basis of 50% of the average of SoR of land in all RR Zones has been applied. Hence, temporary occupation charges are not exorbitant and are reasonable.
13	Specific Comments from BPCL 1) It is mentioned in the Proposed SOR that the Board of MbPA has approved the Scale of Rates for the period 01.10.2022 to 30.09.2027 effective from 01.06.2023 based on the Fair Market Value derived and recommended by Shri. Avinash Pendse, Govt. approved Valuer and accepted and recommended by LAC/ SoR Committee. However, neither the Valuation Report nor the LAC/Committee Report has been disclosed by MbPA. Without these documents, on the basis of which the proposed SOR has been fixed, it would not be possible to give comments/remarks on the proposed SOR. Without sharing these documents, the exercise of seeking remarks/comments is a mere formality which will not serve any purpose and against the principles of Natural Justice. 2) SOR has been proposed at the rate of 6% return per annum on Fair Market value of land effective from 01.06.2023. The return of 6% of the Fair Market Value is very high and may not fetch the rental at the rate of SOR as proposed. It is worth mentioning here that as per Master Circular on Policy of Management of Railways Land, rent for Government Bodies /Government department for their own use, has been considered 1.5% of Market Value of Land, where market value means circle rate/ ready reckoner rate or guidance value of relevant area. 3) The SOR has been proposed considering the FSI as 1.0 and it has been provided in the publication that this rate shall be minimum chargeable. However, most of the lands leased to BPCL are with an inherent restriction on FSI and BPCL is prevented from utilizing the full potential of the land. Hence, without considering the nature of land and its restricted usage, fixing the SOR with minimum FSI as 1.0 is incorrect and requires reconsideration. 4) It has been provided in the publication that the quantum of Rent/compensation will be worked out on the base rate and factor as may be recommended by the committee appointed for the purpose of applicability of FSI. Until	BR No. 296 dated 27.03.2023 was published on MbPA website viz. www.mumbaiport.gov.in is self explanatory and contains detailed proposal alongwith methodology for Revision of SoR 2022-27. Port lands are governed by PGLM 2015 issued by Cabinet whereas Railway lands are governed by a separate policy issued Cabinet. MbPA is bound by the cabinet approved PGLM 2015 guidelines issued under Section 111 of the Major Port Trust Act 1963. The proposed SoR as approved by the Board for the period 2022-2027 is strictly in accordance with the provisions of cabinet approved Policy Guidelines for Land Management by Major Ports, 2015 (PGLM 2015) with the rate of return on land value being pegged at the barest minimum of 6% per annum with the annual escalation being pegged at the barest minimum of 2% as against the 10% return per annum and 4% annual escalation under the compromise proposals upheld by the Hon. Supreme Court under the Wadia Judgement. The Fair Market Value has been arrived at by Shri Avinash Pendse an expert and reputed valuer on the Bombay High Court Panel based on actual sale instances obtained from the office of the Registrar of Assurances and by applying adjustment factors based on leasehold nature, the locality, attributes, amenities, etc and hence the proposed SoR is fair & reasonable and

Sr.No.	Comments	MbPA Reply
	the recommendations of this committee are in place, the Authority ought not have fixed the SOR with minimum FSI as 1.0. The inherent restrictions in the usage of land must be taken into consideration for proportionate reduction in rent wherever FSI is restricted. 5) It has been provided that an annual escalation of 2% would be applicable on the SoR. However, considering the nature and usage of lands occupied by BPCL, the annual escalation at the rate of 2% is exorbitant and requires reconsideration.	there is therefore no question of withdrawal of the proposed SoR. The business model of Oil Company envisages utilisation of such FSI. It would not be out of place to note that the oil tanks which occupy these lands have heights equivalent in volume to about a 3 storeyed building and have to maintain safety distance in terms of the norms governing such installations and consequently there is restriction in FSI. The land owning authority cannot be deprived of the potential of the land on account of such restriction. No comments are warranted on any matters which are not related to SoR 2022-27.
14	Specific Comments from HPCL leased lands at Mazgaon and Sewree Please note that we are submitting our comments specifically for the Plots pertaining to MbPA leased lands at Mazgaon & Sewree. The proposed rates for 2022-2027 are found to be much higher than the regular compensation being raised and as such not acceptable to us. We wish to provide brief comments without prejudice as under: 1. The proposed rates are found to be exorbitant and without rational or justification and therefore, cannot be accepted. The instances or nature of transaction relied upon as mentioned in the board resolution no 296 dated 27.03.2023, cannot be considered for reasons detailed herein above. 2. The proposed rates are 21 times higher than the regular billing rates which we are being paid. Please note that these revised rentals will directly affect our unit product cost and consequently our market share and sales. Therefore, proposed rates cannot be accepted. 3. The valuation reports annexure is not provided along with the board resolution. The method explained in the resolution for valuation according to us is neither realistic	It is to state that the revision of SoR 2022-27 is needed to be done in terms of policy guidelines issued by the Government every 5 years in order to ensure that Board of Mumbai Port Authority can do it's activities to not only cater to the needs of it's serving employees, pension and other benefits to it's pensioners and above all to augment and develop all new projects such as MICT, 5th Oil berth for chemicals, etc. for giving better services to the entire community of people in the city of Mumbai and other importers / exporters of India as a whole. Also Mumbai Port Authority need to ensure that it shall not be bind itself within the clutches of inflationary trends. The proposed SoR as approved by the Board is strictly in accordance with the provisions of cabinet approved Policy Guidelines for Land Management by Major Ports, 2015 (PGLM 2015) with the rate of return on land value being pegged at the barest minimum of 6% per annum with the annual escalation being pegged at the barest minimum of 2% as

Sr.No.	Comments	MbPA Reply
	nor based on thorough research. In the absence of any like, comparable land instances and reports of valuation providing realistic values, the same should not be considered. Hence, we strongly object to such documents (valuation reports and instances) being taken account of in determining lease rental rates. As you are aware, we are a Public Sector Undertaking, under the Ministry of Petroleum & Natural Gas (MoPNG), Government of India, involved in the business of refining and marketing of Petroleum products, servicing the Public and Nation. The proposed rates for 2023-24, if implemented would adversely impact our financials and the Lube Plant would become unviable. We are ready and willing to participate in any hearing and to substantiate our stand as has been briefly stated hereinabove. We therefore submit our objection to the proposed revision in SoR rates for the 5 year period 2022-2027.	against the 10% return per annum on land value and 4% annual escalation under the compromise proposals upheld by the Hon. Supreme Court under the Wadia Judgement. The Fair Market Value has been arrived at by Shri Avinash Pendse an expert and reputed valuer on the Bombay High Court Panel based on actual sale instances obtained from the office of the Registrar of Assurances and by applying adjustment factors based on leasehold nature, the locality, attributes, amenities, etc and hence the proposed SoR is fair & reasonable. At the outset taking into account the concerns of the tenants/ lessees/ stakeholder, the proposed SoR 2022-2027 on the average scale is lower by 51% compared to the rates as per SoR 2017-2022. SoR 2022-27 in respect of RR Zone of the subject stakeholder is about 63% lower than the SoR for the period 2017-2022. One cannot apply the yard stick of the rates fixed 3 decades back under MoU for comparison to the present SoR. The rates under the MoU were based on the fair market value of land then prevailing and the rates proposed now are on the basis of the fair market value of land as recommended by the valuer based on actual sale instances in recent times.
15	Specific Comments from HPCL Wadala Kindly note that we are submitting our comments specifically for the Plots described hereunder only, and comments for the remaining plots as mentioned in the SoR for 2022-2023, which are not mentioned below will be submitted separately. Sr.no Plot No/ RR no Location Name Area (Sq.mtr) Original Lease Start date as per agreement Original Lease End date as per agreement 1 1022&1776 Wadala I 2000 01.03.1978 28.02.2008	No comments are warranted on issues which do not relate to SoR Rest of the statements are reproduction of fact mentioned in the proposal for revision of SoR 2022-2027. It may further be stated at the outset that taking into account the concerns of the tenants/lessees/ stakeholder, the

Sr.No.	Comments	MbPA Reply
	2 1663 SEWREE II 14155.72 01.07.1991 30.06.2021 3 1486 SEWREE II 27809.95 01.07.1991 30.06.2021 The revised SOR for 2022-2023 effective from 01.06.2023 has been uploaded on MbPA website, based on Fair Market Value derived and recommended by Shri Avinash Pendse, Govt. approved Valuer (Empanelled with Bombay High Court) and accepted and recommended by LAC/ SoR committee and approved by the Board. are at Rs. 69,470/- for 14/101C zone. We refer and rely upon clause 13(a) of PGLM 2015 which is as follows: i. State Government's ready reckoner of land values in the area, if available for similar classification/ activities. ii. Highest rate of actual relevant transactions registered in last three years in the Port's vicinity (the vicinity of the Port is to be decided by the respective Port Trust Boards), with an appropriate annual escalation rate to be approved by 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. v. Any other relevant factor as may be identified by the Port. As per said PGLM guidelines, LAC/SoR committee has to consider the above-mentioned factors for determining the fair market value of the port land. The above guidelines are very clear and evident to do necessary assessment of "Fair Market Value" of subject plots. The LAC is relied on the valuation report of valuer which is the highest of the factors as per above clause. We now submit our objections to the said LAC report and as to why the said report should not be considered by Board of Mumbai Port Authority for revision of SoR for plots mentioned at Sr. no 1 to 3 for 1.10.2022 to 30.09.2023 effective from 01.06.2023. 1) We state that the as per clause 13(a)(i) the LAC is to consider "State Government's ready reckoner of land	proposed SoR 2022-2027 on the average scale is lower by 51% compared to the rates as per SoR 2017-2022. The SoR for RR Zone 14/101C is in fact 50% below the SoR rates as per SoR 2017-2022. The SoR as proposed is strictly in accordance with Cabinet approved Policy guidelines. The business model of Oil Company envisages utilisation of such FSI. It would not be out of place to note that the oil tanks which occupy these lands have heights equivalent in volume to about a 3 storeyed building and have to maintain safety distance in terms of the norms governing such installations and consequently there is restriction in FSI. Nevertheless due cognizance of concerns was taken while formulating the proposing the SoR. In absence of a contract to the contrary the holding over of occupation continues on month to month basis and as such MbPA is entitled to revision of SoR in terms of the norms prescribed under PGLM. It further needs to be noted that MbPA has not revised SoR in respect of leases covered under terms of MoU for the duration of its validity. The objections are not sustainable for the following reasons : a) SoR is to come into effect prospectively b) Norms of cabinet approved PGLM 2015 mandating the revision of SoR was followed; c) The issue is not related to SoR.

