

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

No. TAMP/54/2021-MBPT

Mumbai, 24 November 2021

NOTIFICATION

This Authority, in exercise of the powers conferred by Section 49 of the Major Port Trusts Act, 1963 (38 of 1963), has disposed of the proposal received from Mumbai Port Trust (MBPT) for fixation of Schedule of Rates and revision of rent / compensation for the period 01.10.2012 to 30.09.2017 and 01.10.2017 to 30.09.2022 for residential and mixed used occupations on 01 November 2021. However, considering the time involved for notifying the Speaking Order along with the Rent Schedule, approved by this Authority, this Authority decided to notify only the Rent Schedule for MBPT prescribing Lease rentals for the period 01.10.2012 to 30.09.2017 and 01.10.2017 to 30.09.2022 for residential and mixed used occupations. Accordingly, the Rent Schedule for MBPT prescribing Lease rentals for the period 01.10.2012 to 30.09.2017 and 01.10.2017 to 30.09.2022 for residential and mixed used occupations, approved by this Authority on 01 November 2021 was notified in the Gazette of India on 12 November 2021 vide Gazette no.556. It was stated in the said Notification that this Authority will notify the Speaking Order, in due course of time. Accordingly, this Authority hereby notifies the Speaking order connected with the disposal of proposal of MBPT for fixation of Schedule of Rates and revision of rent / compensation for the period 01.10.2012 to 30.09.2017 and 01.10.2017 to 30.09.2022 for residential and mixed used occupations as in the Order appended hereto.


(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/54/2021-MBPT

Mumbai Port Trust

Applicant

QUORUM

- (i) Shri. T.S. Balasubramanian, Member (Finance)
- (ii) Shri. Sunil Kumar Singh, Member (Economic)


ORDER

(Passed on this 1st day of November 2021)

This case relates to a proposal received from Mumbai Port Trust (MBPT) vide its letter No. FA/OEA-L/38(21)/Gen/267 dated 23 September 2021) received from Mumbai Port Trust (MBPT) seeking approval for fixation of Schedule of Rates and revision of rent / compensation for the period 01.10.2012 to 30.09.2017 and 01.10.2017 to 30.09.2022 for residential and mixed used occupations.

2.1. The main highlights of the MBPT proposal dated 23 September 2021 are as follows:

- (i). Government has issued Policy Guidelines on Land Management for all major ports vide letter No. PD-13017/2/2014-PD.IV dated 17.07.2015. By Clarification Circular No. 1 of 2018 dated 14.05.2018, and Clarification Circular No.1 of 2019-


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20 dated 29.04.2019 Ministry has extended the applicability of the PGLM 2015 to the non-home occupation / commercial areas of the township areas of Mumbai, Kolkata and Kandla Port. Clause 13 (c) of PGLM of 2015 requires the port to refix the SOR once in five years and obtain TAMP's approval thereto.

- (ii). As provided in Clause 13 of PGLM, Land Allotment Committee (LAC) has recommended rates for various Ready Reckoner Zones. Same have been approved by MBPT Board. [MBPT has furnished Board Resolution approving the LAC recommendations]
- (iii). In this backdrop, the MBPT has come up with the subject proposal for seeking approval for fixation of Schedule of Rates and revision of rent / compensation for the period 01.10.2012 to 30.09.2017 and 01.10.2017 to 30.09.2022 for residential and mixed used occupations which is submitted for approval to the SOR in terms of Clause 13 (c) of PGLM 2015.

2.2 The background and other main points made by the MBPT in its proposal dated 23 September 2021 are summarized below:

A. Background :

- (i). Mumbai Port Trust owns about 944 Ha of land in Mumbai City. The land in the Mumbai city limits falls under the jurisdiction of A, B, C, M, G-North, E, F-North and F-South Wards and letout lands in outside island city of Mumbai. The said land stretches from Colaba to Wadala, Mahim, Worli, Govandi, Pir Pau, Mahul, Titwala etc. and is divided into 15 administrative units for management of these estates. The landed estates are divided into 2 main categories, viz. (i) lettable land and (ii) non-lettable land. Non-lettable land includes areas occupied by offices of sister department, administrative offices of Mumbai Port Trust, Port Trust quarters, Port Trust hospital, etc. The lettable category includes areas let out on long term leases, 15 monthly leases, monthly tenancies and licenses. There are also a few plots which are vacant and can be let out.
- (ii). The Board vide TR 153 of 2021 accorded approval to Schedule of Rates (SoR) for the period from 01.10.2012 to 30.09.2017 and from 01.10.2017 to 30.09.2022 in respect of Mumbai Port Trust letout land falling under various Ready Reckoner Zones applicable to all the Expired leases/Fifteen Monthly leases/Monthly Tenancies/Licenses of the plots for Residential (Home) & Mixed Use (Home + Non-Home) occupations.

B. Policy Guidelines:

- (i). The Land Management Policy Guidelines for Major Ports, 2010 issued by the Ministry was adopted by the Board vide TR No.21 of 2011 read with Supreme Court Judgement. The Ministry subsequently, with the approval of the cabinet, issued Land Policy guidelines for Land Management by Major Ports 2014 (PGLM), which was applicable for all Ports except for the land relating to the township areas of Kandla, Mumbai and Kolkata Port, for which it was stated that separate policy will be formulated. The amended policy guidelines were issued in 2015.
- (ii). The Ministry vide clarification Circular (Land Management) No.1 of 2018 dated 14.05.2018, Clarification No.2 of 09.03.2019 and Clarification No.1 of 2019-20 dated 29.04.2019 issued clarification circular on various issues of PGLM 2014/15 extending the applicability of the PGLM 2015 to the non-home occupation/ commercial areas of the township areas of Mumbai, Kolkata and Kandla Port upto

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31.03.2020 with a sunset clause. The PGLM 2015 has thus become applicable to the township areas of Mumbai Port Trust. The Ministry vide further letter dated 27.01.2021 has clarified that "since PGLM 2014 has been approved by the cabinet, it is valid until it is revised by the cabinet. Hence, compiled PGLM, 2015 issued on 29.04.2019 will be applicable for both the land of major port trust and the township area subject to the condition mentioned in the letter dated 29.04.2019."

(iii). As per the PGLM-2015, the Land Allotment Committee is required to consider the following factors for determining the market value of the Port land:

I). *Five factors*

"a) *State Government's Ready Reckoner of land values in the area, if available for similar classification/ activities.*

"b) *Highest rate of actual relevant transactions registered in the last 3 years in the ports 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.*

"c) *Highest accepted tender-cum-auction rate of Port land for similar transaction updated on the basis of the annual escalation rate approved by the Port Trust Board.*

"d) *Rate arrived at by an approved valuer appointed for the purpose by the Port.*


"e) *Other relevant factor as may be identified by the Port.*

II) *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 value recommended by the Port trust.*

III) *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 the 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 refixed once in every 5 years by TAMP".*

C. Legal Issues:

TAMP had vide notification No. TAMP/10/98-Misc of 28.03.2000 issued orders dated 15.03.2000 on its jurisdiction for framing scale of rates and statement of condition on the issue of applicability of SOR to all lands of all Major Ports. The said notification was challenged by the Mumbai Port by Writ Petition 1153 of 2000. In the writ petition, by interim order dated 02.05.2000, the Bombay High Court had stayed the applicability of TAMP's order to areas not falling within Port limit and Port approaches. The issue of withdrawal of Writ Petition and necessary advice for the same was been taken up with the Ministry in the light of PGLM 2015. TAMP has since by letter dated 15th July 2019 intimated that TAMP is required to


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fix the SoR for all areas of Mumbai Port including Township areas with effect from 01.10.2012 onwards in terms of advisory from the Ministry of Shipping and therefore notification dated 28th March 2000 may be seen to have become infructuous. Therefore, the Writ Petition was also withdrawn by High Court order dated 08.08.2019.

