

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

No. TAMP/55/2021-MBPT

Mumbai, 23 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 Port Trust structures falling under various RR Zones of MBPT on 01 November 2021. However, considering the time involved for notifying the Speaking Order along with the new section relating to prescription of calculation of base rentals as on 1.10.2012 and 1.10.2017 for the quinquennial period 1.10.2012 to 30.9.2017 and 1.10.2017 to 30.9.2022 respectively for the Port Structures (PT structures) for non-home occupations/ Home occupations in Township Areas of MBPT, on case to case basis in the respective Schedule of Lease rentals of MBPT, approved by this Authority, this Authority decided to notify only the new section relating to prescription of calculation of base rentals as on 1.10.2012 and 1.10.2017 for the quinquennial period 1.10.2012 to 30.9.2017 and 1.10.2017 to 30.9.2022 respectively for the Port Structures (PT structures) for non-home occupations/ Home occupations in Township Areas of MBPT, on case to case basis in the respective Schedule of Lease rentals of MBPT, approved by this Authority on 01 November 2021 was notified in the Gazette of India on 12 November 2021 vide Gazette no.557. 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 Port Trust structures falling under various RR Zones of MBPT as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/55/2021-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/266 dated 23 September 2021 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 Port Trust structures falling under various RR Zones.

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 2019-20 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. Subsequently, the MBPT vide its letter dated 12 October 2020 has furnished a copy of the Board Resolution approving the proposal vide Board resolution no. 153 dated 24 August 2021
- (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 Port Trust structures falling under various RR Zones 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 PT structures falling under various Ready Reckoner Zones applicable to all the Expired leases/Fifteen Monthly leases/Monthly Tenancies/Licenses.

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 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).
 - 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 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:

(A) Fixation of SoR for PT Structures for the period 2012-17 and 2017-22

- (i). In some of the PT structures in Township areas, were letout on Monthly Tenancy, Fifteen Monthly Lease and some cases the leases have been expired. As per the practice approved by the Board vide TR No.253 of 1991 and TR No.539 of 1994 for computation of rent/compensation of PT structures is fixed at 2.5 times of the applicable letting rates but since the maintenance of the structure is with lessee/tenants, it was allowed to retain 0.5 times of the rate towards repairs and maintenance of the structures. Vide TR 127 of 2006, it was decided to fix rent rates at 6% per annum on tenement value. The lessees/tenants shall retain 20% of the rent for repairs and maintenance of structure to be done by lessee/ tenant and pay a net rent at 4.8% per annum return on tenement values.
- (ii). Keeping the same analogy, it is proposed to fix the SoR for base rate for one Sq.M for FSI 1.00/ BUA of PT Structures on the basis of following formula

$$6\% \times [(FMV \text{ of land for } 1 \text{ SqM of BUA}) + (80\% \text{ of Depreciated cost of PT structure based on age of the Building and type of building})]$$

Note:

1. Cost of the PT Structure for the period 01.10.2012 to 30.09.2017 has been provided in the RR Booklet 2012 is furnished at page nos. 6-7/c and percentage of depreciation shown in table No. B of the same booklet.
 2. Cost of the PT Structure for the period 01.10.2017 to 30.09.2022 has been provided in the RR Booklet 2017-18 is furnished at page nos. 8-9/c and percentage of depreciation shown in table No. B of the same booklet.
 3. The above SoR rates will have annual escalation of 4% in every October and with revision of SoR every 5 years.
- (B).** 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 hon-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.

- (C).** 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 occupations in let out PT Structures. These rates will be applicable to all the Expired Leases, Fifteen Monthly Leases, Monthly Tenancies and Licenses including vacant PT structures (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 (PT Structure)

(in ₹.)