Sr.No.	Comments	MbPA Reply
	values in the area, if available for similar classification/activities". The SDRR for the area is Rs. 42,230/- per SQM considering FSI as 1. We state that as per land allotment letter dated 11.10.1991 under clause (v) while the approved FSI should not exceed 0.5, however, land occupied by HPCL for all the above mentioned plots are having FSI of less than 0.4. Therefore, the SDRR needs to be suitably considered by LAC before formulating any revision to SoR. 2) We state that as per clause 13(a)(iv) the LAC is to consider "Rate arrived at by an approved valuer appointed for the purpose by the Port.". It is mentioned in LAC report that the FMV of RR zone is the average value of sample plots identified for valuation in respective zones. As stated in the LAC report that the valuer M/s. Shri Avinash Pendse have arrived at rate of Rs. 69,470/- per SQM based average value of sample plots identified for valuation in respective zones. Hence they are neither realistic nor based on thorough research. An exorbitant rate has been determined erroneously by MBPA in placing reliance on such reports. 3) We state that as per clause 13(a)(v) the LAC to consider "Any other relevant factor as may be identified by the Port." It is to be noted that HPCL is to be considered under public utility services engaged in supply and marketing of essential commodities under the Essential Commodities Act. Moreover, as Mumbai being densely populated and the product being handled by the said terminal are not only highly hazardous but also extremely flammable therefore it is necessary that our depots/terminals are located at a less populated area to avoid any untoward accident. This factor should have been considered by LAC before revision of SoR as land being under the ownership of MbPA forms part of land under the ownership of State. The facilities of HPCL are in existence and in operation since more than 90 years at the plots allotted to us and not a fresh incumbent planning to set up facilities. It is imperative that the Ready Reckoner Guideline factors affect valuation and should be read along with Ready Reckoner Value to arrive at proper valuation. The same are not considered, which resulted in erroneous calculation of calculation as the SDRR for FSI 1 was	The clause should be read with the fact the applicability of PGLM was extended the Township area of Mumbai Port only in 2018. Oil companies are commercial organisations with profit motive and the rates proposed by MbPA are very fair and reasonable. There is no special provision made in PGLM with regards to the Township area land.

Sr.No.	Comments	MbPA Reply
	considered whereas the FSI being occupied by HPCL is less than 0.4 (approved is maximum of 0.5). Accordingly, due to application of incomplete guidelines of SDRR (Stamp Duty Ready Reckoner) the method used to ascertain the valuation of the immovable property is incorrect and incomplete. Hence, it is submitted that the assessment of the 'SOR' for the period 2022 to 2023 effective from 01.06.2023 is erroneous and we reserve our right and contentions to produce our counter valuation report mentioning the discrepancy in the method of calculation. Now, having said the above with regard to the LAC report and as to why the same should be rejected by Board of Mumbai Port Authority, we put before your additional points for consideration 1) As far as Plot RR No. 1022&1776 is concerned, we state that in absence of any agreement or understanding recorded between HPCL and MBPA to the effect that MBPA would be entitled to seek revision of rates in future (in absence of any renewal terms agreed upon between the parties); it is not open now for MBPA to seek revision of schedule of rates for plot of land as mentioned in S.No 1 of the table. 2) We state that as far as application of revised SoR for the period of 2023-27 are concerned for Plot RR No. 1022&1776, we state that the same is not acceptable for the aforesaid reasons a. It being barred by limitation b. Revised rentals cannot be decided unilaterally c. Even after repeated request by HPCL for 15 years to renew the leases, MbPT failed to take any action or even respond to our request. Therefore, the same cannot be revised by them without any rationale or basis. Any revision in rentals are to be mutually agreed. 3) With regard to plots as mentioned in S. No 2-3, we place reliance on clause (iii) as per clause 11.3 (j) of PGLM 2015 it is stated that "The process of renewal of existing leases should be initiated by the respective Ports well in advance, before the term of lease expires. The automatic renewal of existing leases should be preferably done within three months of receipt of such application for renewal. Liability to pay compensation for wrongful use by the lessee will not arise, if the delay in renewing such leases is wholly attributable to the Port." As till date there is no action taken by MbPA on a repeated request to	

Sr.No.	Comments	MbPA Reply
	renew the lease, any revision on lease rental (on mutually agreed terms and condition) can now be made effective three months from the date of finalization of the said rates or strictly as per terms of lease. 4) That MbPA in there submission for revised SoR has not explained/clarified the basis for considering 6% land rental value and 2% escalation on annual basis. Needless to state that the entire exercise sought to be carried out belatedly by MBPA is not in line with any agreement or understanding arrived at between the parties, therefore the same is not tenable. Apart from the grounds of maintainability of the notice as setout herein above, we wish to provide brief comments without prejudice as under: 1. Repeated requests for renewal of leases which has expired on 30.06.2021 & 28.02.2008 are yet to be answered by MBPA. 2. The RR Zone wise valuation reports are based on the sample plots and are neither realistic nor based on thorough research. An exorbitant rate has been determined erroneously by MBPA in placing reliance on such reports. In the absence of any like, comparable land instances and reports of valuation providing realistic values, the same cannot be even considered. Hence, we strongly object to such documents (valuation reports and instances) being taken account of in determining lease rental rates. 3. Bare perusal of the notice reveals that MBPA is proceeding with predetermined intention to revise the scale of rates and comments have been invited only with a view to record that the rates have been determined after due notice to all concerned. 4. The proposed rates are not only exorbitant but also without rational or basis of operating cost/profit of Govt. undertaking Oil companies and therefore cannot be accepted. We are ready and willing to participate in any hearing and to substantiate our stand as has been briefly stated hereinabove.	

Sr.No.	Comments	MbPA Reply
	We therefore request that our strong objection to the proposed revision be recorded and accepted. Moreover, reference MOM of Joint Meeting held by Chairman, MbPA and C&MD, HPCL dtd 08.09.2022 regarding Renewal of existing leases and fixation of lease rentals: The lease rental based on Stamp Duty Ready Reckoner (SDRR) Rate to be considered. It was mutually agreed that the lease rentals and arrears will be paid by HPCL as per demand raised by MbPA in-line with SDRR rates. We further request that the notice/proposal to revise SoR for the period of 2022-2027 effective from 01.06.2023 be dropped/withdrawn with immediate effect.	
16	Specific Comments from AEGIS With reference to above, we have following comments/suggestions on the proposal: Para 2. Proposed Scale of Rate (SoR) for MbPA Land for the period 01.10.2022 to 30.09.2027 effective from 01.06.2023 Our comments: 1. SoR of Rs.114.40 per sqm.p.m. proposed for Mahul (RR Zone 90/419D) is very high. The increase should be reasonable, justified and affordable. 2. The MbPT land is leasehold and cannot be equated with freehold land prices. 3. Moreover, there are several restrictions for lessees and therefore, land rate based on ready reckoner rate cannot be a factor taken into account. 4. This high lease rate increase is also in contrast to one of the objectives of Policy Guidelines for Land Management by Major Ports, 2015 The main objectives of the Policy are:- a) To ensure that land resources are put to optimum use as per the approved Land Use Plan with focus on retaining/attracting port traffic. 5. We refer to pg 3 of the proposal, wherein PIR PAU is wrongly considered under Anik (RR Division & zone 96/436) instead of Mahul. Para 4. Special Way Leave charges: Proposed Scale of Rates 2022-2027 for Special Way	At the outset taking into account the concerns of the tenants/lessees/ stakeholder, the proposed SoR 2022-2027 on the average scale is lower by 51% compared to the rates as per SoR 2017-2022. In respect of RR Zone 90/419D, there is a downward revision of 65% and the Fair Market Value of land has been pegged at SDRR rate of Rs.22880/- which is very low compared to the city standards. It is very unfortunate that one still cries foul even of such reduced rates. The proposed SoR as approved by the Board for the period 2022-2027 is strictly in accordance with the provisions of cabinet approved Policy Guidelines for Land Management by Major Ports, 2015 (PGLM 2015), with the rate of return on land value being pegged at the barest minimum of 6% per annum with the annual escalation being pegged at the barest minimum of 2% as against the 10% return per annum on land value and 4% annual escalation under the compromise proposals upheld by the Hon. Supreme Court under the Wadia Judgement. The Fair Market Value has been arrived at by Govt. approved valuer Shri Avinash Pendse an expert

Sr.No.	Comments	MbPA Reply
	Leave permissions: Our Comments: 1. SoR of Rs.114.40 per sqm.p.m. proposed for Special way leave permissions is very high. 2. The increase should be reasonable, justified and affordable. 3. Moreover, our pipelines are laid in tiers one above other, however way leave fee charged by Mumbai Port Authority for minimum width of 1.0 metre for each & every pipeline and not on the actual width and area occupied by pipelines. 4. Wayleave charges should be charged on the actual width of the pipeline as against a minimum width of 1 m. Also, addition of 600mm to the width of pipeline is unjustified. 5. For pipelines laid above one and other the wayleave charges should be calculated on the area of the land occupied by the multi-layer stacks and the amount should be charged on pro-rata basis to all the users whose pipeline run on these multi-layer stacks. Proposed Scale of Rates for Special Way Leave Rates for the pipelines laid on TRESTLE at Pir-Pau for the period from 01.10.2022 to 30.09.2027 effective from 01.06.2023 Our Comments: 1. SoR proposed for Special way leave rates for the pipelines laid on trestle at Pir-Pau very high. 2. Considering the tough competition from neighbouring Ports and development of new ports, we request MbPA to charge for portion of the pipeline on trestle as per Land rate. 3. Old Pir Pau jetty has already been decommissioned and all the cost plus returns incurred have been accordingly more than recovered. Thus wayleave charges for Pipeline laid on trestle from land to jetty should now be charged at 50% of charges for land rate of ROW, as the said portion is on Sea. 4. We believe wayleave charges for pipelines laid on trestle is calculated by MbPA to recover investment and its return over the life of the trestle, which in this case has been considered by Port as 30 years. Old Pir Pau berth has been decommissioned and cost of FCB trestle has been recovered by MbPA and hence MbPA should charge for portion of the pipeline for this trestle as per Land rate and not based on return of the cost of trestle. 5. For the section of trestle between FCB and SCB the	and reputed IBBI registered valuer, on the Bombay High Court Panel based on actual sale instances obtained from the office of the Registrar of Assurances and by applying adjustment factors based on leasehold nature, the locality, attributes, amenities, etc and the standard deductions to arrive at the land value and hence the proposed SoR is fair & reasonable. MbPA is mandated by the provision of the factors prescribed in the PGLM in determination of SoR. With regard to the contention that Pir Pau is wrongly considered under Anik (RR Division & Zone 96/436) instead of Mahul, it is to state that the RR Zone for Pir Pau is 90/419. 1&2. With regard to Special Way Leave fee, it has been decided that if the existing way leave fee is higher than the proposed way leave fee, the existing way leave fee would be continued till it matches the rates as per proposed way leave fee rates whereafter the annual increase of 2% would be leviable. Thus in majority of the cases, there would be no revision of way leave fee and the existing way leave fee would continue which it should be appreciated offers great relief to the users. 3&4. The issue of width of minimum 1 meter is an issue which has been raised in the past and is settled and does not need any review. 5. The statement is vague and without any facts or figures.