D. LAC Report:

- (i). Board vide TR 253 of 1991 had approved the compromise policy for settlement of litigation and renewal of leases and fixed SoR rates of Home and Non-Home occupations based percentage return of land values based on M/s Kirloskar consultants report in 1981. In the said TR, the letting rates for Home occupations were 20% of the Non-Home occupation rates. Further, vide TR No.31 dated 10.3.2004, approval was accorded to the acceptance of the Hon'ble Supreme Court Judgment dated 13.1.2004 with percentage return changed from 15% to 10% for Non-Home occupations and 12% to 8% for Home occupations. The said SC Judgment rates were valid for 20 years from 1992 i.e. upto 30.09.2012. Further on representation from residential occupants of MbPT land, Supreme Court vide order dated 09.01.2006, reduced the rate of return from 8% to 3% for residential (Home) occupations. Presently, all Home and Mixed (Home + Non-Home) occupations are billed as rent/compensation as per SC Judgment rates with 4% annual escalation in every October.

(A). The SoR for Home and Mixed (Home + Non-Home) occupations for the period 2012-2017:

- (i). In the Ready Reckoner published by State Government, no distinction is made for land values (FMV) of Commercial (Non-Home occupations) and Residential (Home Occupations) lands. The same market value is recommended for residential use/ Home occupations as recommended for Non-Home occupations of the corresponding ready reckoner zones. Accordingly, the same FMV/SoR may be recommended to Mixed (Home + Non-Home) occupations. Since there is fixed percentage of return on FMV i.e. 6% provided in the PGLM 2015. Therefore, SoR for Home and Mixed (Home + Non-Home) occupations will be same as SoR of Non-Home occupations.
- (ii). The proposed SoR for Home and Mixed (Home + Non-Home) occupations for the period 2012-17 is based on 6% of return on land value as per Stamp Duty Ready Reckoner 2012 with annual escalation of 4% p.a. in every October and with revision of SoR every 5 years. Also for comparison, existing billed rates of compensation for these occupations as per SC Judgment rates are also furnished. The Comparative statement of existing rates vis-à-vis proposed rates as furnished by MBPT is given below:

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COMPARATIVE STATEMENT OF SUPREME COURT RATES AND SOR 2012-17 IN RESPECT OF HOME & MIXED (HOME+NON HOME) OCCUPATIONS

Sr. No	RR Zone	Unit	Letting rate per sq mtr per month (in ₹.) as per Supreme Court Judgment as on 30.09.2012	Proposed letting rates per sq mtr per month (in ₹.) (as per 6 % return p.a. in terms of Land policy) on Land Values as per Ready Reckoner 2012 as on 01.10.2012	Increase in Rates compared with SC Judgment & TR No.105 of 2018 (No. of times)
1	14/101	1	5.55	120.0	20.6
2	11/86	1, Bunders	5.55	69.0	11.4
3	16/110	1	5.55	259.0	45.7
4	11/84	2	5.55	332.5	58.9
5	10/79	2,6	5.55	168.0	29.3
6	11/85A	3	5.55	103.0	17.6
7	10/79 A	8	5.55	83.5	14
8	10/80	4,7,8,9, Bunders	5.55	84.5	14.2
9	11/85	4,5, Bunders	5.55	86.5	14.6
10	10/78B	8	5.55	107.5	18.4
11	3/36	8,Docks	9.64	134.0	12.9
12	2/23	9, 11, Docks	9.64	265.0	26.5
13	3/35	10	6.38	244.5	37.3
14	2/9	11	10.48	466.5	43.5
15	2/22	11	10.48	273.5	25.1
16	1/6	12, Bunders	9.64	534.0	54.4
17	1/6A	12	9.64	494.5	50.3
18	1/3	12	11.77	1266.0	106.6
19	2/12	12	11.77	667.5	55.7
20	90/419	1	5.55	68.5	11.3
21	96/436	1	5.55	115.0	19.7
22	26/81	5	5.55	34.5	5.2
23	17/119	14	9.37	300.5	31.1

Note : For comparison purpose, the Letting rate per sq. mtr. per month as per Supreme Court Judgment as on 30.09.2012 need to be increased by 4%.

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(B). The SoR for Home and Mixed (Home + Non-Home) occupations for the period 2017-2022:

- (i). In terms of the PGLM, 2015, SoR has to be recommended by LAC and approved by the Board and notified by the TAMP. The Board vide TR 146 of 2014 had constituted Land Allotment Committee headed by Dy. Chairman and comprising of Traffic Manager, FA&CAO, and Estate Manager as members to recommend new Schedule of Rates for Estate lettings. The recommendations of LAC on revision of SoR 2017-22 at 6% return p.a. on fair market value (FMV) of land for base rate for FSI = 1.0 as per based on valuers report for various Ready Reckoner Zones for the year 2017-18 is worked out as per five factors provided in Para 13 of PGLM 2015 policy guidelines have been accepted by the Board by various Trustees' Resolutions. LAC has recommended 4% increase every year in October and the same was accepted by Board vide various Trustees Resolutions.
- (ii). The proposed SoR for Home and Mixed (Home + Non-Home) occupations for the period 2017-22 is based on 6% of return on highest of five factors i.e. Fair Market Value of land as per Valuers report approved by the Board vide various TRs as recommended by LAC with annual escalation of 4% p.a. in every October and with revision of SoR every 5 years. Also, for comparison, existing billed rates of compensation for these occupations as per SC Judgment rates are also furnished.

COMPARATIVE STATEMENT OF SUPREME COURT RATES AND SoR 2017-22 IN RESPECT OF HOME & MIXED (HOME+NON HOME) OCCUPATIONS
(in ₹.)

Sr. No	RR Zone	Unit	Letting rate per sq.mtr. per month as per Supreme Court Judgment as on 30.09.2017	Proposed base rates per sqm per month for FSI 1.00 (as per 6 % return p.a. in terms of Land policy) on FMV as 01.10.17	Increase in Rates compared with SC Judgment & SoR 2017-22 (No. of times)
1	14/101	ND -Unit 1	6.75	575	84.19
2	11/86	ND/CD/ Bunders Unit 1, 5,13	6.75	601	88.04
3	11/85A	ND- Unit 3	6.75	892.25	131.19
4	11/85	ND/CD/ Bunders Unit 4, 5,13	6.75	842.25	123.78
5	10/80	ND/CD/ SD/Bunders Unit 4,7,8,9,13	6.75	938.5	138.04
6	10/79	ND/CD- Unit 2, 6,7	6.75	856.55	125.90
7	3/36	SD - Unit 9	6.75	948.165	139.47
8	3/35	SD/Bunders - Unit 9, 10,14	7.78	851.2	108.41



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Sr. No	RR Zone	Unit	Letting rate per sq.mtr. per month as per Supreme Court Judgment as on 30.09.2017	Proposed base rates per sqm per month for FSI 1.00 (as per 6 % return p.a. in terms of Land policy) on FMV as 01.10.17	Increase in Rates compared with SC Judgment & SoR 2017-22 (No. of times)
9	3/35B	SD - Unit 9, 10	6.75	948.165	139.47
10	2/22	SD- Unit 11	12.75	955.2	73.92
11	2/13	SD/Bunders Unit 9,11,15	12.75	1313	101.98
12	2/9	SD - Unit 11	12.75	1341.5	104.22
13	2/12	SD - Unit 12	14.32	1453.175	100.48
14	1/6A	SD/Bunders Unit 12, 14	11.73	1453.175	122.89
15	1/3	SD - Unit 12	14.32	1453.175	100.48
16	1/3A	SD - Unit 12	14.32	2693.5	187.09
17	17/119	BD - Unit 14	11.4	950	82.33
18	17/116	BD - Unit 14	11.4	950	82.33
19	90/419 Pir Pau	ND - Unit 1	6.75	269.1	38.87
20	100/471	CD - Unit 5	6.75	779	114.41
21	99/463	CD- Unit 5	6.75	779	114.41
22	26/81 (Thane-Kalyan RR)	Unit 5	6.75	111.245	15.48
23	Jawahardweep	Unit 12	14.32	226.35	14.81

- o Note : For comparison purpose, the Letting rate per sq,mtr. per month as per Supreme Court Judgment as on 30.09.2017 need to be increased by 4%.

(C). Application of FSI factor in calculation of actual quantum of compensation.