A	B	C	D	E	F	G	H	I
Sr. No.	RR Zone	Unit	Description as per Ready Reckoner	Land value of open land as per State Governm-ent RR 2012 Per SqM for FSI-1.00 Reckoner 2012	Proposed base rates per sqm per month for FSI 1.00/BUA (as per 6 % return p.a. in terms of Land policy) on land values and cost of structure as per Ready Reckoner 2012 as on 01.10.12			
					RCC Construction (Rs. 17500 Per sq mtr BUA)	Other Pucca Construction (Rs. 14000 Per sq mtr BUA)	Semi/half Pucca Construc-tion (Rs. 9000 Per sq mtr BUA)	Kutchu Constructi-on (Rs. 6000 Per sq mtr BUA)
1	14/101	1	All the Portion on East of Harbour Railway Line.	24000	190.00	176.00	156.00	144.00
2	16/110	1	North, East & South boundary of Division, on West Harbour Railway Line (Part) and boundary of the Division.	51800	329.00	315.00	295.00	283.00
3	11/86	1, Bunder s	Portion towards East of Harbour Line, On South Acharya Dondemarg (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	139.00	125.00	105.00	93.00
4	11/84	2	On East Barister Nath Pal Marg, T. Jeevraj Marg, Rafi Ahmed Kidwai Marg, on	66500	402.50	388.50	368.50	356.50

A	B	C	D	E	F	G	H	I
			West G.D. Ambedkar Marg, on North Jerbai Wadia Marg. All the portion surrounded.					
5	11/85A	3	On East B. P. T. railway line, on West Harbour railway line, on South Division boundary (First Avenue Road).	20600	173.00	159.00	139.00	127.00
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 Line, on South Division boundary.	17300	156.50	142.50	122.50	110.50
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	238.00	224.00	204.00	192.00
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, trangular portion of all the land.	16700	153.50	139.50	119.50	107.50
9	10/80	4,7,8,9, Bunders	On West B.P.T. Railway Line (East Oilfield Freeway) on East sea on South	16900	154.50	140.50	120.50	108.50

A	B	C	D	E	F	G	H	I
			Jijabhai Mulji Rathod Marg (Wadi Bunder Road) and on North B.P.T. Railway line and first Avenue Road. All the portion Surrounded.					
10	10/78B	8	On East B.P.T. Railway line, on West Central railway harbour line, on south Jeenabai Rathod Marg (Wadi Bunder Road) trangular portion of all the land.	21500	177.50	163.50	143.50	131.50
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	204.00	190.00	170.00	158.00
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	314.50	300.50	280.50	268.50
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	335.00	321.00	301.00	289.00
14	2/9	11	Shahid Bhagat Singh Marg from Regal Cinema to General Post Office.	93300	536.50	522.50	502.50	490.50
15	2/22	11	Ballard Estate part. Portion towards East of	54700	343.50	329.50	309.50	297.50

A	B	C	D	E	F	G	H	I
			Shahid Bhagat Singh Marg from Mint to General Post Office upto 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	737.50	723.50	703.50	691.50
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	604.00	590.00	570.00	558.00
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	564.50	550.50	530.50	518.50
19	1/3	12	Shahid Bhagat Singh Marg from Colaba to Regal Cinema	253200	1336.00	1322.00	1302.00	1290.00
20	90/419	1	All the properties of Mahul village	13700	138.50	124.50	104.50	92.50
21	96/436	1	All the properties of Aanik village, except Bhakti Park Complex	23000	185.00	171.00	151.00	139.00
22	26/81	5	Zone 2A. Division Manda (34)(A) Manda West - All properties on West of Central Railway Line	6900	104.50	90.50	70.50	58.50
23	17/119	14	on South Sitladevi Temple Road, on East Western Railway Line and on North and	60100	370.50	356.50	336.50	324.50

A	B	C	D	E	F	G	H	I
			West Mahim Creek. All the portion surrounded.					
24	17/116	14	Mahim Bunder	71800	429.00	415.00	395.00	383.00
25	1/5	14	Pilot Bunder (Sea Cadet)	214000	1140.00	1126.00	1106.00	1094.00
26	2/13	15	PD'Mello Road	125800	699.00	685.00	665.00	653.00

NOTES:

1. Actual quantum of Rent will be worked out on the base rent and factor as may be recommended by the committee appointed for the purpose of applicability of FSI.
2. Taxes, service charges, penalties, interest rates are not included in the above rates.
3. Rate for let out structures constructed / owned by MBPT i.e. P.T. Structures will be calculate based on the above rates by using this formula "6% X [(FMV of land for 1 SqM of BUA) + (80% of Depreciated cost of PT structure based on age of the Building)]"
4. Percentage of depreciation based on age of structure and type of construction will be considered for calculation of PT structure rentals as given in Annexure I by using above rates.
5. Differential Arrears, liabilities and other dues/charges for a period from 01.10.2012 to 30.9.2017 are calculated based on above rates.
6. These rates are applicable for Non-Home, Home and Mixed (Home and Non-Home) occupations in PT Structures.
7. Estate lands of Old Sassoon Dock, Ferry Wharf and Jawahar Dweep are excluded from the above rates.
8. These rates are not applicable to occupations given on nominal rents to public bodies and for public amenities.
9. Interest would be chargeable beyond permissible period as per Board's policy from time to time.
10. 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.
11. These rates are subject to Audit verification.

REVISION OF SOR FOR THE PERIOD FROM 01.10.2017 TO 30.09.2022 (PT Structure)

(in ₹.)

A	B	C	D	E	F	G	H	I
Sr. No.	RR Zone	Unit	Description 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/BUA (as per 6 % return p.a. in terms of Land policy) on land values and cost of structure as per Ready Reckoner 2017 as on 01.10.17			
					RCC Construction (Rs. 27500 Per SqM BUA)	Other Pucca Construction (Rs. 23375 Per sq mtr BUA)	Semi/half Pucca Construction (Rs. 16000 Per sq mtr BUA)	Kutcha Construction (Rs. 9625 Per sq mtr BUA)
1	14/101	ND - Unit 1	Dadar-Naigaum	1,15,000	685.00	668.50	639.00	613.50
2	14/101A	ND - Unit 1	Dadar-Naigaum	1,15,632	688.16	671.66	642.16	616.66
3	11/86	ND/CD/ Bunders Unit 1, 5,13	Parel-Sewree	1,20,200	711.00	694.50	665.00	639.50

A	B	C	D	E	F	G	H	I
4	11/85A	ND- Unit 3	Parel-Sewree	1,78,450	1002.25	985.75	956.25	930.75
5	11/85	ND/CD/ Bunders Unit 4, 5,13	Parel-Sewree	1,68,450	952.25	935.75	906.25	880.75
6	11/84	ND Unit 2	Parel-Sewree	1,71,310	966.55	950.05	920.55	895.05
7	11/84A	ND Unit 2	Parel-Sewree	1,71,310	966.55	950.05	920.55	895.05
8	10/80	ND/CD/ SD/Bun ders Unit 4,7,8,9, 13	Mazgaon	1,87,700	1048.50	1032.00	1002.50	977.00
9	10/79	ND/CD- Unit 2, 6,7	Mazgaon	1,71,310	966.55	950.05	920.55	895.05
10	10/79A	ND Unit 3	Mazgaon	1,85,585	1037.93	1021.43	991.93	966.43
11	10/78A	CD Unit 6,8	Mazgaon	1,70,240	961.20	944.70	915.20	889.70
12	10/78B	CD Unit 8	Mazgaon	1,70,240	961.20	944.70	915.20	889.70
13	3/36	SD - Unit 9	Princess Dock	1,70,240	961.20	944.70	915.20	889.70
14	3/35	SD/Bun ders - Unit 9, 10,14	Princess Dock	1,70,240	961.20	944.70	915.20	889.70
15	3/35B	SD - Unit 9, 10	Princess Dock	1,89,633	1058.17	1041.67	1012.17	986.67
16	2/22	SD- Unit 11	Fort	1,91,040	1065.20	1048.70	1019.20	993.70
17	2/23	SD/Bun ders Unit 9,11,15	Fort	2,11,500	1167.50	1151.00	1121.50	1096.00
18	2/13	SD/Bun ders Unit 9,11,15	Fort	2,52,500	1372.50	1356.00	1326.50	1301.00
19	2/9	SD - Unit 11	Fort	2,11,500	1167.50	1151.00	1121.50	1096.00
20	2/12	SD - Unit 12	Fort	2,90,635	1563.18	1546.68	1517.18	1491.68
21	1/6A	SD/Bun ders Unit 12, 14	Colaba	2,90,635	1563.18	1546.68	1517.18	1491.68