Sr.No.	Comments	MbPA Reply
	wayleave charges worked out by MbPA is based on the return based on cost of trestle and also value of land below the trestle, which is calculated as per the RR rate for zone 90/149. Instead of double counting we request that the charges should be worked only based on return of the cost of trestle. Further, once the cost of this trestle is recovered the wayleave charges should be charged as per Land rate. Please refer Notes (on Page 10 of 15) of your proposal: Para. (iii) Formula for calculation of Way Leave fee would be as follows: sub. para. (c) Way Leave Fee per month for Marine Loading Arm = Length of loading Arm on Trestle X (External dia including insulation)/300mm X Rate applicable + (Area of base plate + Area of Control Panel & Hydraulic Power Pack) X Rate applicable Our Comments: Please note Marine Loading Arm (MLA) is an equipment along with a set of accessories such as Hydraulic Power Pack and Control Panel. The MLA is mostly fully automatic and main purpose of this MLA is to connect the shore side pipeline with the ship manifold similar to the operation of Hose connection arrangement. However, MLA is preferred over Hose arrangement for safe operation due to its superior design, integrated safety controls and ease of operation. MLA stands on the Base Plate and its accessories such as Hydraulic Power Pack and Control Panel occupies only the surface areas on the Jetty. Hence Way leave fee for MLA should be charged on Area of Base Plate of MLA & its accessories and not the length of loading arm. Way Leave Fee per month for Marine Loading Arm should be as follows: = (Area of base plate of Loading Arm + Area of Control Panel & Hydraulic Power Pack) X Rate applicable Others 1. Interest rates for delayed payment should be as per SBI PLR and not 15% 2. The levy of Service charge @ Rs,2 per sqm per month is unjustified. The cost towards maintenance of road, passages lighting should be covered by wayleave changes and lease rent paid by users.	2,3 , 4 & 5. The said request cannot be acceded to. The way leave fee has always been on the basis of return on capital. Also MbPA has to incur expenses on repairs and maintenance. As regards the issues of Marine Loading Arm, the calculation is on the basis of existing practice and envisage no review. Interest rate does not envisage any review and it has already been brought down from 18% to 15% and is only leviable in case of delayed payment and this is a provision to deter the users from delaying payments. Service charge is not applicable to Special Wayleaves and is only applicable to let out plots which have roads, footpaths, passages maintained by MbPA towards which MbPA is required to incur expenses.

Sr.No.	Comments	MbPA Reply
17	Specific Comments from Indian Hotels (Taj Mahal Hotel) Taj Mahal Hotel: At the outset it is clarified on behalf of our Company that though the present objections are being raised for the customer codes 31205123 (Plot No. /RR No. 701), 31205108 (Plot No. /RR No. 677) and 31205311 (Plot No. /RR No. 2099), have been consolidated by the letter dated 4th April 2002 issued by Mumbai Port Trust (MPT) and are being dealt with collectively. These objections are without prejudice to our Company's rights, contentions and remedies in law and right to receive a personal hearing in the matter. Our Company specifically requests you for a personal hearing before any order is passed or decision is taken in the matter. Due to character constraints in the Google Form, we are compelled to reduce our submissions to less than 10000 characters. We will therefore be submitting a separate letter containing our detailed objections to the SOR 2023-2027, which should be considered at the time of personal hearing. Grounds for objection to the proposed revision for the SOR – 2022-2027 Each of these Grounds is without prejudice to the rest of the grounds. 1. Pending litigation 1.1. The issue relating to renewal of lease and fixation of the lease rent is pending and the matter is sub judice before the Hon'ble Bombay High Court in Suit no. 2469 of 2012. Notice of Motion no. 2441 of 2012 in the said suit was disposed of by the Hon'ble Bombay High Court by its order dated 23rd October 2018, inter-alia, directing MPT to accept the lease rent in terms of schedule of lease rent attached to its letter dated 4th April 2002, till the disposal of the suit. 1.2. Our Company has further filed Interim Application No. 556 of 2023 in the pending suit referred to hereinabove for amendment of the proceedings to, inter alia, bring the challenge to notifications passed by TAMP revising the SOR for the period 2012- 2017 and 2017-2022 and the demand notices raised in furtherance thereof on record in the pending suit. The same is sub-judice.	At the outset taking into account the concerns of the tenants/ lessees/ stakeholder, the proposed SoR 2022-2027 on the average scale is lower by 51% compared to the rates as per SoR 2017-2022. In respect of RR Zone 1/6C there is a downward revision of 36% compared to the SoR 2017-2022 The proposed SoR as approved by the Board for the period 2022-2027 is strictly in accordance with the provisions of cabinet approved Policy Guidelines for Land Management by Major Ports, 2015 (PGLM 2015) issued under Section 111 of Major Port Trusts Act. 1963, with the rate of return on land value being pegged at the barest minimum of 6% per annum with the annual escalation being pegged at the barest minimum of 2% as against the 10% return per annum on land value and 4% annual escalation under the compromise proposals upheld by the Hon. Supreme Court under the Wadia Judgement. The Fair Market Value has been arrived at by Govt. approved valuer Shri Avinash Pendse an expert and reputed IBBi registered valuer, on the Bombay High Court Panel based on actual sale instances obtained from the office of the Registrar of Assurances and by applying adjustment factors based on leasehold nature, the locality, attributes, amenities, etc and the standard deductions to arrive at the land value and hence the proposed SoR is fair & reasonable. MbPA is mandated by the provision of the factors prescribed in the PGLM in determination of SoR. The entire procedure followed in determination of SoR is explained in Board Resolution No.296 dated 27.03.2023 published on the MbPA website.

Sr.No.	Comments	MbPA Reply
	1.3. A batch of Writ Petitions have also been filed, inter alia, challenging the legality and constitutionality of the fixation of SORs retrospectively from 01.10.2012 and implementation thereof by issuance of notifications and Demand Notices. The same is also sub judice. The rest of these objections are without prejudice to all our Company's rights, contentions, and submissions in the said pending suit. 2. Lease renewed as per renewal clause in lease deed and the proposed revision is not in accordance with the terms thereof. MPT/ Mumbai Port Authority (MPA) is contractually bound by letter dated 4th April, 2002: 3. Violates the well settled principles laid down by the Hon'ble Supreme Court of India in the case of Jamshedji Wadia vs the Board of Trustees of the Port of Mumbai reported in [2004 Vol. 106 (2) Bom. L. R. 376 (SC)] (Wadia Judgment) 3.1. The Hon'ble Supreme Court of India in the case of Jamshedji Wadia vs the Board of Trustees of the Port of Mumbai reported in [2004 Vol. 106 (2) Bom. L. R. 376 (SC)] held: "18. In our opinion, in the field of contracts the State and its instrumentalities ought to so design their activities as would ensure fair competition and non-discrimination. However, the State cannot be seen to be indulging in rack-renting, profiteering and indulging in whimsical or unreasonable evictions or bargains." 3.2. Accordingly, what is now proposed is clearly in breach of these binding principles laid down by the Court. The Wadia Judgment whilst deciding and disposing of the said pending Civil Appeals; - has settled the principles for revision of rent by MPT and has also upheld the MPT's own "Compromise Proposals" with downward revision of the rates of rents and interest. Post the Wadia Judgment, MPT (vide its TR No. 31 of 2004), accepted the rates of rent fixed by it under its "Compromise Proposals" as modified (with downward revision in rent and interest) by the Hon'ble Supreme Court. It is these reduced rentals which would be chargeable in the context of renewal of the leases of the said plots. Accordingly, there can be no other basis or fixation of rents in respect of all the plots. The correct interpretation of clause 18 of the said Wadia Judgment suggests that MPA can increase the legal rent only at the	No comments are warranted on issues not related to proposed SoR 2022-2027 or issues which are subjudice. Revised SoR are applicable all cases of expired leases, monthly tenancies, 15 monthly leases and licences. MbPA is mandated by the provision of the factors prescribed in the PGLM in determination of SoR and its rationale cannot be compared to the policy followed by other land owning authority. The proposed SoR as approved by the Board for the period 2022-2027 is strictly in accordance with the provisions of cabinet approved Policy Guidelines for Land Management by Major Ports, 2015 (PGLM 2015), with the rate of return on land value being pegged at the barest minimum of 6% per annum with the annual escalation being pegged at the barest minimum of 2% as against the 10% return per annum on land value and 4% annual escalation under the compromise proposals upheld by the Hon. Supreme Court under the Wadia Judgement. Further the Supreme Court had in its judgement dated 13.01.2004 resolved the dispute with regard to the rent under the compromise proposal only for the period upto 31.03.2000. The exact wordings are as follows :

Sr.No.	Comments	MbPA Reply
	rate of 4% per annum throughout the period of the demise of the renewed leases as per the said Judgment. 4. Violates the principle that the instrumentality of State under Article 12 of the Constitution of India i.e. MPA ought to act in a fair and reasonable manner Reference is made to: 1) Judgement of Hon'ble Bombay High Court in Rati Pallonji Kapadia vs. State of Maharashtra, 1992 MhLJ 1336) & 2) judgment of the Court in Wednesbury [Associated Provincial Picture Houses Ltd. v. Wednesbury Corpn., (1948) 1 KB 223 : (1947) 2 All ER 680 (CA)]. 5. The proposed revision is violative of Article 14 of the Constitution of India: 5.1. Reference is made to the following judgements: 1) Shayara Bano vs Union of India reported in (2017) 9 SCC 1; 2) Rampratap Jaidayal vs. Dominion of India reported in 54 Bom LR 927 at page 934; 3) Dwarkadas Marfatia & Sons vs Board of Trustees of the Port of Bombay reported in 1989 SCR (2) 751 and 4) Ratti Pallonji vs the State of Maharashtra reported in (1992) 94 Bom LR 697 In this regard IHCL would like to draw a parallel between the Municipal Corporation of Mumbai who had settled the lease rent of Schedule W properties with the concurrence of Maharashtra Govt. vide their notification of 2017. 6. Violates the direction of the erstwhile Ministry of Shipping for re-fixing letting rates. 7. The Proposed Revision is not in consonance with the Important Guidelines of the Stamp Duty Ready Reckoner. 7.1. The "Important guidelines of Stamp Duty Valuation" require to be considered while considering the SDRR rates for open land, land with buildings, vast land and the concessions on various accounts are to be applied accordingly, while arriving at the market rate. 7.2. It appears that MPA has considered the rates on the basis for alleged fair market valuation therefore the Proposed rates are much higher than the SDDR rates. For example:- Apollo Bunder MPA has considered under RR Zone 1/6, C = Rs 227194/- per sq.mt. and 6% return as Rs 1135.97 per month per sq.mt.. Similarly the SDRR rates for RR zone 1/6 C = 192050/-per sq.mt and 6% return as Rs 960.25.	"by this judgement and in these proceedings the controversy as to the rates of rent applicable to the lessees shall be deemed to have been resolved for the period 01.04.1994 to 31.03.2000". The Board under TR No.31 of 2004 decided to continue the said rates for the period upto 30.09.2012. The compromises proposals also has a provision that notwithstanding fixation of rent for a period of 20 years (i.e. till 2012), for good and sufficient reasons, the Board can review and revise the rates. Thus the contention that the rates of rent under "compromise proposals" (as upheld under Wadia's case) - are valid beyond such period is a fallacious contention. Nowhere in the Compromise Proposals was it contemplated by the Mumbai Port or such a proposition upheld by any judicial pronouncement. The proposed SoR are for FSI 1.00 which would be the minimum chargeable and actual quantum of Rent/compensation will be worked out on the base rate and factor as may be recommended by the committee appointed for the purpose of applicability of FSI. All stakeholders had been provided an opportunity to submit their contentions related to proposed SoR 2022-2027 during the joint hearing held on 13.04.2023.