The computation of rentals/ compensation based on FSI consumed and areas will be likely to be contentious issue even after base SoR rates for one sq. mtr. of land are approved by TAMP. Linking of SoR rates of land to FSI consumed of the buildings / structures have several repercussions and complexities such as how to compute FSI, exemption of fungible FSI as per DC rules and permissible FSI, etc. To study these aspects in detail, vide TR 122 of 2021 the Board has accorded approval for formation of a committee of experts consisting of a retired Chief Engineer / Director of Planning of MCGM, Retired High Court Judge and a group of MbPT officials comprising Advisor (Planning), Chief Engineer, CLO, FA&CAO, Secretary and Estate Manager (I/C) alongwith Govt. registered Valuers on MbPT panel. Committee will give its recommendations on above issues and the matter will be brought before the LAC and Board for computation of actual rents/compensation on factors recommended by the Committee.


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D) Port Trust is billing the monthly tenants with MCGM Property Cesses (WBT, SBT, EGC & ED) @ 55.5% of Annual Rent as per SC Judgement and recovery of the same was MbPT's responsibility.


LAC vide report dated 23.08.2021 recommended that same practice is to be followed in future, however, the MCGM cesses will be reworked out in accordance with the proposed SOR 2012-2017 and 2017-2022 as may be approved by the TAMP, in respect of all the monthly tenancies and licenses upto 11 months (home and non-home occupations) of all the Ready Reckoner zones of Mumbai Port Trust land. The same is approved by the Board vide TR 155 of 2021.

E) All the demand notices of differential arrears as per the revised SoR for 2012-2017 and SoR 2017-2022 will be issued to all monthly tenancies, fifteen monthly leases, expired leases and licenses as a compensation for wrongful use of the premises without interest and giving time limit of 3 months from the date of receipt of demand notices and interest at the applicable rates will be charged for delayed payments subject to TAMP's approval.


2.3. Thus, MBPT has sought TAMP's approval to the SOR approved by the Board vide TR 153 of 2021 for the period from 01.10.2012 to 30.09.2017 and 01.10.2017 to 30.09.2022 for Home & Mixed (Home + Non-Home) occupations. These rates will be applicable to all the Expired Leases, Fifteen Monthly Leases, Monthly Tenancies and Licenses including vacant plots (for calculation of Reserve Price, Annual Rent/Upfront Premium for allotment) of the plots falling under the respective ready reckoner zones. The details of which are as given below:

REVISION OF SOR FOR THE PERIOD FROM 01.10.2012 TO 30.09.2017 FOR HOME AND MIXED (HOME+NON-HOME) OCCUPATIONS

(in ₹.)									
A	B	C	D	E	F	G	H	I	J
Sr. No.	RR Zone	Unit	Description as per Ready Reckoner	Land value of open land as per State Government RR 2012 Per SqM for FSI-1.00 Reckoner 2012	Proposed base rates per sqm per month for FSI 1.00 (as per 6 % return p.a. in terms of Land policy) on land Values as per Ready Reckoner 2012	Rate per sqm per month for FSI-1.00 01.10.13 TO 30.9.14 (4% increase on Col 'F')	Rate per sqm per month for FSI-1.00 01.10.14 TO 30.9.15 (4% increase on Col 'G')	Rate per sqm per month for FSI-1.00 01.10.15 TO 30.9.16 (4% increase on Col 'H')	Rate per sqm per month for FSI-1.00 01.10.16 TO 30.9.17 (4% increase on Col 'I')
1	14/101	1	All the Portion on East of Harbour Railway Line.	24000	120	124.8	129.79	134.98	140.38
2	16/110	1	North, East & South boundary of Division, on West Harbour	51800	259	269.36	280.13	291.34	302.99


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A	B	C	D	E	F	G	H	I	J
			Railway Line (Part) and boundary of the Division.						
3	11/86	1, Bunders	Portion towards East of Harbour Line, On South Acharya Donda Marg (King Edward Road) upto Sewri Railway Station, on East sea, on North boundary of ward and on West Harbour Railway Line. All the portion surrounded.	13800	69	71.76	74.63	77.62	80.72
4	11/84	2	On East Barister Nath Pal Marg, T. Jeevraj Marg, Rafi Ahmed Kidwai Marg, on West G.D. Ambedkar Marg, on North Jerbai Wadia Marg. All the portion surrounded.	66500	332.5	345.8	359.63	374.02	388.98
5	11/85A	3	On East B. P. T. railway line, on West Harbour railway line, on South Division boundary (First Avenue Road).	20600	103	107.12	111.4	115.86	120.49
6	11/85	4,5,Bunders	On East Division boundary, from Sewri Station toward south Hindustan Level Company's East side Road, on West B.P.T. Railway	17300	86.5	89.96	93.56	97.3	101.19



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A	B	C	D	E	F	G	H	I	J
			Line, on South Division boundary.						
7	10/79	2,6	On East division boundary (portion of Harbour Railway line and G.D. Ambedkar Marg) on West central railway line, division boundary, on North division boundary, Dattaram Laud Marg, on South Sant Savatmalimarg.	33600	168	174.72	181.71	188.98	196.54
8	10/79 A	8	On East B.P.T. railway line, on West central railway harbour line, on North Division boundary upto First Avenue Road, triangular portion of all the land.	16700	83.5	86.84	90.31	93.92	97.68
9	10/80	4,7,8,9, Bunders	On West B.P.T. Railway Line (East Oilfield Freeway) on East sea on South Jijabhai Mulji Rathod Marg (Wadi Bunder Road) and on North B.P.T. Railway line and first Avenue Road. All the portion Surrounded.	16900	84.5	87.88	91.4	95.06	98.86
10	10/78B	8	On East B.P.T. Railway line, on West Central railway harbour line, on	21500	107.5	111.8	116.27	120.92	125.76


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A	B	C	D	E	F	G	H	I	J
			south Jeenabai Rathod Marg (Wadi Bunder Road) trangular portion of all the land.						
11	3/36	8,Docks	All portion of B Ward on Eastside of P.D' Mello Road upto sea shore (Victoria Dock & Princess Dock).	26800	134	139.36	144.93	150.73	156.76
12	3/35	10	Area Between North Boundary of B Ward (Ramchandra Bhatt Marg,2013), South Boundary of B Ward (Lokmanya Tilak Marg,2013), Central Railway Line and P.D'Mello Road.	48900	244.5	254.28	264.45	275.03	286.03
13	2/23	9, 11, 15 Docks	Indira Dock land Portion towards East of P.D'Mello Road upto sea and from G.P.O. to North boundary of Ward.	53000	265	275.6	286.62	298.08	310
14	2/9	11	Shahid Bhagat Singh Marg from Regal Cinema to General Post Office.	93300	466.5	485.16	504.57	524.75	545.74
15	2/22	11	Ballard Estate part. Portion towards East of Shahid Bhagat Singh Marg from Mint to General Post Office upto	54700	273.5	284.44	295.82	307.65	319.96


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A	B	C	D	E	F	G	H	I	J
			indira Dock Portion and Dock railway and portion upto division boundary.						
16	2/12	12	Madam Cama Road between Regal Cinema and Gateway of India.	133500	667.5	694.2	721.97	750.85	780.88
17	1/6	12, Bunders	Colaba portion: East portion of Prakash Pethe Marg and Jagannath Bhosale Marg and South portion of Madam Cama Road, except portion of Sub-zone 1/3 above.	106800	534	555.36	577.57	600.67	624.7
18	1/6A	12	On East Sea, on West Shahid Bhagat Singh Road, on South Homi Bhabha Road on North division boundary. (Refer Note No.9)	98900	494.5	514.28	534.85	556.24	578.49
19	1/3	12	Shahid Bhagat Singh Marg from Colaba to Regal Cinema	253200	1266	1316.64	1369.31	1424.08	1481.04
20	90/419	1	All the properties of Mahul village	13700	68.5	71.24	74.09	77.05	80.13
21	96/436	1	All the properties of Aanik village, except Bhakti Park Complex	23000	115	119.6	124.38	129.36	134.53
22	26/81	5	Zone 2A. Division Manda (34)(A) Manda West - All properties on West of Central Railway Line	6900	34.5	35.88	37.32	38.81	40.36


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23	17/119	14	on South Sittladevi Temple Road, on East Western Railway Line and on North and West Mahim Creek. All the portion surrounded.	60100	300.5	312.52	325.02	338.02	351.54
24	17/116	14	Mahim Bunder	71800	359	373.36	388.30	403.83	419.98
25	1/5	14	Pilot Bunder (Sea Cadet)	214000	1070	1112.80	1157.31	1203.61	1251.75
26	2/13	15	PD'Mello Road	125800	629	654.16	680.33	707.54	735.74

NOTES:

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- Taxes, service charges, penalties, interest rates are not included in the above rates.
- Above rates are not applicable for letout structures constructed/owned by MbPT i.e. P.T. Structures
- Differential Arrears, liabilities and other dues/charges for a period from 01.10.2012 to 30.9.2017 are calculated based on above rates.
- These rates are applicable for Home and Mixed (Home and Non-Home) [on pro-rata basis] occupations.
- Estate lands of Old Sassoon Dock, Ferry Wharf and Jawahar Dweep are excluded from the above rates.
- These rates are not applicable to occupations given on nominal rents to public bodies and for public amenities.
- Interest would be chargeable beyond permissible period as per Board's policy from time to time.
- 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.
- These rates are subject to Audit verification.

