

CLARIFICATION CIRCULAR (LAND MANAGEMENT) No. 2 OF 2019

Subject: Clarification on Policy Guidelines for Land Management, 2015 (PGLM 2015)

Issue 1:

There are cases where land was allotted on lease for setting up of industrial, service sector and commercial units. The units are still functioning as going concern and lease did not provide for renewal. It has been decided to grant fresh lease as per Clarification 7. How is the period between the expiry of earlier lease and grant of fresh lease is to be treated? Also, if the lease has expired before 02.01.2014 i.e. prior to coming into effect of PGLM 2014, how is the period between the expiry of the earlier lease and grant of fresh lease is to be treated?

Clarification 1:

When the lease has expired and has no renewal clause, then the existing lessee to be eligible for taking part in the bid with ROFR should clear all dues including the value of the lease rental determined as per the SOR rates prevailing from time to time since the period of expiry of the lease and date of tender-cum-auction. When the delay in calling for tender is attributable to the Port authorities no penalty/interest should be charged from the lessee i.e. it should be based on single rate at the prevailing SOR from time to time. The reserve price for the tender would anyhow be the latest SOR as per Para 13. In the tender cum auction process the lease period should be reckoned prospectively. If the existing lessee becomes the successful bidder in the tender – cum - auction then the intervening period should be regularised by the Board. In all such cases, even if the lease had expired before 2014, i.e. prior to coming into effect of PGLM 2014, the guidelines prescribed for renewal of existing/earlier leases as per Para 11.3 would apply.

(This is issued in supersession of earlier clarification No. 7 issued on 14.5.2018)

Issue 2:

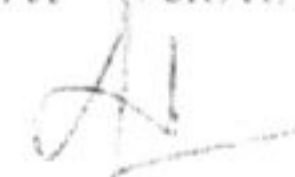
There are cases where port lands have been encroached by slum dwellers. Can rehabilitation/relocation/redevelopment of such slums can be undertaken?

Clarification 2:

For the purpose of freeing up encroachments leading to optimum utilization of land, the ports may consider the applicability of any Central Government approved Policy/ Scheme for slum rehabilitation/ redevelopment/relocation. For this purpose, Port may formulate proposal keeping the said Central Government Policy/ Scheme into consideration and submit it to MoS for obtaining the approval of the concerned Central Government Ministry. For example, if the proposal falls under Prime Minister Aavas Yojna (PMAY), the concerned port will submit the proposal formulated based on the guidelines of PMAY to MoS for obtaining the approval of Ministry of Urban Development.

Issue 3:

There are cases, where land was allotted on lease for setting up of industrial, service sector or commercial units. The units are still functioning as going concern and lease deed did not provide for renewal. What is the methodology to be adopted for grant of fresh lease, and what are the rates which shall apply? Should procedure for valuation of a structure be on a 'replacement' basis which is defined in Indian Accounting Standards (Ind AS 113)?



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