Sr.No.	Comments	MbPA Reply
	7.3 The methodology for fixing the SOR rates by MPA is considering factors as under:- • State Government SDRR land value in the area. • Highest rate base upon actual registered transaction in last 3 years • Highest Tender cum Auction rate of MPA land. • Rate arrived by an approved valuer appointed by MPA for the above purpose. 7.4 Methodology for fixing the SDRR rates are similar to one adopted by MPA. The SDDR authority before fixing the rates verify the actual transaction of that zone and arrives at the rate. Moreover it also consider the proposed changes in the Development Plan and accordingly fixes the fair market rate. 7.5 The valuation of the various land zone are done by the Town planning officers considering the actual development potential of land zone and arrive at fair market rate. 7.6 The Proposed Revision is purportedly on the Fair Market Valuation derived and recommended by Govt approved Valuer and accepted and recommended by the LAC / SOR committee and approved by the Board which is higher than the rates referred in the SDRR for our zone. However, it has not disclosed how the said rates have been considered as fair, reasonable and marketable as the stamp duty ready reckoners rates are based on the market values and are governed by its guidelines for fixation of the rates. Further MPA has considered the private paid valuer for fixing the market value it appears that he has not followed the comparison of the transactions otherwise the SDRR rates for zone 1/6 C would have been Rs 192050/- per sq.mts and not 227194/- as proposed by MPA in the notice for its Apollo Bunder area. 7.7 No transaction details are given by the valuer while considering the rates for Apollo Bunder area. 7.8 Additionally, the Fair Market valuation adopted for the purpose of SOR are higher than the SDRR rates which are supposedly for freehold premises and cannot be equated to leasehold premises as the same would be subject to certain restrictions / conditions and the rates ought to be discounted considering the restrictions in the lease deeds. 7.9 Factors such as depreciation for the age of the building have not been considered. 7.10 Additionally our Company submits that a lessee cannot be punished by charging higher rates for having	

Sr.No.	Comments	MbPA Reply
	enhanced the value of the property. The fact that the improvement or escalation in market value of the property is principally due to the efforts, inputs and development of the property by the lessee, has been completely ignored. 7.11 Further, the legality and constitutionality of the fixation of SORs retrospectively from 01.10.2012 and implementation thereof by issuance of notifications and Demand Notices are challenged before the Hon'ble Bombay High Court. The same is sub judice. 8 MPA ought to implement the Policy Guidelines for Land Management, 2014 (the said Policy, 2014) in its entirety and not in isolated parts. PRINCIPLES OF NATURAL JUSTICE HAVE TO BE PROVIDED AND PERSONAL HEARING Our Company craves leave to suitably add to, amend or alter any of the foregoing objections, if necessary.	
18	Specific Comments from Mazgaon Dock Limited The Code Nos of the plots leased to Mazagon Dock Shipbuilders Ltd (MDL) by MbPA are mentioned below: a) 20801640, 20801642, 20801650, 20801652 (lease expired in Year 2006) b) 20801509, 20801510, 20801638, 20801643, 20801653, 20801654, 20801655, 20801656 (lease will expire in Year 2024). The comments/remarks of MDL on SoR are as follows: i The proposed rates are based on fair market value which are exorbitant & unreasonable. The rates should be considered on the basis of RR rates of Government of Maharashtra(GoM) applicable to adjacent plots and with the applicable concession based on the grounds mentioned in the succeeding paragraphs. ii. MDL being defence CPSU & integral part of Ministry of Defence (MoD) involved in building highly critical / strategic platforms like Destroyers/Frigates & Submarines for Indian Navy, special dispensation in rates need to be considered. iii. The plots are being used for strategic defence related activities. Further, MoD during year 2020 conveyed that MDL is Defence Establishment and Local Military	At the outset taking into account the concerns of the tenants/ lessees/ stakeholder, the proposed SoR 2022-2027 on the average scale is lower by 51% compared to the rates as per SoR 2017-2022. SoR 2022-27 in respect of RR Zone of the subject stakeholder is about 61% lower than the SoR for the period 2017-2022. The proposed SoR as approved by the Board for the period 2022-2027 is strictly in accordance with the provisions of cabinet approved Policy Guidelines for Land Management by Major Ports, 2015 (PGLM 2015) with the rate of return on land value being pegged at the barest minimum of 6% per annum with the annual escalation being pegged at the barest minimum of 2% as against the 10% return per annum on land value and 4% annual escalation under the compromise proposals upheld by the Hon. Supreme Court under the Wadia Judgement. The Fair Market

Sr.No.	Comments	MbPA Reply
	Authority for its premises iv. The rate of lease rentals be finalised with nominal upward revision say 4-6 % per annum of the current rate being paid by MDL and in no case the revised rate exceeds the RR rate of GoM. v. The plots leased to MDL by MbPA comprises land area and approximate 40 % water bodies /seashore which may fall under CRZ where there may be certain restrictions / limitations for development. Adequate consideration needs to be given to this aspect while fixing SoR. vi. The Government of Maharashtra determines the annual lease rent as 4% of (25% of valuation of land i.e. 25% of RR rate of GoM) whereas MbPA arrives annual lease rent as 6%(valuation of land i.e. market rate fixed by Valuer appointed by MbPA) vii. At present, rate of service charges is Rs. 0.5 /- per sq mtr per month of the allotted plot area. The proposed rates observed almost 4 times the current rate of service charges. In fact, service charges should not be applicable to the plots leased to MDL, as no expenses are being incurred by MbPA for maintenance of roads, passages, lighting etc and also no other facilities are provided on the road / footpaths abutting the let out plots. viii. SoR for Port Authority owned buildings/ structures and for Special Way Leave rates are also observed exorbitant.	Value has been arrived at by Shri Avinash Pendse an expert and reputed valuer on the Bombay High Court Panel based on actual sale instances obtained from the office of the Registrar of Assurances and by applying adjustment factors based on leasehold nature, the locality, attributes, amenities, etc and hence the proposed SoR is fair & reasonable. The rate applicable for the water area is 50% of the abutting land area. MbPA is bound by the guidelines in fixation of its SoR and the factors governing its fixation as provided in para 13 of PGLM 2015 and the policies followed by other land owning authorities cannot have bearing on fixation of SoR. The Service Charges were last revised in the year 1992 and is presently levied @ 50 paise per sq.m. per month of the let out area and is against the expenses incurred towards maintenance of roads, passages, lighting, etc. and other facilities provided on the roads/footpaths abutting the let out plots. Service charge is revised on the basis of the average annual expenditure on 'Estate Maintenance & General Facilities' after excluding the expenditure incurred on maintenance of Port Authority office buildings, sheds, godowns, guest houses, etc.
19	Specific Comments from TATA Power Co. Ltd Sub: <u>Comments on proposal for fixation of Scale of Rates (SOR) for Revision of lease rentals for land, rentals for Port Authority owned structures, Special Way leave fees,</u>	BR No. 296 dated 27.03.2023 was published on MbPA website viz. www.mumbaiport.gov.in is self explanatory and contain detailed proposal alongwith methodology for Revision of SoR 2022-27.

Sr.No.	Comments	MbPA Reply
	<u>Service Charges for the period from 1.10.2022 to 30.9.2023 effective from 1.6.2023</u> Ref: 1. MbPA's notice dt.29.3.2023 uploaded on MbPA website on 29.3.2023 2. Our letter no. BP/225-A/175 dt.03.04.2023 <u>Due to technical glitch, we are unable to upload our remarks in the link provided in MbPA's notice and therefore we are physically submitting this letter.</u> With reference to above, our comments are as below:- At the outset, as submitted by our letter no. BP/225-N175 dt. 03.04.2023, we had pointed out that no documents other than proposed SOR was uploaded even as on 0604-2023. It is seen that the documents now uploaded also do not include the annexures referred to in TR 296 of 2023 including Valuer's report. These annexures are required to be uploaded for complete understanding of the background and the proposal so as to submit our informed comments. In fact as per para 16 of aforesaid TR 20 days' time has been provided which needs to be adhered to. 2. It is therefore requested that these documents are uploaded date be extended at least by 7 days thereafter. 3. Based on the limited information gleaned through the documents made available, the remarks are offered as herein below which are without prejudice to one another and in the alternative. General remarks:- 4. The Govt. of Maharashtra undertakes its annual exercise to analyze and publish the land rates applicable to the different zones in the Ready Reckoner after due consideration of all aspects. The land rates so fixed are uniformly used by all public bodies (State Govt. and Central Govt.) for valuation purposes including stamp duty, property tax etc. These rates also cover MbPA lands. Thus, the exercise which is now undertaken by MbPA is an exercise in duplication. If all public bodies (State & Central) undertake such kind of exercise, there will be multiple rates applicable to the same parcel of land and hence the rates determined by the State Govt. should be adopted for uniform application.	Since sufficient time was granted and as detailed SoR proposal approved by the Board was uploaded there is no question of grant of additional time. At the outset taking into account the concerns of the tenants/ lessees/ stakeholder, the proposed SoR 2022-2027 on the average scale is lower by 51% compared to the rates as per SoR 2017-2022. The proposed SoR as approved by the Board for the period 2022-2027 is strictly in accordance with the provisions of cabinet approved Policy Guidelines for Land Management by Major Ports, 2015 (PGLM 2015) with the rate of return on land value being pegged at the barest minimum of 6% per annum with the annual escalation being pegged at the barest minimum of 2% as against the 10% return per annum and 4% annual escalation under the compromise proposals upheld by the Hon. Supreme Court under the Wadia Judgement. The Fair Market Value has been arrived at by Shri Avinash Pendse an expert and reputed valuer on the Bombay High Court Panel based on actual sale instances obtained from the office of the Registrar of Assurances and by applying adjustment factors based on leasehold nature, the locality, attributes, amenities, etc and hence the proposed SoR is fair & reasonable and there is therefore no question of withdrawal of the proposed SoR. No comments are warranted on the matters which are not related to SoR 2022-27 and matters which are subjudice.

Sr.No.	Comments	MbPA Reply
	5. The Ready Reckoner rate for 2022-23 & for 2023-24 have been kept same by GOM where as MbPA has increased the rate @ 2% annually every October merely by adopting PGLM Policy 2015 without regard to the market conditions. 6. We wish to reiterate our submissions made in our letter bearing nos. BP/225-A/012 dated 10-01-2020, BP/225-A/41 dated 29-01-2020, BP/225-A/271 dated 02-11-2020, BP/225-A/108 dated 16-03-2021, BP/225-A/360 dated 26-06-2021, BP/225-A/360 dated 01-09-2021, BP/225-A/396 dated 16-09-2021, BP/225-A/407 dated 27-09-2021, BP/225-A/440 dated 18-10-2021, BP/225-A/443 dated 20-10-2021, BP/225-A/444 dated 27-10-2021 and BP/225-A/479 dated 23-11-2021 in respect of revision of SOR for the period from 2012-17 & 2017 to 2022. 7. No distinction has been made by incorporating suitable factors that should be multiplied with the proposed rate so as to distinguish between the lands used for commercial and infrastructure utilities which are regulated such as power utilities despite there being a specific provision vide TR 105 of 2018 that SOR in respect of public utility such as BEST would be considered separately. Tata Power being a public utility at par with BEST, the proposed SOR shall accordingly provide for the same as such costs are essentially borne by the retail power consumers resulting in undue burden on them since electricity tariffs go up. 8. Tata Power is a Telegraph Authority as per the Gazette Notification of 7th April 1955. Accordingly, the relevant provisions of Indian Telegraph Act & its Right of Way Rules 2016 are applicable. In terms of these Rules, the underground utilities are not chargeable for any way leave fees except for administrative and restoration charges and in case of overhead lines, charges are permitted to be recovered only if the land beneath is unlikely to be used for any purpose. Thus, in case of HT lines through CRZ / mangroves / creek/ sea/salt pan, no way leave charges is chargeable. The applicability of Indian Telegraph Act & its ROW Rules, 2016 is also confirmed by the Ministry of Shipping, GOI, under clarification No. 14 (i) of clarification circular (land management) No. 1 of 2019-20 of PGLM wherein it is specifically mentioned that "....where there is a specific	SoR 2022-27 is formulated in compliance with Wadia Judgment and as strictly within the provisions of cabinet approved PGLM 2015 issued under Section 111 of MPT Act 1963. MbPA is mandated by the provision of the factors prescribed in the PGLM in determination of SoR and its rationale cannot be compared to the policy followed by other land owning authority. MbPA is bound by the cabinet approved PGLM 2015 guidelines issued under Section 111 of the Major Port Trust Act 1963. Government of Maharashtra has made SDRR constant during the period 2017-18 to 2019-20, 2022-23 to 2023-24 where as MbPA has reduced its SoR 2022-23 on an average by 50% considering various aspects mentioned in the TR 296 of 2023. Revision of SoR is carried out based on the Ready Reckoner Zone. SoR is applicable to all properties falling within the RR Zone. Kindly refer Para 11 of TR 296 of 2023 contains factors considered for calculation of reserve price for allotment of vacant plots. It needs to be noted that as far as SoR towards way leave charges are concerned, in majority of the case the earlier way leave fee would continue without any annual escalation till it matches the rate as per the proposed SoR whereafter the annual escalation of 2% would become applicable. The way