A	B	C	D	E	F	G	H	I
22	1/4	Unit 14 (Pilot Bunder)	Colaba	2,90,635	1563.18	1546.68	1517.18	1491.68
23	1/3	SD - Unit 12	Colaba	2,90,635	1563.18	1546.68	1517.18	1491.68
24	1/3A	SD - Unit 12	Colaba	3,31,600	1768.00	1751.50	1722.00	1696.50
25	17/119	BD - Unit 14	Mahim	1,90,000	1060.00	1043.50	1014.00	988.50
26	17/116	BD - Unit 14	Mahim	1,90,000	1060.00	1043.50	1014.00	988.50
27	90/419 Pir Pau	ND - Unit 1	Mahul	53,820	379.10	362.60	333.10	307.60

NOTES:

1. Actual quantum of Rent will be worked out on the base rent and factor as may be recommended by the committee appointed for the purpose of applicability of FSI.
2. Taxes, service charges, penalties, interest rates are not included in the above rates.
3. Rate for let out structures constructed / owned by MBPT i.e. P.T. Structures will be calculate based on the above rates by using this formula "6% X [(FMV of land for 1 SqM of BUA) + (80% of Depreciated cost of PT structure based on age of the Building)]"
4. Percentage of depreciation based on age of structure and type of construction will be considered for calculation of PT structure rentals as given in Annexure II by using above rates.
5. Differential Arrears, liabilities and other dues/charges for a period from 01.10.2012 to 30.9.2017 are calculated based on above rates.
6. These rates are applicable for Non-Home, Home and Mixed (Home and Non-Home) occupations in PT Structures.
7. Estate lands of Old Sassoon Dock, Ferry Wharf and Jawahar Dweep are excluded from the above rates.
8. These rates are not applicable to occupations given on nominal rents to public bodies and for public amenities.
9. Interest would be chargeable beyond permissible period as per Board's policy from time to time.
10. 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.
11. 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 occupations in letout PT Structures of the Expired Leases, Fifteen Monthly Leases, Monthly Tenancies and Licenses including vacant PT structures (for calculation of Reserve Price, Annual Rent/Upfront Premium for allotment) of the PT structures falling under the respective Ready Reckoner zones.

3.1 On a preliminary scrutiny of the proposal forwarded by MBPT, it is found certain additional information/ clarification is required from MBPT. Therefore, the MBPT was requested vide letter dated 06 October 2021 to provide the detailed calculation arriving the lease rentals, the life of the structure, and depreciated value for each of the types of the structures under each of the zone and to provide statement of existing rentals being levied by MBPT and the proposed lease rentals, for various plots of land, for which the approval is being sought.

3.2. Accordingly, the MBPT vide its letter dated 12 October 2021 has furnished its response, which is as follows;

- (i) The table containing different rates for RR zones attached to the proposal, is only indicative arrived based on the methodology used for arriving rentals per sq.m. per month and are not the schedule of lease rentals to be approved by the TAMP.
- (ii) However, considering the variable parameters like, date of construction, type of construction, type of building, etc., No Schedule of Lease rentals can be tabulated and the actual quantum of the rentals will have to be worked out as per the formula given at para 4(A) i.e. "LAC recommendations" and at the Notes in Annexure-III and IV of the proposal submitted to TAMP, which is reproduced as below:

"It is proposed to fix the SoR for base rate for one Sq.M for FSI 1.00/ BUA of PT Structures on the basis of following formula :

6% X [(FMV of land for 1 SqM of BUA) + (80% of Depreciated cost of PT structure based on age of the Building and type of building)]

Note:

- i) *Cost of the PT Structure for the period 01.10.2012 to 30.09.2017 has been provided in the RR Booklet 2012 annexed as Annexure I and percentage of depreciation shown in table No. B of the same booklet.*
- ii) *Cost of the PT Structure for the period 01.10.2017 to 30.09.2022 has been provided in the RR Booklet 2017-18 annexed as Annexure II and percentage of depreciation shown in table No. B of the same booklet.*
- iii) *The above SoR rates will have annual escalation of 4% in every October and with revision of SoR every 5 years. SoR 2012-17 table for letout PT structures for different zones is enclosed as Annexure III based on Ready Reckoner rates 2012 and SoR 2017-22 table for letout PT structures for different zones is enclosed as Annexure IV based on Valuation Reports."*

In view of the above, the MBPT has requested TAMP to approve and endorse the same formula for calculation of rentals, case by case instead of prescribing the Zone wise SoR for the Port Structures for the period 2012-17 and 2017-22. The MBPT has suggested that the extract of RR 2012 for rates for new construction and depreciations and extract of RR 2017 for rates for new construction and depreciation be annexed as Annexures to TAMP's final orders in the subject matter.