REVISION OF SOR FOR THE PERIOD FROM 01.10.2017 TO 30.09.2022 FOR HOME AND MIXED (HOME+NON-HOME) OCCUPATIONS (in ₹.)

A	B	C	D	E	F	G	H	I	J
Sr. No.	RR Zone	Unit	Descripti on as per Ready Reckoner	Fair market value of open land as per valuers report for the year 2017-18 Per SqM for FSI-1.00 (FMV)	Proposed base rates per sqm per month for FSI 1.00 (as per 6 % return p.a. in terms of Land policy) on FMV as 01.10.17 TO 30.9.18 (6% return on Col 'E')	Rate per sqm per month for FSI-1.00 01.10.18 TO 30.9.19 (4% increase on Col 'F')	Rate per sqm per month for FSI-1.00 01.10.19 TO 30.9.20 (4% increase on Col 'G')	Rate per sqm per month for FSI-1.00 01.10.20 TO 30.9.21 (4% increase on Col 'H')	Rate per sqm per month for FSI-1.00 01.10.21 TO 30.9.22 (4% increase on Col 'I')
1	14/101	ND -Unit 1	Dadar-Naigaum	1,15,000	575	598.00	621.92	646.80	672.67



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2	14/101 A	ND – Unit 1	Dadar- Naigaum	1,15,632	578.16	601.29	625.34	650.35	676.37
3	11/86	ND/CD/ Bunders Unit 1, 5,13	Parel- Sewree	1,20,200	601	625.04	650.04	676.04	703.08
4	11/85A	ND- Unit 3	Parel- Sewree	1,78,450	892.23	927.92	965.04	1003.64	1043.78
5	11/85	ND/CD/ Bunders Unit 4, 5,13	Parel- Sewree	1,68,450	842.3	875.99	911.03	947.47	985.37
6	11/84	ND- Unit 2	Parel- Sewree	1,71,310	856.55	890.81	926.45	963.50	1002.00
7	11/84A	ND- Unit 2	Parel- Sewree	1,71,310	856.55	890.81	926.45	963.50	1002.00
8	10/80	ND/CD/ SD/Bun ders Unit 4,7,8,9,1 3	Mazgaon	1,87,700	938.5	976.04	1015.08	1055.68	1097.91
9	10/79	ND/CD- Unit 2, 6,7	Mazgaon	1,71,310	856.55	890.81	926.44	963.50	1002.04
10	10/79A	ND- Unit 3	Mazgaon	1,85,585	927.92	965.04	1003.64	1043.79	1085.54
11	10/78A	CD – Unit-6, 8	Mazgaon	1,70,240	851.2	885.25	920.66	957.48	995.78
12	10/78B	CD- Unit 8	Mazgaon	1,70,240	851.2	885.25	920.66	957.48	995.78
13	3/36	SD - Unit 9	Princess Dock	1,70,240	851.2	885.25	920.66	957.48	995.78
14	3/35	SD/Bun ders - Unit 9, 10,14	Princess Dock	170240	851.2	885.25	920.66	957.48	995.78
15	3/35B	SD - Unit 9, 10	Princess Dock	1,89,633	948.17	986.10	1025.54	1066.56	1109.22

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16	2/22	SD- Unit 11	Fort	1,91,036	955.18	993.39	1033.12	1074.45	1117.43
17	2/23	SD/Bunders Unit 9, 11, 15	For	2,11,500	1057.50	1099.80	1143.79	1189.54	1237.13
18	2/13	SD/Bunders Unit 9,11,15	Fort	2,52,500	1262.50	1313	1365.52	1420.14	1476.95
19	2/9	SD - Unit 11	Fort	2,11,500	1057.50	1099.80	1143.79	1189.54	1237.13
20	2/12	SD - Unit 12	Fort	2,90,635	1453.18	1511.31	1571.76	1634.63	1700.02
21	1/6A	SD/Bunders Unit 12, 14	Colaba	2,90,635	1453.18	1511.31	1571.76	1634.63	1700.02
22	1/4	Bunders Unit-14	Colaba (Pilot Bunder)	2,90,635	1453.18	1511.31	1571.76	1634.63	1700.02
23	1/3	SD - Unit 12	Colaba	2,90,635	1453.18	1511.31	1571.76	1634.63	1700.02
24	1/3A	SD - Unit 12	Colaba	3,31,600	1658.00	1724.32	1793.30	1865.02	1939.63
25	17/119	BD - Unit 14	Mahim	1,90,000	950	988.00	1027.52	1068.62	1111.37
26	17/116	BD - Unit 14	Mahim	1,90,000	950	988.00	1027.52	1068.62	1111.37
27	90/419 Pir Pau	ND - Unit 1	Mahul	53,820	270	280.80	292.03	303.71	315.86


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NOTES:

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2. Taxes, service charges, penalties, interest rates are not included in the above rates.
3. Above rates are not applicable for letout structures constructed/owned by MbPT i.e. P.T. Structures
4. Differential Arrears, liabilities and other dues/charges for a period from 01.10.2012 to 30.9.2017 are calculated based on above rates.
5. These rates are applicable for Home and Mixed (Home and Non-Home) [on pro-rata basis] occupations.
6. Estate lands of Old Sassoon Dock, Ferry Wharf and Jawahar Dweep are excluded from the above rates.
7. These rates are not applicable to occupations given on nominal rents to public bodies and for public amenities.
8. Interest would be chargeable beyond permissible period as per Board's policy from time to time.
9. 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.
10. These rates are subject to Audit verification.

2.4. The MBPT has stated that the proposal is formulated in terms of the Land Policy Guidelines for Land Management 2015. Further, the MBPT has stated that under Section 49 of MPT Act, 1963 and para 13 (c) of PGLM-2015, TAMP's approval to the SOR for the period from 01.10.2012 to 30.09.2017 and 01.10.2017 to 30.09.2022 applicable to all Home, Mixed(Home+Non-Home) occupations of the Expired Leases, Fifteen Monthly Leases, Monthly Tenancies and Licenses including vacant plots (for calculation of Reserve Price, Annual Rent/Upfront Premium for allotment) of the plots falling under the respective Ready Reckoner zones.


3.1. With regard to the proposal of the port, it may be recalled that, this Authority had passed an Order dated 15 March 2000 setting out the legal position about this Authority's jurisdiction in respect of framing scale of Rates and Statement of Conditions for use of port properties.

3.2. The Mumbai Port Trust (MBPT) filed a Writ Petition in the Bombay High Court in April 2000 challenging the Order dated 15 March 2000 and praying, *inter alia*, that the Authority has no power to fix rates of those premises belonging to the MBPT and situated outside the port limits.

3.3. The Hon'ble Division Bench of Bombay High Court passed an interim order on 2 May 2000 restraining this Authority from giving effect to the Order dated 15 March 2000 to the extent that the decision taken therein shall not apply to any property or place not within the limits of the port or port approaches.