Sr.No.	Comments	MbPA Reply
	Central Act/ Statutes which governs such ROW permissions provisions of such Statutes shall override these guidelines. A case in point in Indian Telegraph Act, 1885 and Indian Telegraph Act — ROW Rules: 2016. Despite our repeated submissions as mentioned in the aforesaid letters, these provisions have not been made applicable to our underground cables and HT lines. 16. In para 7.1 (iv)-d, it is noted that three different rates need to be adopted for RR zone 3/36B based on the rates discovered in tender for port related activities and commercial activities etc. Further in para II(vi) for use of port trust structures by public utility companies run by Govt. organizations, 50% SOR has been proposed. A similar approach is required to be adopted for the plots and Way leaves of public utility companies such as BEST and Tata Power without discrimination which have been designated as industrial use (Generation, Transmission & Distribution of electricity) under Industries (Development & Regulations) Act 1951. Further, the cost incurred is passed through to the consumers. 9. Supreme Court & High Court judgements on revision of rates: The Supreme Court in its judgment dt. 13/1/2004 appeal (Civil) 5559 of 2001 J H Wadia Vs. MbPA had inter alia answered the following questions as to status of MbPA as a landlord; the rent that it can charge being exempted from the Rent Control Act and to act in a fair and reasonable manner. The following principles have been laid down in the judgment: I. The position of law is settled that the State and its Authority including instrumentalities of States have to be fair and reasonable in all its activities including those in the field of contract. II. There is a need to maintain distinction between a private landlord and MbPA when it comes to charging market rates. III. Accepting the current market rates of lease estate and working out a return on such rate by reference to the market trends would tantamount to indulging into profiteering. IV. The exemption from the provisions of Rent Control Law casts obligations on the State	leave fee for trestle would also continue at the rates as per the previous revision with escalation of 2% per annum. The Service Charges were last revised in the year 1992 and are presently levied @ 50 paise per sq.m. per month of the let out area and are against the expenses incurred towards maintenance of roads, passages, lighting, etc. and other facilities provided on the roads/footpaths abutting the let out plots. Service charge is revised on the basis of the average annual expenditure on 'Estate Maintenance & General Facilities' after excluding the expenditure incurred on maintenance of Port Authority office buildings, sheds, godowns, guest houses, etc. Kindly refer Para 11 of TR 296 of 2023 contains factors considered for calculation of reserve price for allotment of vacant plots The rates proposed are strictly in consonance with the mandatory provisions of PGLM and the principles enunciated by the Supreme Court in Wadia Judgement and the policy and provision of other land owning authorities would not apply on MbPA land. No comments are warranted on issues not related to SoR or issues which are subjudice for determination. With regard to Special Way Leave fee, it needs to be noted that the same is

Sr.No.	Comments	MbPA Reply
	and its instrumentalities and Authorities to comply with public policy of ensuring a fair return of investments without charging exorbitant rates based on prevailing market price of the land. V. The only consideration which prevailed with the High Court and the Supreme Court was one of the reasonability and the need for striking the balance before taking a long leap in the direction of an upward revision of rate. Accordingly, the Supreme Court moderated the market rate otherwise proposed by MbPA. In that the market rates of 1982 was applied from 1994 similar to that provided in the Rent Act. 10. The adoption of rates based on market valuation shall have due consideration to the policy approved by GOM in Govt. Resolution dt.12/12/2012 which was based on the principals laid down by the Hon'ble High Court order dt.25/8/2004 for revising the rates of lease etc. that the share of State Govt. as a landlord has to be limited to 25% of the Ready Reckoner rate on which GOM proceeded to fix the rate of return as 2%, 4%, 5% for Residential, Industrial and Commercial purposes respectively. 11. In terms of GOM's GR dt.8/3/2019, a policy decision has been taken to convert the Govt. leasehold premises into ownership by recovering 50% / 60% of the Ready Reckoner rate if the amounts have been paid within 3 years / beyond 3 years respectively. Therefore, due consideration should be accorded to the fact that only 50% of the Ready Reckoner value has been considered for an occupied property as its market value. 12. The basis of 6% return on FMV/RR value of land & 2% increase every October is taken as provided in the PGLM Policy. It is seen from TR 296 of 2023 that MbPA has undertaken lot of study/efforts to understand the ground market conditions and have concluded that the real estate valuations are in a downtrend and that the annual return on capital value is not more than 3 to 3.2% for rental yield in terms of para 7.1 (ii)-c. This is also reflected in RR valuations where GOM has kept them unchanged through the years 2023 & 2024. While this is so, it is important to also note that even during 2017-22, GOM had maintained the valuations for 2018 and 2019 at the level of 2017. In view thereof, it is incumbent upon	based on land value as per Stamp Duty Ready Reckoner for the year 2022-2023 and further it has been decided that if the existing way leave fee is higher than the proposed way leave fee, the existing way leave fee would be continued till it matches the rates as per proposed way leave fee rates whereafter the annual increase of 2% would be leviable. Thus in majority of the cases, there would be no revision of way leave fee and the existing way leave fee would continue which it should be appreciated offers great relief to the users. Further there is a provision that the proposed increase in SoR if at all applicable would have a ceiling of 50% over the existing way leave fee. The proposed SoR rate of RR Zone 11/86B and the land value adopted is very fair and reasonable compared to the land values in the City. Similarly the land value adopted for RR Zone 90/419 D (Mahul) is the rate as per SDRR. The rate applicable for water area is 50% of the rate applicable for land. All the aspects as brought out in TR 296 of 2023 have been taken into consideration while proposing the SoR and thus it is very fair and reasonable. In conclusion it may be stated that there is a vast relief granted through the proposed SoR on account of the following : (a) for RR Zone 11/86B by reducing the proposed SoR by 47% compared to the current SoR 2017-2022;

Sr.No.	Comments	MbPA Reply
	MbPA to take up the matter with the Govt. for reduction in the rates of return and annual escalation fixed in 2015 to reflect the actual market conditions. 13. Para 1.3 & 7.1 (i) of TR 296 of 2023 notes that the valuation exercise undertaken for the period 2017-22 had lack of uniformity across different valuers adopting different yardsticks and resulted in Valuer specific rates. It is important to also note that even during 2017-22, GOM had maintained the valuations for 2018 and 2019 at the level of 2017. It is therefore expected from MbPA that the rates for 2017-22 would be reviewed as also repeatedly observed by TAMP in their speaking orders notified under GN 630 & 641 dated 30-11-2021 & 09-12-2021 that MbPA should reconsider applying market value rates based on their Valuer's report and instead adopt RR valuation. 14. Para 7(iv)-c, 3 (threats) and para 15 have noted that due to high SOR MbPA has not been able to monetize their valuable land assets and also that many lessees/tenants including PSU companies such HPCL, BPCL & FCI have already surrendered their land holdings or are in the process of doing so. Further, it is also noted that majority of leases are due to expire in 2024 and high SOR rates could pose difficulty in their renewal. This position once again requires MbPA to reconsider their extremely high valuation for the period 2017-22 & 2022-27 as noted above. 15. It is noted in para 7.1 (iii)-b that Cochin Port, despite their Board's resolution to adopt the sale instances of surrounding revenue village areas since there is no transactions within the Port lands, Valuer derived FMV based on the annual Cost Inflation Index (CII) from 2016-17 to 2021-22 due to the fact that the rates of surrounding areas were freehold properties cannot be compared with the Port lands which are leasehold properties and doesn't have any transactions. Even in respect of a vast majority of Mumbai port lands, similar situation prevails. In the absence of Valuer's report, we are not in a position to offer our comments on the methodology adopted by him. 17. In para 9 (v) of Notes, it is provided the rates are for FS! 1.00 which would be the minimum chargeable and actual quantum of Rent/compensation will be worked out on the base rate and factor as may be recommended	(b) for RR Zone 90/419D the rate has been limited to the rate as provided in the State Govt. Ready Reckoner; (c) Continuing the existing rate of way leave fee for their way leaves; (d) application of 50% of the rate for water area on such reduced land values.

Sr.No.	Comments	MbPA Reply
	by the committee appointed for the purpose of applicability of FSI. Our plots at Sewri & Mahul cannot utilize any FSI being affected by CRZ including mangrove buffer zone, under water, part of Drainage channel (the sole purpose is to carry water as part of Natural Drainage channel) and thus unless the committee submits its report as to the FSI factor applicable for such plots, the rates shall not be revised. 18. MbPA has 944 Ha of land in Mumbai City from Colaba in South Mumbai to Titwala in North of MMR. As per their website, MbPA letting is comprised of long term leases (777 Nos), monthly tenancy/15 monthly leases & licenses (2040 Nos) i.e. a total of 2817 lettings spread over 46 RR Zones. Thus, on an average each RR Zone has 62 lettings. Several of these lettings differ from each other in their nature such as residential, commercial and industrial as also in their sizes and types of construction etc. It is therefore completely disproportionate to superimpose the average of the valuation done by the valuer in only 3 sample cases (as against the average of 62) across the entire RR zone. Further in the absence of Valuer's report we are not in a position to comment the methodology adopted to take into account such differentiating aspects. 19. In cases where electricity utilities such as HT lines, Cables, Pipelines pass through CRZ areas and or lands below water, the SOR rates are required to be reduced far greater than 50%. In fact, the SOR have to be restricted only up to the land boundaries as are obvious from Ready Reckoner zone maps corresponding to the respective RR zones. None can substantiate that the SOR market rate for lands which are based on real estate transactions could also be applied to the lands below water / creek even with 50% reduction. The Ready Reckoner guidelines for NDZ and CRZ stipulate adoption of 40% and 33% factors respectively to the Ready Reckoner rates applicable only to the land portions. Thus, for those pads under water or creek, further reductions are justified and should be done. Since the land beneath the water cannot be used for any purpose, only nominal rate should be charged. If at all a higher rate is to be adopted an analogy should be drawn from the rules framed for the capital value assessment for property tax of MCGM where lands adversely affected are valued at 1% / 10% of the SOR.	