3.3. Thus, the MBPT has come up with a proposal seeking approval for prescription of a formula relating to calculation of base rentals as on 1.10.2012 and 1.10.2017 for the quinquennial period 1.10.2012 to 30.9.2017 and 1.10.2017 to 30.9.2022 respectively for the Port Structures (PT structures) for non-home occupations/ Home occupations in Township Areas of MBPT, on case to case basis considering the variable parameters like, date of construction, type of construction, type of building, etc., in the respective Schedule of Lease rentals approved and notified by the Authority.

4.1. Considering the huge list of registered tenant / lessees as suggested by the MBPT, the MBPT was requested vide letter dated 14 October 2021 to upload subject proposal in its website and intimate to all the registered 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 25 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-382/2078 dated 20 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 have also been forwarded by the lessees/ tenants/ users to MBPT as well. The MBPT vide its email dated 31 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 this 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 6 similar 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/ 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 seeks approval for prescription of a formula relating to calculation of base rentals as on 1.10.2012 and 1.10.2017 for the quinquennial period 1.10.2012 to 30.9.2017 and 1.10.2017 to 30.9.2022 respectively for the Port Structures (PT structures) for non-home occupations/ Home occupations in Township Areas of MBPT, on case to case basis.

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. No specific comments are received on the formula proposed to prescribe in the respective SOR.

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 / 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 the totality of the information collected during the processing of the case, the following position emerges:

- (i) The MBPT has come up six 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 is for incorporation of new section to calculate base rentals as on 01.10.2012 to 30.09.2017 and 01.10.2017 to 30.09.2022 for Port Structures (PT) for non-home occupations / home occupations in township areas of MBPT on case to case basis in its respective schedule of lease rentals of MBPT.

In this regard, the MBPT has stated that some of the Port Trust (PT) structures in Township areas, were letout on Monthly Tenancy, Fifteen Monthly Lease and some cases the leases have been expired. As per the practice approved by the Board vide TR No.253 of 1991 and TR No.539 of 1994 for computation of rent/compensation of PT structures is fixed at 2.5 times of the applicable letting rates but since the maintenance of the structure is with lessee/tenants, it was allowed to retain 0.5 times of the rate towards repairs and maintenance of the structures. Vide TR 127 of 2006, it was decided to fix rent rates at 6% per annum on tenement value. The lessees/tenants shall retain 20% of the rent for repairs and maintenance of structure to be done by lessee/ tenant and pay a net rent at 4.8% per annum return on tenement value.

- (ii) In the backdrop, the MBPT has come up with a proposal seeking approval for prescription of a formula relating to calculation of base rentals as on 1.10.2012 and 1.10.2017 for the quinquennial period 1.10.2012 to 30.9.2017 and 1.10.2017 to 30.9.2022 respectively for the Port Structures (PT structures) for non-home occupations/ Home occupations in Township Areas of MBPT, on case to case basis considering the variable parameters like, date of construction, type of construction, type of building, etc., in the respective Schedule of Lease rentals approved and notified by this Authority.
- (iii) The users/tenants/lessess objections on the retrospective revision of the lease rentals from the 01 October 2012 and 01 October 2017 on the ground that there is no provision under the Major Port Trust Act, 1963, permitting MBPT to charge the rent retrospectively, highly destructive for all the occupants, financial shock to their business very difficult to sustain it financially, adverse impact that the COVID-19 pandemic etc. which has been dealt elaborately while considering the proposal of the SOR of the respective zones. Since the proposal is limited to proposal for prescribing the formula for arriving the Lease rentals of Port Trust Structures, the objections of the users/tenants/lessees are not being discussed now.