3.4. The efforts taken by TAMP in the past with the (then) Department of Shipping, Ministry of Surface Transport suggesting to settle the issue whether or not the Authority has jurisdiction over all the properties of a Port Trust through policy direction of the Government rather than by a judicial review did not yield result. Since the matter was in the final stage of hearing and there was no response from the Government in this regard, TAMP has engaged a legal counsel to defend the order of 15 March 2000 passed by TAMP in the High Court of Bombay based on the advice rendered by the Senior Counsel.

3.5. In this backdrop, the then Ministry of Shipping (MOS) under cover of its letter no Secy(S)/Visit-Mumbai/Land management/2018(333951) dated 25 March 2019 had forwarded a copy of the Minutes of the Meeting held on 21 August 2018 at Mumbai under the Chairmanship of Secretary, MOS with regard to clarifications on the Land Policy Guidelines, 2015. Forwarding the copy of the Minutes, the Way forward forming part of the Minutes indicated that MBPT will withdraw the Writ Petition and Ministry will advise TAMP that consequent to PGLM 2015 read with


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clarifications dated 14th May 2018, the SOR with effect from 01.10.2012 onwards be fixed by TAMP for all areas of Mumbai Port including Township area.

3.6. In response to the then MOS letter dated 25 March 2019, we had, vide our letter dated 28 March 2019 *interalia*, communicated to the then MOS that TAMP will abide by the directions of the then MOS in the matter in reference, with regard to fixation of lease rent/ license fee for the MBPT lands for the period from 01 October 2012 onwards, subject to MBPT withdrawing the Writ Petition.

3.7. In this backdrop, the then MOS vide its e-mail dated 16 May 2019 had *interalia*, directed TAMP to fix the SOR for all areas of Mumbai Port including Township Areas with effect from 01.10.2012 onwards, consequent to the Policy Guidelines for Land Management, 2015 (PGLM 2015) read with clarification on PGLM dated 14.05.2018, only after the writ Petition is withdrawn by MBPT. Vide the said letter, the then MOS requested MBPT to withdraw the Writ Petition no. 1153 of 2000 from the Bombay High Court and intimate the same to the MOS and TAMP.


3.8. In this connection, the MBPT has withdrawn the Writ Petition and the Hon'ble Bombay High Court vide its Order dated 08 August 2019 has passed an Order disposing off the Writ Petition as withdrawn.

3.9. Thus, the MBPT has come up with a Proposal received from Mumbai Port Trust seeking approval for fixation of Schedule of Rates and revision of rent / compensation for the period 01.10.2012 to 30.09.2017 and 01.10.2017 to 30.09.2022 for residential and mixed used occupations. Simultaneously, the MBPT has also filed another 6 proposals seeking approval for (i). Schedule of rates and revision of rent / compensation for the quinquennial periods of 01.10.2012 to 30.09.2017 for non-home occupations in Township Areas of MBPT, (ii). Schedule of Rates and revision of rent / compensation in respect of 7 plots for the period 01.10.2012 to 30.09.2017 and 7 plots for the period 01.10.2017 to 30.09.2022 for let out land falling under various RR Zones, (iii). Schedule of Rates and revision of rent / compensation for the period 01.10.2012 to 30.09.2017 and 01.10.2017 to 30.09.2022 for Port Trust structures falling under various RR Zones, (iv). Schedule of rates and revision of rent / compensation for the period 01.10.2012 to 30.09.2017 for non-home occupations in Township Areas of MBPT, (v). Schedule of Rates and revision of rent / compensation for the period 01.10.2017 to 30.09.2022 for non-home occupations in Township Areas of MBPT – 19 RR Zones and (vi). Schedule of Rates (SOR) and revision of rent / compensation for the period 01.10.2012 to 30.09.2017 (12 Zones) and 01.10.2017 to 30.09.2022 (09 Zones) for let out land falling under various Ready Reckoner Zones, which have been dealt separately by this Authority.

4.1. Considering the huge list of registered tenant / lessees as suggested by the MBPT, the MBPT was requested vide letter dated 04 October 2021 to upload subject proposal in its website and intimate to all the registered users / tenant / lessees about hosting of the subject proposal in the MBPT website and give the designated email address of Port as well as TAMP for furnishing comments within 15 days' time.

4.2. Accordingly, the MBPT vide its email dated 07 October 2021 has confirmed that it has informed all Tenants / Lessees about hosting of subject proposal for comments/ opinion of the users on the subject proposal in reference. The MBPT has furnished a copy its Notice No.EM/AS(G)/F-382/1924 dated 06 October 2021, wherein the MBPT has intimated the Tenants/ Lessees about hosting of subject proposal in the website of MBPT and has sought for comments/ opinion of the users on the subject proposal in reference, to be sent to the Authority as well as MBPT.

4.3. In this connection, large numbers of submissions/ comments have been received from various lessees/ tenants. As intimated by MBPT in its Notice, a copy of the said comments


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have also been forwarded by the lessees/ tenants/ users to MBPT as well. Accordingly, the MBPT was requested vide letter dated 23 October 2021 to furnish its reply on the issues raised by various lessees / tenants. The MBPT vide its email dated 23 October 2021 has responded.


5. The proceedings relating to consultation in this case are available on records at the office of this Authority. An excerpt of the comments received from the users / user organisations will be sent separately to them. These details will also be made available at our website <http://tariffauthority.gov.in>.

6.1. Before going into the analysis of the proposal, it is noteworthy to mention that MBPT in the first week of August 2021 has filed two proposals seeking approval for schedule of rates and revision of rent / compensation for the quinquennial periods of 01.10.2012 to 30.09.2017 and 01.10.2017 to 30.09.2022 for non-home occupations in Township Areas of MBPT. The said proposals were taken up on consultation with the relevant users/tenants/lessees. We have received numerous representations from various individual tenants/ lessees strongly objecting to the said proposal, on the ground that there is no provision under the Major Port Trust Act, 1963, permitting MBPT to charge the rent retrospectively. It has also been stated that retrospective revision will be highly destructive for all the occupants and it is likely that the same may be challenged in Court of law. Some lessee/ tenants have also stated that the retrospective revision would act as a financial shock to their business and it will be very difficult for them to sustain it financially. Further, considering the adverse impact that the COVID-19 pandemic had on the business, it has been further stated that the retrospective revision and the payment of arrears thereon, would further strain the financial condition of the lessees/ tenants. Thereafter, a joint hearing was held on 03 September 2021 on the said proposal, wherein, users/tenants/ lessees has raised similar issues no other than issues brought out in written submission. Subsequently, users/tenants/lessees were given an opportunity to submit their writing submission, if any, on the power point presentation of the proposal made by MBPT during the Joint Hearing. We have received written submission from the various user/ users/tenants/lessees reiterating the submissions made earlier and during the joint hearing, which have been duly brought to the notice of the Authority.

6.2. An action has already been initiated to notify the said order in the Official Gazette of India. Simultaneously, the MBPT has also filed another 6 proposals seeking approval for Schedule of rates and revision of rent / compensation for the quinquennial periods of 01.10.2012 to 30.09.2017 for non-home occupations in Township Areas of MBPT for let out land falling under various Ready Reckoner Zones, which have been dealt separately.

6.3. The present proposal seeking approval for fixation of Schedule of Rates and revision of rent / compensation for the period 01.10.2012 to 30.09.2017 and 01.10.2017 to 30.09.2022 for residential and mixed used occupations has already been taken up on consultation, which has been formulated on the similar methodology of adopting State Government Ready Reckoner value, 2012 for arriving lease rentals for the period 01.10.2012 to 30.09.2017 and considering highest market value as determined as per PGLM, 2014 for arriving lease rentals for the period 01.10.2017 to 30.09.2018 as done in the case of lease rentals for non-home occupations which has been disposed of by this Authority separately. In other words, the lease rentals proposed by the MBPT for non home occupation is being adopted for the residential and mixed used occupations for the respect quinquennial periods. The users/tenants/lessees have made their submissions similar to that of submission made earlier with regard to proposals of MBPT seeking approval for schedule of rates and revision of rent / compensation for the quinquennial periods of 01.10.2012 to 30.09.2017 and 01.10.2017 to 30.09.2022 for non-home occupations in Township Areas of MBPT, which have been forwarded to MBPT for its comments. The response of the MBPT is also similar to the response given in the earlier similar proposals.