Sr.No.	Comments	MbPA Reply
	20. MbPA has not clarified whether the proposed SOR is equaily applicable for their vacant plots as was the case with the SOR for 2012-17 & 2017-22. 21. We also request that MbPA's response on our comments be made available to us for our rejoinder. Specific Comments on SOR for Lease/License (Sr.No 2 of Notice): - A. <u>Ready Reckoner Zone 11/86 B (Parel Sewri Division) Sr. no 28.</u> 1. Plots A & C, B and D are the leasehold plots in our occupation, the lease of which have expired in March 2015 wherein applications for renewal of leases have already been submitted in 2014 itself. These plots were taken for public utility purpose and hitherto continue to be used as such. The plots are in CRZ fully within mangrove buffer zone. During the previous consultation process for 2012-17 & 2017-22, we had requested to adopt suitable factors to reduce the SOR to reflect these aspects. 2. Land Allotment Committee Report for Zone & Valuer's Report not uploaded. Hence we are unable to give any comments thereon which points to inadequacy of consultation process. Please note that these documents were uploaded during the consultation process of SOR 2017-22. We therefore request you to provide us with all annexures referred to in TR 296 of 2023. 3. At the outset as per Valuer's rate of Rs. 77748/- sqm for zone 11/86B of Parel- Sewree is 221% of the Ready Reckoner rate. It is not only exorbitant but also against the principal laid down by the Hon'ble Supreme Court as cited above. In the absence of Valuer's report and other annexures we are not in a position to submit our remarks thereon. 4. At para 15 of TR 296 of 2023 MbPA has admitted that due to inherent deficiencies in	

Sr.No.	Comments	MbPA Reply
	their landed estates, the rates are always lower than those outside. Our plots also reflect these deficiencies. Despite this admitted position, the proposed rate is 221% of the RR rate and therefore requires a review for reduction. 5. In this notice MbPA Valuer's rate for 2022-23 is taken as Rs. 77,748/- per sq.mtr which compares with RS 1,46,241/- per sq.mtr (i.e. SOR rate fixed for slab 2017-22 by GN No. 630 of 30th Nov 2021 wherein 2017-18 rate of Rs 1,20,200/- is increased by 4% every year). Thus, in effect MbPA has proposed to revise the rate downwards by 53%. This is a clear admission that their rates for previous slab were indeed much higher & whether the higher rate will continue with 4% increase for the next slab of 2022-27 has not been clarified. 6. In view of the above, SOR fixed for 2017-22 needs to be reviewed & adopted at much lower rates as also repeatedly noted by TAMP pointed out above. 7. In respect of SOR for way leave cases, an upper limit has been prescribed at 150% of previous slab. The rationale behind absence of such limit in lease/license cases needs to be explained. Conclusion : In the view of the above, the rate recommended in the MbPA's proposed SOR for MbPA land for RR zone 11/86 B for period 2022-23 at Rs. 77748.00/- is required to be reviewed to be also in consonance with the Supreme Court judgement submitted herein above. <u>B. Ready Reckoner Zone 90/419 D (Mahul) sr. no 36</u> 1. Berthing pocket (License) & Drainage channel (Leasehold) are in our occupation located under water. These are shown as natural area (NA) in DP/DCPR 2034, accordingly suitable factors need to be adopted to reduce SOR to reflect their characteristics. In this regard, during past consultation process for 2012-17 & 2017-22 we had requested MbPA to adopt the methodology adopted by MCGM for arriving at capital value (CV) of properties for property tax purposes, by taking 1 0/10% of SDRR rate.	

Sr.No.	Comments	MbPA Reply
	2. We had submitted during the past consultation process for SOR 2012-17 & 2017-22 that the functionality of Approach channel and Berthing Pocket (part of Coal Berth agreement) being the same, i.e., transport and berthing of barges carrying coal from mother vessel need to have same nomenclature, i.e., way leave. Presently, while Approach channel is treated by MbPA as a way leave, Berthing pocket is considered as a license. 3. Land Allotment Committee Report for Zone & Valuer's Report not uploaded. Hence we are unable to give any comments thereon which points to inadequacy of consultation process. Please note that these documents were uploaded during the consultation process of SOR 2017-22. We therefore request you to provide us with all annexures referred to in TR 296 of 2023. 4. Ready Reckoner rate for 2022-23 is taken as 22,880/-. MbPA Valuer's rate for 2022-23 is also kept at Rs. 22,880/- per sq.mtr which compares with Rs 65,482/- per sq.mtr (i.e. SOR rate fixed for slab 2017-22 by GN No. 641 of 9th Dec 2021 wherein 2017-18 rate of Rs 53,821/- is increased by 4% every year). Thus, in effect MbPA has proposed to revise the rate downwards by 35%. This is a clear admission that their rates for previous slab were indeed much higher & whether the higher rate will continue with 4% increase for the next slab of 2022-27 has not been clarified. 5. In view of the above, SOR fixed for 2017-22 needs to be reviewed & adopted at much lower rates as also repeatedly noted by TAMP pointed out above. Conclusion : In the view of the above, the rate recommended in the MbPA's proposed SOR for MbPA land for RR Zone 90/419D for period 2022-23 at Rs. 2288C/- is required to be reviewed also to be in consonance with the Supreme Court judgement submitted herein above. Proposed SOR for Specialway leave Cases	

Sr.No.	Comments	MbPA Reply
	1 . Special Wayleave cases (SWL) & its Applicability- It is important to distinguish between commercial and infrastructure utilities which are regulated such as power utilities. Thus, any enhancement in the cost is automatically transmitted to the customers, resulting in increased tariff Tata Power is in the business of generation, transmission and distribution of electricity under the provisions of Indian Electricity Act and regulated by MERC. Tata Power is also a Telegraph Authority as per Govt. notification dt.7/4/1955. Thus, the relevant provisions of Indian Telegraph Act and Indian Telegraph Rules-2016 are applicable In terms of Telegraph Rules-2016, the underground utilities are not chargeable in terms of clause 6(4) except for administrative charges and restoration charges and in case of overhead transmission lines, charges are permitted to be recovered only if the land beneath is "unlikely to be used for any other purpose". Thus, in cases of HT lines which are passing through CRZ/Mangroves/Creeks/Water/Saltpan, since the land below are not usable for any other purpose, so specified in the DCPR 2034, no charges should be recovered in accordance with these Rules. Accordingly, the current proposals to HT lines through creeks / water and u/g cables are not applicable in accordance with para 3(c) of the LAC report read with 4 (viii) of LAC Report & clarification No. 17 of Clause No. 1 of 2018 mentioned therein. 2. Attention is also invited to TR 108 of 28/10/2019, wherein at Para 7, it is mentioned that "the amended policy of Right of Way (Special way Leave Fees) is again reviewed in the LAC meeting dt.3/8/2019 and also decided that whenever there are conflicts such cases will be dealt on case to case basis with LAC's recommendation e.g. ONGC (BUT, HUT, MUT pipelines), Tata, RCF, Customs etc. Therefore, whatever rates are finally adopted, they shall have due consideration to the applicable Act / Rules /	

Sr.No.	Comments	MbPA Reply
	Guidelines governing the occupations of Tata Power. It is submitted that MbPT's current proposal has not dealt with these aspects. 3. It is proposed that for unauthorized assignment / transfer of way leave permissions granted in the past due to merger, amalgamation etc. could be regularized by levy of 24-month way leave fees. This condition needs modification that where change of name due to merger achieved through legal process which does not involve any transfer of assets and where the approved scheme is stamped only for nominal amount since merger is by operation of law, such transfers should be permitted by charging only administrative fees and should not be designated as unauthorized assignment/transfer. 4. In the TAMP order dt.16/09/2020 passed on revision of way leave fee of 20122017, MbPT was advised to submit a well analyzed proposal as its proposal did not give details of the methodology adopted to determine the existing way leave charges based on return on investment etc. and for this reason, rate for loop length on Trestle was not approved. Even now the TR 296 of 2023 has not given any basis and details regarding the methodology adopted to arrive at the proposed SOR for Trestles which is a prerequisite already mandated by TAMP. 5.Consideration as a special case: (i) We would like to mention that the Power Purchase Agreement (PPA) of BEST with Tata Power (BEST supplies electricity to the Mumbai City including Mumbai Port Trust and its customers) is currently for the period from 2019 to 2024. The effect of these increases would be passed on to the customers adversely affecting their electricity tariffs. It should be noted that Tata Power pays an annual amount of -Rs.11 crs. to MbFT for 23 such cases. Only for the berthing pocket and approach channel at Mahul, Trombay, the annual amount being paid to MbPT is Rs.12.52 crs. including wharfage, dredging charges being additional. A case in point being the berthing pocket which is treated as a license	

Sr.No.	Comments	MbPA Reply
	and kept out of the purview of the "cargo operated" category despite wharfage being paid to MbPT. (ii) It needs to be further emphasized that as per MbPT's own berth hiring policy, the annual charges would not exceed 40L where even dredging is done by MbPT. As against this, the Coal Berth which is fully owned by Tata Power & being operated entirely at our cost, the current SWLF/License charges are —6.5 Cr/annum at RR rate with wharfage and dredging charges are additional. This shows a highly skewed nature of charges being recovered currently and the proposed enhancement would make them further so. We would therefore urge that as provided in para 3 (e) of LAC Report dated 13/12/2019, special consideration is accorded to the power utilities and the rates are rationalized which is not done even as on date. 6. In view of our submission above, we have clearly carved out a case for special consider <u>Conclusion:</u> In view of the above, the proposed SOR may suitably be reduced to reflect the aspects brought out above <u>Service Charges (Sr. no.5):-</u> In the consultation process adopted by TAMP during fixation of SOR for 2012-17 & 2017-22 TAMP had noted the grievance of port users regarding lack of amenities such as roads, water etc. and had called upon MbPA to suitably address them. As this aspect is not yet addressed, there is no justification for enhancing the service charges from 50 paise to Rs. 2.00/per sq. mtr' per month The above submission is Without Prejudice to our rights & contentions in the matter and we reserve our rights to adduce to our submission as appropriate based on the future developments in the matter.	
20	Specific Comments from Godrej Industries Limited With reference to your above referred Public Notice for submitting our remarks / comments / observations, please note our objections as mentioned below for your consideration: <u>Points of objections:</u> 1. The proposed revised scale of rent is in violation of the decision held by the Hon'ble Supreme Court in the Jamshed Hormusji Wadia Vs. The Board of	The Judgement of the Supreme Court of India in SLP(C) No.5559 of 2001, Jamshed Hormusji Wadia V/s. Board of Trustees of the Port of Bombay reported in AIR (2004) 3 SCC P-214 (hereinafter referred to for the sake of convenience as "the Wadia Judgement") has ratified and upheld the Board's Compromise Proposals subject to modifications contained in the said Judgement and in