- (iv) Further, the users/tenants/lessees comments on method of valuation of land to arrive the fair market value as per PGLM, 2015 were already been dealt elaborately while considering the proposal of the SOR of the respective zones. Since the proposal is limited to proposal for prescribing the formula for arriving the Lease rentals of Port Trust Structures, the objections of the users/tenants/lessees are not being discussed herein this case.
- (v) Thus, the current analysis is limited to the proposal for prescription of a following formula for calculation of base rentals as on 1.10.2012 and 1.10.2017 for the quinquennial period 1.10.2012 to 30.9.2017 and 1.10.2017 to 30.9.2022 respectively for the Port Structures (PT structures) for non-home occupations/ Home occupations in Township Areas of MBPT.

Base rate for one Sq.M for FSI 1.00/ BUA of PT Structures on the basis of following formula :

6% X [(FMV of land for 1 SqM of BUA) + (80% of Depreciated cost of PT structure based on age of the Building and type of building)]

- (vi) The proposed formula for arriving the base rental as on 1.10.2012 and 1.10.2017 is based the parameters viz. Fair Market Value of BUA, Depreciation, Life of the structure etc. Analysis on the each of the parameters are discussed in the preceding paragraphs;
- (a). The Port has proposed to consider the 6% of the Fair Market value of the BUA for arriving land cost of the building. In this regard, it is to state that the Major Port Trusts Act, 1963 mandates this Authority to notify Scale of Rates and Statement of conditions for use of port properties. Also, the Land Policy Guidelines, mandates this Authority to prescribe lease rent based on the market value of the land and not the market value. As such, this Authority may not be in a position to prescribe the Fair market value of land, as proposed by MBPT. Hence, the applicable lease rentals for the respective RR zone approved by this Authority in the respective schedule of lease rentals is to be considered instead of 6% of fair market value of the BUA.
- Since, the lease rentals approved by this Authority are based on the 6% of the land value considered for the respective RR zone, it may not be disadvantageous position to the port or the users to consider applicable lease rentals for the respective RR zone instead of 6% Fair Market of value of the BUA.
- (b). To arrive at the market value of the structures, the port has adopted the following methodology;
- (i) The Port has considered to adopt the value of the structures as on 01.10.2012 and 01.10.2017 given in the Stamp Duty Ready Reckoner, Mumbai, 2012 and Stamp Duty Ready Reckoner, Mumbai, 2017 respectively for the various type of the structures. The Rates of structures for the New Construction as given in Stamp Duty Ready Reckoner, Mumbai, 2012 and 2017 are as follows :

Sr.No	Type of Construction	Cost per Sq.Mtr(Built-up) in	
		As on 2012 ₹	As on 2017 ₹.
A)	R.C.C. Construction R.C.C. slabs , Brick wall made and plastered with cement mortar in side the wall, tiles flooring	17500	27500
B)	Other Pukka Construction Load bearing Structure, R.C.C slab, Brick wall plastered with cement, Kaccha or cement flooring	14000	23375
C)	Semi/Half Pukka Construction Load bearing structure, wall made of brick or stone with mud, Shahbad floor mud or other type of flooring and construction other than slab	9000	16500
D)	Kaccha Construction Mud wall with bricks, Mud Gilav, with roof of clay tiles/asbestos or tin	6000	9625

- (ii) To arrive the depreciated cost, the Port has considered to adopt the depreciation rates of old buildings given in the Stamp Duty Ready Reckoner, Mumbai, 2012/2017, which is given is below :-

Completed Age of building in Years	Value in Percent after Depreciation	
	RCC Structures/ Pukka Structures	Pukka Other Half or Semi-Pukka Structures
0 to 2 years.	100%	100%
Above 2 and upto 5 Years	95%	95%
Above 5 and upto 10 Years	90%	85%
Above 10 and upto 20 Years	80%	75%
Above 20 and upto 30 Years	70%	60%
Above 30 and upto 40 Years	60%	45%
Above 40 and upto 50 Years	50%	30%
Above 50 and upto 60 Years	40%	20%
Above 60 Years	30%	15%

- (iii) The MBPT has reported that as per the practice approved by the Board vide TR No.253 of 1991, TR No.539 of 1994 and TR No. 127 of 2006 for computation of rent/compensation of PT structures, users/tenants/lessees of Port Trust structures were allowed to retain 20% of the lease rentals towards repairs and maintenance of the structures. Accordingly, the lease rentals for the port structures are proposed to arrive at 6% of 80% of the depreciated value.

