

8. Schedule of Rates for lands let out by Estate Division effective from 1.10.2012.

The Estate Manager has informed that MbPT fixed the rates of letting for land by Estate Department for the first time scientifically in 1982 based on the evaluation of the land. The valuation was done by Kirloskar Consultants. The revision gave rise to prolonged litigation which culminated in the Supreme Court deciding in the matter in 2004 and 2006. As per the Supreme Court Judgement, the rates of letting were decided upto 30.9.2012.

2. By TR No. 146 of 2014, a Committee headed by the Dy. Chairman and comprising of Estate Manager, FA&CAO, Chief Engineer and Traffic Manager as other members was constituted to recommend new Schedule of Rates for Estate lettings w.e.f. 1.10.2012.

3. The Committee after deliberation has prepared its report recommending the new SOR w.e.f. 1.10.2012. The Committee's Report is at ***Annexure**.

4. The Board's approval is requested to the Committee's Report.

Note of discussions at the Board meeting held on 16th January 2015

A presentation on Supreme Court Judgement of 2004 and 2006 and TR No.127 of 2006 was made by the FA&CAO for the information of the Trustees. Continuing, the FA&CAO informed that the letting rates fixed under the compromise proposal and ratified by the Supreme Court were applicable on estate lettings upto 30.9.2012. As regards the rate of rent fixed by TR No.127 of 2006, the FA&CAO clarified that as per Supreme Court judgement breaches committed upto 10.3.2004 were regularised and in case of fresh breaches committed after 10.3.2004 revised rent was levied from 1.9.2006 in terms of TR No.127 of 2006. The Committee constituted by the Board has now recommended the Schedule of Rates for land let out by the Port effective from 1.10.2012.

It was pointed out that several lessees have committed breach of subletting and commercially exploiting the Port's property at very high premiums, depriving MbPT of its rightful share. The instances of such breaches in a sample study undertaken by the Committee were nearly 79%. There is substantial increase in the land value after the Supreme Court judgement leading to substantial profit to the lessees as the land value is directly proportionate to the rent. To elucidate the point, it was informed that while the area in the vicinity command rental value of `237 to `1296 per sq.mtr., the Port is charging `18 to `39 per sq.mtr. The data gathered from the State Government authorities suggest a return of 9 to 12% of the land value. This indicates that the trade can absorb the cost of increased rent and still remain economical in the business.

Continuing, it was stated that in the background of these facts, the Committee considered it necessary to bring the rent rates to some rational level. To work out a reasonable rate that can stand the legal scrutiny, the on-going rate in the surrounding areas was obtained from the Stamp Duty Registrar based on sales transactions, rental rates of office spaces were collected informally from few estate agencies, sales transaction of commercial premises at Bandra Kurla Complex (MMRDA), which are somewhat comparable to Ballard Estate and Apollo

Reclamation Estate, were collected from Sub-Registrar's office. Furthermore, the principle pronounced by Supreme Court judgement and the five options set out in the Land Management Policy of 2014 were also considered. After detailed deliberation, the Committee proposed to determine the rates from 1.10.2012 by adopting 6% of Ready Reckoner, 2012 with 4% increase every year for non-home consumption (commercial properties) covered under Supreme Court judgement excluding the running leases and long leases. The new rates are applicable from 1.10.2012 and the arrears will be payable with an interest rate of 9%. However, the payment of arrears will be allowed at 4 quarterly instalments from the date of notification of this SOR. The Committee also recommended that the decision of the Central Government on authority for approval of cases beyond 30 years of occupation may have to be expedited. Alternatively, the cases exceeding 30 years of occupation can be forwarded to the Ministry for approval.

Shri Sunil Rane stated that there are many lessees who are regularly paying the rent at the prescribed rate to the Port and have never approached the court. Such lessees ought to be identified and single window policy need to be framed to regularise their lease holdings.

The Chairman informed that under the provision of MPT Act, 1963 the Board has powers to grant lease upto 30 years only. Cases where the lease is pending renewal beyond 30 years and the lessees have paid up to date charges on prescribed rates as also have agreed to pay rent as per TR 127 of 2006 have been, with Board's approval, referred to the Ministry for in-principle approval on extension/renewal of lease beyond 30 years. There are around 400 such cases pending in the Ministry. Few more cases of similar nature brought before the Board in the previous meetings were deferred pending appreciation of nuances of Supreme Court Judgement 2004 and 2006 and TR No.127 of 2006 by the Board. These cases can now be brought before the Board for consideration.

Shri S. R. Apraj expressed an apprehension that while the Port's revenue may increase on applying new rates from 1.10.2012, it is likely that the proposed rent may be challenged by the lessees in the Court of Law leading to litigations. He requested that the details of cases involving recovery of outstanding rent be placed before the Board for the information of the Trustees.

After some further discussion, it was decided to approve the new Schedule of Rates recommended by the Committee w.e.f. 1.10.2012.

Resolution No.222

16.1.2015

The Committee's report recommending the new SOR w.e.f. 1.10.2012 is approved.

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