Sr.No.	Comments	MbPA Reply
	Trustees of the Port of Mumbai & Anr., (2004) 3 SCC 214, ("Jamshed H. Wadia's case"). 2. The proposed revised scale of rent is contrary to the terms of the Trustee Resolution No.204 of 1997 and Trustee Resolution No. 31 of 2004. 3. Godrej Industries Limited ("GIL") has a valid, binding and subsisting lease in its favor in terms of the Terms of Lease dated November 22, 2005 ("Terms of Lease"). The Terms of Lease inter alia provides as under, that: a. the same is valid for a period of 30 years i.e. from April 1, 1994 to March 31, 2024; and b. the increment in rent would be 4% p.a. to be applied every October till the expiry of the Terms of Lease, 4. Accordingly, this Terms of Lease is a valid, binding and substituting upon the parties, till date. Hence the proposed revised scale of rent cannot and ought not apply to GIL. 5. In fact, as per the instant circular, being the proposal for revising the scale or rates dated March 29, 2023, the said proposed revision of the scale of rates does not apply to long-term leaseholders. 6. In view of the foregoing, Mumbai Port Authority ("MPA") cannot unilaterally modify the scale of rates in respect to the properties leased to GIL. 7. The contention of MPA issuing the instant circular to revise the scale of rates is blatantly illegal especially when the applicability of the revised scale of rates commencing from October 1, 2012, to long-term leaseholders is pending adjudication before the Hon'ble High Court of Bombay. In fact, even GIL has challenged the same by way of Writ Petition (L) No. 3926 of 2023. 8. Without prejudice to the previously mentioned, the proposed revision of rate of rent is exorbitant and has no basis whatsoever. No clarification or substantiation has been provided by the MPA as to on what basis such a high rate of revision of rent is sought to be imposed	Para 6 of Supreme Court Judgement has clearly provided that "notwithstanding the fixation of letting rates for 20 years for good and sufficient reasons, Board may review and revise the letting rates". Therefore, the comment and issues raised herein that the rates approved by Hon'ble Supreme Court is valid upto 31.03.2024 is completely false and has no legal validity. Board vide its resolution i.e. TR No.204 of 1997 has approved that "Approval is accorded to grant of fresh lease under the compromise proposals in case of expired leases from 1.4.1994 with 4% annual increase in rents every October till expiry of the fresh lease." Hon'ble Supreme Court in the said Wadia Judgement (at page 229 of the SCC placita f-g) clearly ratified and upheld Board's Compromise Proposals which inter-alia states that in case of expired leases, a fresh lease on new terms shall be at the sole discretion of the Board. Therefore, Board of Mumbai Port Authorities, in law, entitled to review and revise SoR w.e.f.01.10.2012. MbPA being autonomous body under Major Port Authority Act, 2021 (erstwhile Major Port Trust Act 1963) is bound to follow Policies/Guidelines issued by Government of India from time to time. MbPA proposed SoR is based on PGLM 2015 issued by Cabinet, GoI and principles laid down in Wadia Judgment. As per the MPA Act, 2021, the Board is the competent Authority for fixation of SoR and TAMP has no role in the matter. The proposed SoR is fair and reasonable and is in terms of the provision of PGLM and also

Sr.No.	Comments	MbPA Reply
	9. Moreover, any revision in rent cannot be unilateral and has to be done with consultation and/or the approval of the lessee i.e. GIL, in the present case. Thanking you,	conforming to the ratio laid down in the Wadia Judgement. Revised SoR is applicable all cases of expired leases, monthly tenancies, 15 monthly leases and licences. In cases of subsisting leases, contractual rent will be applicable till the date of expiry and prevailing SoR will be applicable from the date of expiry of the lease. The proposed SoR as approved by the Board for the period 2022-2027 is strictly in accordance with the provisions of cabinet approved Policy Guidelines for Land Management by Major Ports, 2015 (PGLM 2015) with the rate of return on land value being pegged at the barest minimum of 6% per annum with the annual escalation being pegged at the barest minimum of 2% as against the 10% return per annum and 4% annual escalation under the compromise proposals upheld by the Hon. Supreme Court under the Wadia Judgement. The Fair Market Value has been arrived at by Shri Avinash Pendse an expert and reputed IBBI approved valuer on the Bombay High Court Panel based on actual sale instances obtained from the office of the Registrar of Assurances and by applying adjustment factors based on leasehold nature, the locality, attributes, amenities, etc and hence the proposed SoR is fair & reasonable.

**JOINT HEARING WITH TENANTS/LESSEES/STAKEHOLDERS ON 13.04.2023
THROUGH VIDEO CONFERENCING ON ZOOM**

The joint hearing with the tenants/lessees/stakeholders was held on 13.04.2023 from 3.00 p.m. onwards through video conferencing on Zoom in which 197 numbers of tenants/lessees/stakeholders participated including Advocates and Office bearers representing some of the Associations such as Darukhana Iron & Steel Merchants Association, Bombay Charcoal Merchants Association, Lakri Bunder Timber Merchants Association and a group of tenants/lessees including Indian Hotels Co. Ltd, Tata Power Co., Scindia Steam Navigation Co., Kamani Tubes Ltd, Godrej Industries Ltd., occupants of Nav Vyapar Bhavan, Bahri Buildings, LIC Building, etc, besides individual tenants/lessees/occupants.

At the outset the Estate Manager welcomed the participants in the Joint Hearing and explained the process followed in arriving at the proposed SoR taking into considerations the concerns of the tenants/lessees/stakeholders expressed in the past. It was pointed out that the Board had constituted a Land Allotment Committee/SoR Committee for recommending the proposed SoR 2022-2027. The Committee had held a number of meetings over a period of time and there were detailed deliberations during these meetings. The Committee had examined the methodology followed in past revisions, the reports on rentals and sale available in market, trends in the market, the policies followed by other ports, etc., while formulating the proposed SoR. All the members of the Land Allotment Committee/SoR Committee were present in the Board Room during the joint hearing. Estate Manager thereafter made a power point presentation regarding the proposed SoR, highlighting the aspects of the proposed SoR 2022-2027 effective from 01.06.2023 for land, Port owned structures, service charges, charges for temporary use of Port Authority land, factors for allotment of land, etc. The Estate Manager explained that those who intend to raise the issue should indicate through raising of hand so that such person can be unmuted.

The issues raised during the meeting were in substance the issues covered in the comments received from the tenants/ lessees/stakeholders. There were also requests for extension of time for furnishing comments after uploading of all documents/valuation report, etc. and also for grant of opportunity to submit rejoinder to the response of MbPA on stakeholders comments. Having uploaded Board Resolution No.296 of 2023 giving the modalities and procedure followed in formulating the SoR, no further documents need to be furnished considering the commercial interest and neither extension of time is required to be granted nor is there a necessity to allow the parties to submit rejoinders as this would delay the process of revision. None of the parties have made any substantial submission on the issue of the rates being exorbitant or arbitrary except making vague and unsubstantiated comments without facts, figures or documents.

One of the issues raised by most of the stakeholders have been that the rates under the Wadia Judgment are valid till 2024. It is necessary to address this issue in a proper perspective.

The Supreme Court had in its judgement dated 13.01.2004 (Wadia Judgement) resolved the dispute with regard to the rent under the compromise proposal only for the period upto 31.03.2000. The exact wordings of the judgement are as follows :

“by this judgement and in these proceedings the controversy as to the rates of rent applicable to the lessees shall be deemed to have been resolved for the period 01.04.1994 to 31.03.2000”.

The lettings rates under the compromise proposals as upheld under the Wadia Judgement are contained in para 6, item (iii). The letting rates contained therein are divided into the period 1-10-1982 to 30-9-1992 and 1-10-1992 to 30-9-2012. The letting rates for the period 1-10-1982 to 31-3-1994 have not been modified under the Wadia Judgement, what has been modified is only the rate of return for the period from 01.04.1994 till 31.03.2000 to 10% on land value as per Kirloskar Consultants Report for non-home occupations. Under the compromise proposals for the period from 1.10.1982 to 30-9-1991 (subsequently extended till 31-3-1994), the Board had decided to recover the arrears irrespective of built up area at a flat rate of Rs.6.33 per sq.metre per month in case of non-hazardous trade/ use or at a rate of Rs.8 per sq. metre per month in case of POL and hazardous trade/use with simple interest at 8 per cent per annum. In a few cases where leases are granted for the period from 1-4-1994 to 31-3-2024 pursuant to the compromise proposals, the rent continues at the rates under the compromise proposal with 4% annual escalation for the period upto 31-3-2024 as it was felt that the rent cannot be left indeterminate during the lease period. However in cases of regularisation of Monthly Tenancies and 15 Monthly leases, it was clearly indicated that rent/rates are applicable till 30.09.2012.

Thus the contention that the rates of rent under “compromise proposals” (as upheld under Wadia case) - are valid till 31st March 2024 is a fallacious contention. Nowhere in the Compromise Proposals was it contemplated by the Mumbai Port that the rent under the said proposal would be valid till 31.03.2024 or such a proposition upheld by any judicial pronouncement. By such a contention the stakeholders are trying to bind the Port for a period of four decades which would be against the principle enunciated in para 18 of the Supreme Court Judgement wherein it is clearly stated that **“The State and its instrumentalities, as the landlords, have the liberty of revising the rates of rent so as to compensate themselves against loss caused by inflationary tendencies. They can – and rather must- also save themselves from negative balances caused by the cost of maintenance, and payment of taxes and costs of administration. The State, as landlord, need not necessarily be a benevolent and good Samaritan. The felt need for expanding or stimulating its own activities in the public interest having once arisen the State need not hold its hand from seeking eviction of its lessees. However, the State cannot be seen to be indulging in rack-renting, profiteering and indulging in whimsical or unreasonable evictions or bargains.”** The MbPA during the last decade has been facing operational deficit in about 8 financial years

and operational profit for only two financial years. Many of the works of maintenance have been held back on account of lack of funds, there is shortfall in pension fund, unpaid arrears on account of wage revision of staff and officers effected from 2017, many of the projects have been held up on account of lack of funds. The proposed SoR has sought to strike a balance between the mandatory provisions of PGLM 2015 and the principles laid down in the Supreme Court under the Wadia Judgement and is thus fair and reasonable.

The issues raised by the Tenants/Lesseees/Stakeholders and MbPA comments on the same are as follows.