6.4. Since, the submissions made by users/ response of MBPT thereon is akin to the earlier proposals of MBPT seeking approval for schedule of rates and revision of rent /


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compensation for the quinquennial periods of 01.10.2012 to 30.09.2017 and 01.10.2017 to 30.09.2022 for non-home occupations in Township Areas of MBPT and given that the proposal in reference has already been taken on consultation with stakeholders, as provided in PGLM, 2014. This Authority has decided not to hold joint hearing on the case in reference

6.5. In this regard it may be noted that, mere non holding of Joint hearing shall not be construed as this Authority having not followed the consultation process.

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

- (i). The Mumbai Port Trust (MBPT) has large portions of land in the City of Mumbai. It is to state that the lease rentals for the Port estates was last fixed by the MBPT in the year 1982 i.e. more than a decade and a half, before this Authority had come into existence in the year 1997. From the submissions made by MBPT, it is understood that the revision of lease rentals carried out by the MBPT in the year 1982, gave rise to litigations, which eventually culminated in the Supreme Court passing an Order, wherein the lease rentals approved by the Board of Trustees for the lands of MBPT for the period from 1982 upto 30 September 2012 as per the Compromise formula, had been upheld by the Hon'ble Supreme Court of India. As such, the Government has advised the MBPT in May 2019 to fix the SOR for all areas of Mumbai Port including Township areas with effect from 01 October 2012 onwards.

It is in this backdrop that the MBPT has come up five separate proposals seeking retrospective fixation of lease rentals for Schedule of Rates and revision of rent/ compensation for non-home occupations/ residential and mixed used occupations/ Port Trust structures in Township Areas of MBPT for the quinquennial period from 01 October 2012 to 30 September 2017 and for the period from 01 October 2017 to 30 September 2022. The present proposal in reference is for fixation of Schedule of Rates and revision of rent / compensation for the period 01.10.2012 to 30.09.2017 and 01.10.2017 to 30.09.2022 for residential and mixed used occupations falling under various RR Zones of MBPT.

- (ii). During processing of this case, numerous representations are received from various individual tenants/ lessees strongly objecting to the retrospective fixation of the lease rentals, on the ground that there is no provision under the Major Port Trust Act, 1963, permitting MBPT to charge the rent retrospectively. It has also been stated that retrospective revision will be highly destructive for all the occupants and it is likely that the same may be challenged in Court of law. Some lessee/ tenants have also stated that the retrospective revision would act as a financial shock to their business and it will be very difficult for them to sustain it financially. Further, considering the adverse impact that the COVID-19 pandemic had on the business, it has been stated that the retrospective revision and the payment of arrears thereon, would further strain the financial condition of the lessees/ tenants

In this connection, it is relevant here to mention that the lease rentals approved by the Board of Trustees for the lands of MBPT for the period from 01 October 1982 upto 30 September 2012 as per the Compromise formula had been upheld by the Hon'ble Supreme Court of India. As such, the Government has advised the MBPT in May 2019 to fix the SOR for all areas of Mumbai Port including Township areas with effect from 01 October 2012 onwards.



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As pointed out by the lessees/ tenants, there is no provision under Major Port Trust Act, 1963, permitting MBPT to charge the rent retrospectively. But, at the same time, it is to be noted that the Major Port Trust Act, 1963, also does not prohibit retrospective revision of rates. In this context, it is noteworthy that this Authority also does not ordinarily give retrospective effect to the Order. But, in cases governed by special circumstances, it does require retrospective application of its Order. There are various instances, where this Authority has fixed the rates retrospectively.

To quote some few instances, in a case relating to an agreement between New Mangalore Port Trust and the Kudremukh Iron Ore Company Ltd., on the advice of Ministry of Law, the (then) Ministry of Surface Transport had vide its Communication No. PR-14011/5197-P4 dated 16 March 1998 advised this Authority to give retrospective effect. Similarly, based on a proposal received from MBPT, retrospective effect was given for recovery of way leave charges leviable as per the agreement between ONGC and MBPT. Also, based on a proposal received from MBPT, this Authority vide its Order no. TAMP/62/2019-MBPT dated 08 September 2020 has retrospectively approved levy of way leave charges for the pipelines for a period of 5 years from 01 October 2012 and upto 30 September 2017.

Further, it is to state that this Authority had passed an Order no. TAMP/15/2007-NMPT dated 16 June 2010 revising the lease rentals/ licence fee of the lands of New Mangalore Port Trust (NMPT), retrospectively with effect from 20 February 2007 i.e. on expiry of 5 years from the effective date of the implementation of the previously revised rates. The said Order was notified in the Gazette of India on 23 July 2010 vide Gazette no. 184. A batch of Writ Petitions were filed in the Hon'ble High Court of Karnataka by various parties mainly challenging the retrospective revision of the lease rentals. The Hon'ble High Court of Karnataka vide its Order dated 28 June 2013 has disposed of all the Writ Petitions. The Hon'ble High Court at paragraph no. 16 of the Order has stated the following:

"There cannot be any dispute that collection of enhanced licence fee with retrospective effect is illegal as held by the Apex Court in the case of LALA RAM (D) by L.R. & ORS. – vs – UNION OF INDIA & ANOTHER reported in 2013 SAR (Civil) 347. But if the authority at the inception itself has made it clear to the licensees that what is being charged is only a provisional licence fee after approval by the TAMP, the action of the NMPT cannot be said to be illegal. At the time of issuing the licence itself as well as the time of renewal of licence, it has been made clear by the NMPT that it has proposed revision of licence fee to the TAMP and till such time only provisional licence fee will be charged and that licensees will have to pay the revised licence fee after approval of the TAMP. The licensees having agreed for the said conditions, entered into the contract. Therefore it is not open for the licensees to go against the terms of the contract and contend that it is not open for the authorities to charge licensees revisional licence fee from 20.2.2007. In view of the above, the challenge to the Circular pertaining to revision of licence fee w.e.f. 20.2.2007 vide Annexure-H fails."

In this context, in the proceedings relating to the case in reference, the MBPT has categorically stated that it had intimated all the stakeholders by way of a Circular issued in December 2012 itself that the lease rentals are due for revision from 01 October 2012 onwards. The MBPT has also stated that even in the bills raised by the MBPT for the tenants/ lessees, it has been indicated by way of a footnote that the bill raised by MBPT is provisional and is subject to revision with effect from 01 October 2012.



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Incidentally, reference is also drawn to the Order passed by the Gujarat High Court in March 2017, wherein the Hon'ble High Court of Gujarat has taken a view and held that TAMP would consider the proposal and follow the prescribed procedure including inviting suggestions and comments from stakeholders. The determination of Scale of Rates would take place thereafter and that because of very nature of this exercise, when the actual demand would be raised, it would relate to past period. It is the retroactiveness and not retrospectiveness. A retroactive operation of demand would not make it unsustainable in the given set of facts. Thus, the Gujarat High Court had held a view that the ground that the demand is retrospective is, therefore, prima facie not tenable.

Under these circumstances and for the reasons given in the earlier paragraphs, the proposal of the MBPT for recovery of Lease rentals for the period 01.10.2012 to 30.09.2017 and 01.10.2017 to 30.09.2022 for residential and mixed used occupations falling under various RR Zones of MBPT, is taken up for consideration.

- (iii). It has been brought out by various tenants/ lessees that the revision as proposed by MBPT is contrary to the guidelines passed by the Hon'ble Supreme Court in the matter of Jamshed Hormusji Wadia vs. The Board of Trustees of the Port of Bombay, on the ground that the Hon'ble Supreme Court had upheld the "Compromise Proposals" mooted by MBPT themselves and considerably reduced the rent and interest burden on the lessees. The lessees have also stated regarding MBPT reportedly not adhering to the Compromise proposal and resultantly some Writ Petitions being still pending before the Hon'ble High Court of Bombay. Considering that the matter is subjudice, the tenants/ lessees are of the view that the question of proposed revision of SOR for the period of 2012 to 2017 and beyond, does not arise.