As per the clarification on the PGLM, 2014 issued by the Ministry of Shipping, the valuation of the structure should be done by taking into account the current market value of the original asset less the depreciation for the period of usage and obsolescence. In this regard, the methodology proposed to be followed MBPT for determination of value of Port Structures is seen to be in line with the methodology prescribed for valuation of structures as per the clarification issued by the MOS in the year 2018.

- (vii) 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 formula prescribes to arrive the lease rental at 6% of the value of the Port Trust structures.
- (viii) Since the proposed prescription of a formula for calculation of base rentals as on 1.10.2012 and 1.10.2017 for the quinquennial period 1.10.2012 to 30.9.2017 and 1.10.2017 to 30.9.2022 respectively for the Port Structures (PT structures) for non-home occupations/ Home occupations in Township Areas of MBPT, on case to case basis is in line with the PGLM, 2014 and given that the Board of Trustee of MBPT has approved the same on the recommendation of the LAC, the proposed prescription of formula with slight modification as discussed above is approved. The comparative position with an illustrative example is given below :

Description	As proposed by the Port.	As modified by the TAMP.
<i>Formula</i>	<i>6% X [(FMV of land for 1 SqM of BUA) + (80% of Depreciated cost of PT structure based on age of the Building and type of building)]</i>	<i>Approved Lease Rentals applicable of the zone + 6% X (80% of Depreciated cost of PT structure based on age of the Building and type of building)</i>
Illustrative Example		
RR Zone	14/101	14/101
FMV of the Land	₹.24000.00	--
Type of Construction of the structure	RCC	RCC
Applicable Lease rentals (per sq.mtr.per month)	--	₹.120.00 (As approved by TAMP)
Cost of the Structure before depreciation	₹.17500.00 (As per RR 2012)	₹.17500.00 (As per RR 2012)
Life of the Structure	Above 30 years and upto 40 years	Above 30 years and upto 40 years
Value in percentage after depreciation	60%	60%
Cost of the Structure after depreciation	₹.10,500.00	₹.10,500.00
Lease Rentals for the Port Structure including land. per sq.mtr. per month)	₹.162.00 $[6\% \times [(24000)+(80\% \times 10,500)]/12$	₹.162.00 $120 + [(80\% \times 10,500 \times 6\%)]/12$

- (ix) 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 as fixed for the year 2012-13 and 2017-18 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.

However, in the prescription of lease rent for PT structures as notified vide Gazette No. 557 on 12 November 2021, an inadvertent error has been noticed with regard to first effective date of 4% increase p.a. Therefore, the corrected dates may be read as follows :

Sl. No.	Reference to the Notification dated 12.11.2021	As appeared in the Notification	To be read as given below
1.	Para 4, A, (i) Note No.3	The lease rent is subject to an increase @ 4% p.a. and that first such increase shall be effective from 01 October 2012.	The lease rent is subject to an increase @ 4% p.a. and that first such increase shall be effective from 01 October 2013.
2	Para 4, B, (i) Note No.3	The lease rent is subject to an increase @ 4% p.a. and that first such increase shall be effective from 01 October 2017.	The lease rent is subject to an increase @ 4% p.a. and that first such increase shall be effective from 01 October 2018.

- (x) 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 for the quinquennial period 2012-17 and from 01 October 2017 for the quinquennial period 2017-22, 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.
- (xi) 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.
- (xii) 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.
- (xiii) The Port has proposed a note stating that the percentage of depreciation based on age of structure and type of construction will be considered for calculation of PT structure rentals as given in TABLE-I by using above rates, which is approved.
- (xiv) 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.

8. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves incorporation of the new section for prescription relating to calculation of base rentals as on 1.10.2012 and 1.10.2017 for the quinquennial period 1.10.2012 to 30.9.2017 and 1.10.2017 to 30.9.2022 respectively for the Port Structures (PT structures) for non-home occupations/ Home occupations in Township Areas of MBPT, on case to case basis in the respective Schedule of Lease rentals of MBPT which has been notified separately vide Gazette No. 557 dated 12 November 2021.

(T.S. Balasubramanian)
Member (Finance)