Sr.No.	Tenant/Lessee/ Stakeholder	Issues raised	MbPA's Comments
1.	Mr. Ketan Parekh 41308148	Special relief should be granted on Grievances contained in the Consumer Complaint No.35 of 2023 should be addressed	No comments are warranted on disputes raised before any authority other than the Port.
2.	Mr. Dandiwalla (Indian Hotels Co. Ltd.)	Already detailed representation filed. The rates fixed by Mumbai Municipal Corporation another Govt. body are lesser than the rates of MbPA. While considering the SDDRR, the same has to be adopted in entirety and not some factor while ignoring others. The Govt. body is considering 25% of land value and 5% return.	The Valuer explained that all factors for the purpose of valuation have been taken into consideration. In their specific case, they enjoy a premium location surrounded by roads on all four sides and a water body on one side. As regards the value of land, rate of return and annual escalation, etc. the Board is mandated by the provision of PGLM 2015 regarding factors for fair market value of land, the rate of return and annual escalation and accordingly kept the rate of return at 6% per annum and annual escalation reduced to 2% from 4%.
3.	Kamani Tubes Ltd.	They have submitted their comments in writing and the issues raised be considered in light of the fact that theirs is a sick industry nurtured by BIFR.	No comments are warranted on issues unrelated to SoR.
4.	Mr. Rajesh Panicker, Tata Power Co.	They have submitted their comments in writing and some of the documents referred in the Board decision/revision of SoR have not been uploaded and making it difficult for them to raise all issues and therefore requested to place the same in public domain and grant time for giving comments on the same and also to submit rejoinder to the response of MbPA.	Board's Resolution No.296 dated 27.03.2023 which contains all the details and which is self explanatory has been uploaded on website. Submitting rejoinder to the response of MbPA on comments of tenants/lessees/ stakeholder will not be possible as such a process would delay the implementation process and such a course is not mandated. As regards the issues of Tata being considered on equal footing with other

Sr.No.	Tenant/Lessee/ Stakeholder	Issues raised	MbPA's Comments
		TPC is a public utility infrastructure company and there is decision of the Board in dealing with the case of public utility co. like BEST, etc. There is a reference in earlier Board resolution that in respect of Tata/RCF, there would be separate consideration in the SoR.	utility Co. like BEST, the matter is already subjudice in the WP filed by Tatas in the Bombay High Court and therefore no comments are warranted.
5.	Adv. Ahura Mazda Postwala, Cotton Association of India, Voltas, D. Abraham, Metro House, Treasurer of Charitable Endowment & Arsiwala Bldg.	Reply has not been filed by MbPA on the WP filed challenging the previous revision and MbPA has gone ahead with the proposed revision. The Wadia Judgement clearly states that rent cannot be on the basis of market value of land. Para 18 of Wadia Judgement gives a formula whilst revising rent that the inflation, maintenances cost, cost of administration, etc. can be taken into consideration. Annexures/Valuation report not uploaded and should be furnished. The reduction in SoR by 50% is illusionary – Wadia rate of 10% was based on Kirloskar rate of 1982 and therefore not comparable. Presentation needs to be uploaded Entire basis of revision is contrary to law.	No comments are warranted on issues not related to proposed SoR 2022-2027. The revision is strictly in terms of the mandatory provisions of PGLM 2015 and the ratio laid down under the Wadia Judgement. The BR No.296 of 2023 uploaded on the MbPA website is self explanatory. Comparison to the land rate of 1980 in fixation of rate for the period of revision 2022-2027 about four decades later is incorrect and an untenable proposition. The presentation was only to explain the proposal in brief and is not required to be uploaded. The revision is in consonance and compliance with the provisions of law.
6.	Adv. Prerak Choudhary, Bombay Charcoal Merchants	Few of the documents sought through chat during the hearing should be furnished	At the outset taking into account the concerns of the tenants/ lessees/ stakeholder, the proposed SoR 2022-2027 on the average scale is lower by 51% compared to the rates as per SoR

Sr.No.	Tenant/Lessee/ Stakeholder	Issues raised	MbPA's Comments
	Association & DISSMA representing about 200 to 300 tenants.	Rates have to be reasonable and fair. The rates under the Supreme Court order were acceptable to the tenants and the Port, but now the rate is steep by 30 to 100 times in SoR 2012-2017 and 2017-2022 and only slight reduction under SoR 2022-2027. Several Writ Petitions filed for that reason. There is need of retrospection and revision should be such that benefits the exchequer and the tenants/ lessees. Meetings should be held with individual units separately since each unit has different issues e.g. In Darukhana there is no proper infrastructure, motorable roads, lights, etc. No one will take such places on lease & license in Darukhana. In spite of that the lessees / tenants are carrying on business there since 70-80 years. How can expect them to pay in such situation ? Some aspects need consideration such as water bodies are allowed 50% concession, there is no development at foreshore land, CRZ. How can a tenant pay you at market value equivalent to rate of Cumballa Hill ? BMC Charges, something which is bio-fraction of something that we pay. Tenants are protected under Rent Act. MbPA says it does not apply to MbPA. That's a debatable issue. However, if the Port	2017-2022. LAC/SoR Committee has recommended upto 69% lower rates compared to rates as per SoR 2017-22 depending on the prevailing conditions existing in respective RR Zones. TR No.296 of 2023 which has been uploaded on MbPA website incorporates all details of studies undertaken, procedures followed, methodology adopted for arriving proposed and is thus self explanatory. In terms of the Supreme Court judgement the State and its instrumentalities, as the landlords, have the liberty of revising the rates of rent so as to compensate themselves against loss caused by inflationary tendencies. They can – and rather must- also save themselves from negative balances caused by the cost of maintenance, and payment of taxes and costs of administration. The proposed revision has thus tried to keep a balance between the mandatory provision of PGLM 2015 and the principle enunciated by the Supreme Court under the Wadia Judgement. Therefore the contention that the rates of 2012 has to be benchmark for revision would be against the principle of SC Judgement as the instrumentalities of the State are required to carry out periodic revision to overcome the inflationary element and also save themselves from negative balances caused by the cost of maintenance, and payment of taxes and costs of administration There are no tenancies in Cumbala Hill. There is only one lease which is a subsisting lease and to which the revision would not apply. The rates of Mumbai Port are guided by PGLM 2015 and therefore comparison to the rates of other land owning bodies is not in order.

Sr.No.	Tenant/Lessee/ Stakeholder	Issues raised	MbPA's Comments
		Authority claims that they want market value, which the landlord cannot recover from his tenants, the landlord is compelled to suffer proceedings under PPE Act. Therefore, the question arises whether these rates are reasonable? U-turn is taken from SoR 2012 & 2017. Atleast in 2022-27 let us not make same mistakes and there has to be some sort of compromise. Make 2012 rates the benchmark for revision. Leasehold land has restrictions. Nobody can mortgage, sublease, or do construction, etc. Therefore it should not be compared with freehold land. Reduce the rates atleast by 40% to 50%	The restriction with regard to mortgage, sublease or construction is only where it is carried out without prior. The Valuer Shri Pendse had also clarified that in most of the cases the occupants on the let out land are third parties who do not have any right. He further clarified that all factors have been taken into consideration while proposing the Fair Market Value of land. The rates as proposed are very fair and reasonable.
7.	Aegis Logistics Ltd.	Lease Rent is of freehold land and these are leasehold land. Consider this point. Pir Pau is considered under Anik Zone. It should be under RR Division Mahul. SPL Way Leave for pipelines – Pipeline area is considered by taking minimum width 1 mtr., which should be considered for actual area covered by the pipeline because sometimes 2-3 pipelines are laid in that 1 mtr. Area. Way Leave charges for trestles are worked out considering the return on investment by the port. The cost must have been recovered by now. So charge on land basis.	Proposed SoR has taken into consideration as explained by the Valuer factors based on leasehold nature, the locality, attributes, amenities, etc and the standard deductions to arrive at the land value and hence the proposed SoR is fair & reasonable The RR Zone for Pir Pau is 90/419. With regard to Special Way Leave fee, it has been decided that if the existing way leave fee is higher than the proposed way leave fee, the existing way leave fee would be continued till it matches the rates as per proposed way leave fee rates, whereafter the annual increase of 2% would be leviable. Thus in majority of the cases, there would be no revision of way leave fee and the existing way leave fee would continue which it should be appreciated offers great relief to the users.

Sr.No.	Tenant/Lessee/ Stakeholder	Issues raised	MbPA's Comments
		Levy of Rs. 2/- as Service charge should not be charged. It is included in infrastructure cost.	The issue of width of minimum 1 meter is to ensure maintenance of safety distance and is an issue which has been raised in the past and settled even by TAMP and does not need any review. With regard to the way leave fee on trestle, way leave has always been on the basis of return on capital. Also MbPA has to incur expenses on repairs and maintenance. It was clarified that Service charge is not applicable to Special Wayleaves and is only applicable to let out plots which have roads, footpaths, passages maintained by MbPA towards which MbPA is required to incur expenses.
8.	Ebrahim Soorya Representing Lakri Bunder Timber Merchants.	As done during the past SoR revision the tenants are asked to give comments / objections, etc. Hearing is also held and our comments are not considered while finalising the SoR. MbPA will go and publish the notification without considering the objections. As per RR, the rate was Rs. 164/- per sq.mtr. in 2022. Start billing as per RR and we are ready to pay. New SoR is high. Shows MbPA's negative attitude. It looks like you do not want any lessee to stay in Darukhana. Do something logical / practical. We are not getting any lease/tenancy agreement, no permanency. We are not even considered as tenants. Compromise settlement. We are ready to pay.	Taking into account the concerns of the tenants/ lessees/ stakeholder, the proposed SoR 2022-2027 on the average scale is lower by 51% compared to the rates as per SoR 2017-2022. LAC/SoR Committee has recommended upto 69% lower rates compared to rates as per SoR 2017-22 depending on the prevailing conditions existing in respective RR Zones. The proposed SoR as approved by the Board for the period 2022-2027 is strictly in accordance with the provisions of cabinet approved Policy Guidelines for Land Management by Major Ports, 2015 (PGLM 2015), with the rate of return on land value being pegged at the barest minimum of 6% per annum with the annual escalation being pegged at the barest minimum of 2% as against the 10% return per annum on land value and 4% annual escalation under the compromise proposals upheld by the Hon. Supreme Court under the Wadia Judgement. The Fair Market Value has been arrived at by Govt. approved valuer Shri Avinash Pendse an expert and reputed IBBI

Sr.No.	Tenant/Lessee/ Stakeholder	Issues raised	MbPA's Comments
		There is no proper infrastructure, facilities but still we have kept your land alive. There are thousands of tenants. MbPA and tenants are fighting in Courts since 1980. Hear to us and let us have some solution instead of fighting in the courts.	registered valuer, on the Bombay High Court Panel based on actual sale instances obtained from the office of the Registrar of Assurances and by applying adjustment factors based on leasehold nature, the locality, attributes, amenities, etc and the standard deductions to arrive at the land value and hence the proposed SoR is fair & reasonable. MbPA is mandated by the provision of the factors prescribed in the PGLM in determination of SoR.
9.	Scindia Steam Navigation Ltd. Also representing several other buildings e.g., LIC, Hansraj Bahari, Sushila Nemchand Shah, etc. also representing 164 occupants of Vyapar Bhavan, area surrounding Sewree.	Ready to compromise subject to lease coming on our name. Scindia Steam Navigation does not exist now. It is long back gone. We are 164 members as tenants. Grant us lease and we will pay whatever rate approved by the valuer.	The issues are not related to proposed SoR. In fact there is an acceptance shown by the stakeholder to pay as per SoR,
10.	Bombay Charcoal Advocate Prerak Choudhary	Since there is no proper infrastructure, the rates should be accordingly. Should follow constitution 14 Base should be Wadia Judgement.	The issues are already covered in the issues raised by Adv. Prerak Choudhary and the response to the said issues as brought out above at No.6
11.	Swapnali Roopvate For Godrej Industries	Submission given in writing. Documents be provided and opportunity to record our response on the those documents may also be given. Base rent should be taken as per the agreement between MbPA & Godrej.	TR No.296 of 2023 which has been uploaded on MbPA website incorporates all details of studies undertaken, procedures followed, methodology adopted for arriving proposed and is thus self explanatory. The proposed SoR 2022-2027 are applicable to expired lease, monthly tenancies and 15 monthly leases and are strictly in consonance with the provisions of Cabinet approved PGLM

Sr.No.	Tenant/Lessee/ Stakeholder	Issues raised	MbPA's Comments
		Rent compared to the agreement is increased by 90 % and exorbitant. The earlier SoR cannot be the base.	2015 and the principles enunciated by the SC under Wadia Judgement.
12.	Shashi Chadha	To transfer the leasehold into freehold.	Issue is not related to proposed SoR 2022-2027.