In this regard, it is to state that, based on the Order passed by the Hon'ble Supreme Court in the matter of Jamshed Hormusji Wadia vs. The Board of Trustees of the Port of Bombay in January 2004, the compromise proposal covered the revision for two period spans i.e. one for the period from 01 October 1982 to 30 September 1992 and the other for the period from 01 October 1992 to 30 September 2012. Thereafter, as rightly brought by the MBPT, the MBPT has the liberty to fix the lease rentals, albeit based on the Land Policy Guidelines issued by the Government. Infact, it is relevant to mention here that the 'Compromise formula' as upheld by the Hon'ble Supreme Court allowed the port to review and revise the letting rates after 20 years (i.e. from 01 October 1992 to 31 September 2012), for good and sufficient reasons. As such, the Government has advised the MBPT in May 2019 to fix the SOR for all areas of Mumbai Port including Township areas with effect from 01 October 2012 onwards. The MBPT in its proposal has brought out in detail, the chronology of the events, which eventually has led to the submission of the present proposal under reference. Nevertheless, as a measure of abundant caution, it can be presumed that the MBPT, as a statutory body, would have kept in view the pending litigations and would have carried out due diligence on its part, before approaching this Authority with the subject proposal. Thus, the proposal filed by MBPT now for revision of rent / compensation for the period 01.10.2012 to 30.09.2017 and 01.10.2017 to 30.09.2022 for residential and mixed used occupations falling under various RR Zones of MBPT, is being treated in isolation, without getting influenced by the past revision of lease rentals or the pending writ petitions.


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- (iv). Many of the tenants/ lessees have brought out issues relating to their particular tenancies viz., non-renewal of lease agreements, non-transfer of lease in the name of heirs, non-issuance of bills/ invoices by MBPT to lessees/ tenants etc. Even the MBPT has highlighted issues about the tenants committing breaches in their properties/ sub-letting without knowledge of MBPT and pocketing the sub-let rentals/ depriving MBPT of its rightful share/ encroachments/ carrying unauthorized constructions etc. In this regard, it is to state that this Authority is mandated under Section 49 of the Major Port Trusts Act, 1963, to frame Scale of Rates (SOR) at which, and the statement of conditions under which any property belonging to, or in possession or occupation of the Board or any place within the limits of the port approaches is used for the purposes specified u/s 49 of the said Act. As such, this Authority is required by the Act to fix the lease rentals for the port estates. Matters relating to tenancies are in the domain of the Port. This Authority has no role to play on the said matters. As such, the tenants/ lessees are advised to approach the MBPT in matters relating to their tenancies. The MBPT is also advised to look into the grievances of the tenants/ lessees and take earnest steps to sort out the issues amicably.
- (v). The MBPT has filed its proposal in September 2021. The said proposal alongwith the submissions made by the tenants/ lessees and the information furnished by MBPT during the processing of the case, is considered in this analysis.
- (vi). The lessees/ tenants have extensively quoted the observations made by the Hon'ble Supreme Court in the case of Dwarkada Marfatia & Sons v/s Board of Trustees of Port of Bombay, Baburao Shantaram More v/s The Bombay Housing Board, Ratti Ji Kapadia v/s State of Maharashtra etc., so as to put forth their point that the MBPT is not expected to behave like an ordinary landlord with arbitrariness or capriciousness and indulge in rack renting, profiteering and indulging in whimsical or unreasonable bargains but is expected to behave fairly and in a reasonable manner, so as to determine the rentals.


In this regard, it is to state that this Authority is mandated to follow the Land Policy Guidelines issued by the Government from time to time for the purpose of determining lease rentals for the lands belonging to the Port Trusts. The Ministry of Shipping in the Government of India has announced Land Policy Guidelines for Major Ports, 2014 in January 2014 which has come into effect from 2 January 2014. Subsequently, the Ministry of Shipping has issued amended Land Policy Guidelines, 2014 for implementation with effect from 17 July 2015. The subject proposal of MBPT seeking revision of lease rentals for the period from 01 October 2012 to 30 September 2017 and for the period of 01 October 2017 to 30 September 2020 is based on the provisions of the amended Land Policy Guidelines for Major Port Trusts, 2015, as issued by the Government of India in the then Ministry of Shipping (MOS).

- (vii). As per clause 13(a) read with clause 11.2(e) of the Land Policy Guidelines 2014, a Land Allotment Committee (LAC) constituted by the Port Trust Board consisting of Deputy Chairman of the Port, and Heads of Departments of Finance, Estate and Traffic shall determine the market value of land as per the methodology prescribed in clause 13(a). Accordingly, the MBPT has reported about constitution of a Land Allotment Committee (LAC) headed by the Dy. Chairman of the Port and the Heads of Departments of Finance, Traffic and Estate being the other members.
- (viii). (a). Para 13(a) of the Land policy guidelines of July 2015 prescribes the methodology for determination of market value of the land based on the five factors as prescribed therein. In terms of the said para of the


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amended Land policy guidelines of 2014, the Land Allotment Committee may normally take into account the highest of the factors mentioned therein, viz. (i). State Government ready reckoner of land values in the area if available for similar classification/ activities, (ii). Highest rate of actual relevant transactions registered in the last three years in the Port's vicinity with an appropriate annual escalation rate to be approved the Port Trust Board, (iii). Highest accepted tender-cum-auction rate of Port land for similar transactions, updated on the basis of the annual escalation rate approved by the Port Trust Board, (iv). Rate arrived at by an approved valuer appointed for the purpose by the Port and (v). Any other relevant factor as may be identified by the Port. The amended Land Policy guidelines of 2014 also stipulates that in case the LAC is not choosing the highest factor, the reasons for the same have to be recorded.

- (b). In connection with the Valuation as per various methods as stipulated in the Guidelines, the LAC for the reasons as documented in its Report has decided to determine the market value of the land on the following basis.
- (i). Based on the State Government Ready Reckoner, 2012 as applicable for the year 2012 for the 26 RR Zones for arriving the lease rentals for the period 01.10.2012 to 30.9.2017.
- (ii). Based on the valuation as per various methods prescribed in PGLM, 2014 recommended by the LAC for the 27 RR Zones for arriving the Lease rentals for the period 01.10.2017 to 30.9.2022.
- (c). Clause 13(b) of the guidelines stipulates that Reserve Price in terms of annual lease rent would be arrived, as a percentage of latest market value of land determined based on the five factors in accordance with para 13(a) and that the percentage should not be less than 6% which is to be fixed by the Port Trust Board. Accordingly, the lease rental has been arrived by MBPT at 6% of the market value of the land i.e. Ready Reckoner (RR) value as on 2012 in respect of 26 zones as brought out at para no. 8 (viii) (b) (i), Market Value of land based on the valuation report as recommended by the LAC for the 27 RR Zones as brought out at para no. 8 (viii) (b) (ii).
- (d). As brought out above, the LAC for the reasons as documented in its Report has recommended to adopt Ready Reckoner, 2012 as applicable for the year 2012 to arrive the land value for 26 RR zones and to consider valuation as per various methods prescribed in PGLM, 2014 for 27 RR zones to determine the market value as 2017 and has recommended lease rentals thereon for the quinquennial periods of 2012-17 and 2017-22 respectively. The Board of Trustees of MBPT has also approved the lease rentals as per the recommendations of the LAC and the same has been proposed by the Port in its proposal.
- (ix). In this connection, all the individual tenants/ lessees who have been taken on consultation in the case in reference have strongly objected to the lease rentals proposed by the port on the ground that the proposed rentals are manifold times higher than the current rentals that are being paid by the tenants/ lessees. The tenants/ lessees have also questioned the Valuation undertaken by the Valuer(s), based on which the subject proposal has been formulated by MBPT. Further, given that the rentals is being fixed retrospectively, the tenants/ lessees fear for the arrears that would get accumulated on account of the proposed revision. Also,


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given that post the COVID-19 pandemic, the global economy is just struggling back to normalcy, any retrospective revision is stated to cause a huge financial shock to the tenants/ lessees. The tenants/ lessees have also submitted that they have been duly paying their rentals and taxes on time and as such, they should not be subjected to the increase in rentals as proposed by the MBPT. The tenants have also stated that since the land allotted by MBPT lacks basic facilities/ necessities, the MBPT should not go ahead with increasing the rentals and that the port should continue with the rentals based on the 'Compromise formula' as upheld by the Hon'ble Supreme Court.

In this context, it is relevant here to mention that the Land Policy Guidelines issued by the Government, requires the lease rentals to be revised every five years based on the prevailing market value of the land. The 'Compromise formula' as upheld by the Hon'ble Supreme Court allowed the port to review and revise the letting rates after 20 years (i.e. from 01 October 1992 to 31 September 2012), for good and sufficient reasons. The market value of the land is bound to go up particularly in a metropolis, with the passage of time. Moreover, in a city like Mumbai, where land is an extremely scarce resource, the rentals show an increasing trend on a year on year basis. Further, it is noteworthy that the rentals which had been paid by the tenants/ lessees during the years from 2012 to till date is based on the 'Compromise formula' as upheld by the Hon'ble Supreme Court. This 'Compromise formula' was not based on the then prevailing market value of the land, but was fixed at a lower level. Given that the base of the rentals fixed then was lower, even with the 4% increase in rentals per annum, the resultant rental that prevailed in the year 2012 (and based on which the tenants/ lessees have paid rentals to MBPT) is substantially lower than the rental that has been determined for the year 2012 /2017 now based on the market value of the land. Given that the rentals for the estates of MBPT is being determined based on the market value of the land following the stipulations contained in the Land Policy Guidelines, the lease rentals are bound to go up, when compared to the existing lease rentals being paid by the tenants/ lessees, which are not based on market value of the lands. It is noteworthy that the MBPT has framed its proposal following the Land Policy Guidelines and thus, the hike in the lease rentals is inevitable.

Land being a valuable resource, port must strive to ensure the maximum income from its estates. Clause 4(ii) of the LPG 2015 stipulates one of the objective of the said policy is to ensure that optimum value is realised by licensing / leasing of port land and for revision of rates to enable maximum resource generation for ports. Though the MBPT is seen to have adopted the rates based on the single factor of Stamp Duty Ready Reckoner amongst the five factors mentioned in para 13 (a), determining the market value of land based only on a single approach may not always reflect the correct position.

Nevertheless, taking into account the position that the market value of the land based on the State Government Ready Reckoner has been recommended by the LAC and given that the Board of Trustees of MBPT has approved the recommendation of the LAC, this Authority is inclined to prescribe the Lease Rent for the 26 RR Zones for Home and Mixed Occupations for the period 1.10.2012 to 30.9.2017 based on Stamp Duty Ready Reckoner Rates 2012, as proposed by the MBPT.

As regards to 27 RR zones, the lease rentals determined by the Port considering the Fair Market Value (FMV) of land being highest of the 5 factors as per PGLM


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has been recommended by the LAC and also has been approved by the Board of Trustees of MBPT.

Given that the proposal of the port for fixation of lease rentals is based on the Fair Market Value (FMV) of land being highest of the 5 factors, which is based on the stipulations contained in the Land Policy Guidelines 2015, and has been recommended by the LAC and also has been approved by the Board of Trustees, and also as this Authority is bound by the Land Policy Guidelines, 2015, this Authority approves prescription of the lease rentals for 27 RR zones for Home and Mixed (Home and non-home) occupations in Township Areas of MBPT for the period 01 October 2017 to 30 September 2022, as proposed by the port.

- (x). As regards objection to the Valuation of the port land as carried out by the Valuer for arriving the market value as on 2017 in respect of 27 RR zones, it is noteworthy that Valuation of the port land is in the domain of the port and as such not within the purview of this Authority. This Authority does not have the technical expertise to delve deep into the Valuation aspects. The Land Policy Guidelines requires this Authority to fix the rentals based on the proposal filed by the port.

Some tenants/ lessees have put forth an argument that given that the MBPT has been increasing the rentals at the rate of 4% per annum, the question of MBPT now proposing increase in rentals does not arise. In this regard, it is to state that, like any other products, increase in rentals per annum is to meet the rising inflationary costs. But in the case in reference, the base of the rental is being reviewed, so as to bring it to the level of market value of land that had prevailed in the year 2012/2017.

Given that the lease rentals are being enhanced for MBPT, the MBPT in consultation with the tenants/ lessees, be advised to look into the requirements of the basic amenities/ infrastructure/ facilities in the leased/ licensed plots, and take steps to make them available to the lessees/ tenants.

Further, considering that the lessees/ tenants will have to pay the arrears for the period 2012 till date and given that the economy is just coming back to normalcy, after it was hit by the COVID-19 pandemic, the MBPT is advised to grant a longer period of time to the lessees/ tenants, to pay the arrears of rent pertaining to the period beginning from the year 2012.

- (xi). Clause 13(c) of the Land Policy Guidelines of 2014 gives flexibility to the ports to fix annual escalation which would not be less than 2%. Accordingly, the MBPT in its proposal has indicated that the lease rental for the respective RR zones as fixed for the year 2012-13 and 2017-18 for the period 1.10.2012 to 30.09.2017 and 1.10.2017 to 30.9.2022 respectively will be subject to 4% annual escalation. However, no note is seen to have proposed by the port in the matter. Thus, a note is, therefore, prescribed in the Schedule stating that the lease rent is subject to an increase @ 4% p.a. and that first such increase shall be effective from 01 October 2013 and 01 October 2018 respectively.

- (xii). Clause 13 (C) of the amended Land Policy Guidelines, 2014 stipulates that the rates will be revised once in every five years by this Authority. Since the rental is being prescribed with effect from 01 October 2012 in case of 26 RR Zones and from 01 October 2017 in case of 27 RR Zones, accordingly, a note is being prescribed in the Rent Schedule that the annual lease rentals may remain in force for a period of five years thereon.



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- (xiii). The MBPT has proposed a note to the effect that rent will be worked out on the basis of actual Built- Up Area, subject to minimum of FSI 1.00. Given that the base lease rent approved by this Authority shall remain intact and would be only proportionately increased based on the FSI, this Authority is inclined to approve the note as proposed by MBPT in this regard.
- (xiv). The MBPT has proposed another note to the effect that the rates are exclusive of all Taxes (GST, Municipal Taxes, etc.), Service Charges, Penalties, and Interest etc. and that the same are separately payable by lessees/ tenants/ licensees, as may be applicable. In this regard, it is to state that the tariff approved by this Authority is exclusive of any taxes and statutory duties. The taxes and statutory duties are to be levied by the Port at the applicable rates on the tariff so approved by this Authority. In view of this position, the note as proposed by the Port is approved.
- (xv). The MBPT has proposed notes to the effect that the rates are applicable for Home and Mixed (Home and Non Home) Occupations. Since the proposed notes gives clarity on the categories of lessees/ tenants, who would be covered from the lease rentals approved vide the subject proposal, the proposed notes are approved with slight modification to fall in line with the notes prescribed in the earlier order for revision of SOR for non home occupations.
- (xvi). The MBPT has also proposed notes to the effect that interest would be chargeable beyond permissible period as per Board's policy from time to time and that 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. Since the proposed notes give clarity and would avoid ambiguity and would instill discipline amongst the tenants/ lessees in the payment of rentals, the proposed notes are approved.
- (xvii). The MBPT has proposed notes to the effect that Rate for let out structures constructed/ owned by MBPT i.e. P.T. Structures is not included in the above rates, the rates are not applicable to the lettings of PT Structures will be mde applicable as per prevailing MBPT regulations, Estate lands of Old Sassoon Dock, Ferry Wharf and Jawahar Dweep are excluded from the above rates, the rates are not applicable to occupations given on nominal rents to public bodies and for public amenities. Since the proposed notes gives clarity on the categories of lessees/ tenants, who would be covered from the lease rentals approved vide the subject proposal, the proposed notes are approved.
- (xviii). The MBPT has proposed a note to the effect that differential arrears, liabilities and other dues of charges for a period from 01.01.2017 onwards. The said note seen to be ambiguous Hence, the proposed note is slightly modified to reflect that the differential Arrears, liabilities and other dues/charges for a respective period are calculated based on above rates.

8. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves the Rent Schedule for MBPT prescribing Lease rentals in respect of 26 RR zones for the period 01.10.2012 to 30.09.2017 and 27 RR zones for the period 01.10.2017 to 30.09.2022 for let out of land for residential and mixed used occupations, which has been notified separately vide Gazette No. 556 dated 12 November 2021.


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