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Tariff Authority for Major Ports

G No. 9

New Delhi, 11 January 2011

NOTIFICATION

In exercise of the powers conferred by Section 49 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby accords provisional approval to the proposal received from the Visakhapatnam Port Trust for revision of lease rentals of Port land in respect of 12 zones as in the Order appended hereto.

(Rani Jadhav)
Chairperson

Tariff Authority for Major Ports
Case No. TAMP/37/2009-VPT

Visakhapatnam Port Trust

- - -

Applicant

ORDER

(Passed on this 29th day of November 2010)

This case relates to a proposal dated 16 September 2009 received from Visakhapatnam Port Trust (VPT) for revision of lease rentals of 12 zones of its lands for the quinquennium 1998-2003 and 2003-2008.

2. This Authority had passed an Order on 22 April 2008 according provisional approval of revision of lease rental for 19 zones belonging to VPT for the quinquennium 1998-2003 and 2003-2008 following the Government guidelines on land policy issued in March 2004.

3.1. The proposal originally submitted by the VPT vide its letter dated 29 June 2005 sought approval of lease rental for 31 zones. As stated in para 13(v) of the said Order of April 2008, the VPT had sought approval of two sets of valuation of land i.e. quinquennial valuation and basic value of land. The quinquennial valuation of lands was based on valuation of lands assessed in 1952 which were subjected to adhoc percentage increase recommended by the DRA every quinquennium over the rates prevailing in the previous quinquennium. Since the proposal of VPT seeking approval of quinquennial valuation of land on the land value assessed in 1952 was not found to be in line with the Government guidelines on land policy, the port on our advice filed a revised proposal in July 2007 wherein it had excluded revision on the quinquennial valuation of land. In the revised proposal, VPT had, however, sought approval for revision of lease rental on basis of the basic value of land for 19 zones only as against 31 zones proposed in its initial proposal.

3.2. This Authority in its Order dated 22 April 2008 provisionally approved revised lease rentals for the 19 zones as proposed by the VPT (in the revised proposal) for the quinquennium 1998-2003 and 2003-2008 subject to the condition that the port would review the basic valuation under all the methods prescribed in the Government guidelines and derive lease rentals based on the one which would be most beneficial and advised the port to file a separate proposal for the other zones for both the quinquennium after obtaining necessary exemptions from the Government to the extent the proposal is inconsistent with the Government guidelines.

4.1. It is in this back drop that the VPT has filed the instant proposal for revision of lease rental for the remaining 12 zones for the quinquenniums 1998-2003 and 2003-2008.

4.2. In the proposal filed in September 2009, the port has sought revision of lease rental for the 12 zones based on the basic valuation of land from DRA for the two quinquennium 1998-2003 and 2003-2008. The inconsistency with reference to the Government guidelines which was observed in the last proceedings for the other zones seeking revision of lease rental based on quinquennial valuation of land is eliminated in the current proposal.

4.3. The main points made by the VPT in its proposal dated 16 September 2009 seeking approval of revised lease rentals for the remaining 12 zones are as follows:

- (i). The TAMP has approved revised lease rental for the quinquennium 1998-2003 and 2003-2008 in respect of the said 19 zones but the approval of TAMP for the remaining 12 zones is to be obtained.
- (ii). The location of some of the port projects are falling in certain zones which are amongst the balance 12 zones. Due to the urgency involved in the project works, the rates furnished by the District Revenue Authority (DRA) and recommended by Rate Fixation Committee (RFC) is adopted provisionally to work out the land lease rentals in preparing the project estimates hoping that TAMP's approval would be obtained for the same.

- (iii). Since the lease rentals both for the on going leases and for the forthcoming port projects fall in certain zones of the said 12 zones, it has sought approval of TAMP for the following valuation of land for the quinquennium 1998-03 and 2003-08 vis-à-vis the quinquennial valuation of land for previous quinquennium 1993-1998:

(in Rupees)

| Sl. No. | Zone | Quinquennial valuation for previous quinquennium 1993-1998 (Rs. per sq. yard) | **Proposed basic value of land for 1998-2003 (Rs. per sq. yd.) | **Proposed basic value of land for 2003-2008 (Rs. per sq. yd.) |
|---------|--------|---|--|--|
| 1. | 2. | 4. | 5. | 6. |
| 1. | I-B | 174.00 | 1350.00 | 2215.00 |
| 2. | II-A1 | 108.00 | 3000.00 | 2800.00 |
| 3. | II-A3 | 108.00 | 800.00 | 1000.00 |
| 4. | II-C | 36.00 | 800.00 | 1000.00 |
| 5. | III-A | 108.00 | 800.00 | 1000.00 |
| 6. | III-B1 | 108.00 | 800.00 | 1050.00 |
| 7. | III-B3 | 108.00 | 650.00 | 1375.00 |
| 8. | IV | 17.20 | 1100.00 | 1375.00 |
| 9. | VI-A | 28.80 | 2000.00 | 2400.00 |
| 10. | X-A | 30.24 | 5000.00 | 6000.00 |
| 11. | X-B | 54.72 | 5000.00 | 6000.00 |
| 12. | XIII | 115.20 | 2800.00 | 4600.00 |

** The port has given the basic value of land. Lease rent is to be arrived applying 6% return on the market value of land as per the land policy guidelines issued by the Government in March 2004.

5.1. In the matter governing fixation of lease rental for port estate, this Authority is guided by the Government policy on the Land and Water Management of Major Port Trust. As per the land policy guidelines issued by the Government in 1995 as well as 2004, a Committee headed by the Chairman of the port trust is to recommend the rates to the TAMP. The original proposal submitted by the VPT in June 2005 was accompanied with copy of the recommendation made by the Committee.

5.2. The basic value of the land now proposed by the VPT for the quinquennium 1998-2003 and 2003-2008 for the 12 zones is stated to be based on the valuation of land done by the District Revenue Authority and recommended by the Rate Fixation Committee appointed by the VPT. The port has not separately furnished the copy of the Report of the Rate Fixation Committee along with the instant proposal. The initial proposal dated 29 June 2005 filed by the VPT, however, contained the proceedings of the meetings of the Rate Fixation Committee. During the last proceedings, the port on our advice to review of valuation of DRA had filed revised proposal dated 29 November 2006 and had also forwarded revised recommendations of the Rate Fixation Committee held on 5 September 2006 vide its letter dated 5 October 2006.

6. In accordance with the consultation process prescribed, the proposal received from the VPT dated 16 September 2009 along with report of the Rate Fixation Committee of May 2005 and the revised recommendations of the Rate Fixation Committee dated 5 September 2006 along with proceedings of the Joint Collector of Visakhapatnam dated 6 December 2000 and 18 September 2004 were circulated to the concerned users / user organisations / lessees seeking their comments. The comments received from the users / user organisations / lessees were forwarded to the VPT as feedback information.

7. A joint hearing in this case was held on 2 November 2010 at the Visakhapatnam Port Trust. The VPT made a power point presentation of its proposal along with a detailed map showing the relevant 12 zones of land under consideration. At the joint hearing, VPT and the concerned users/ organisation bodies/ lessees have made their submissions.

8. The proceedings relating to consultation in this case are available on records at the office of this Authority. An excerpt of the comments received and arguments made by the concerned parties will be sent separately to the relevant parties. These details will also be made available at our website <http://tariffauthority.gov.in>.

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

- (i). For the purpose of determining lease rentals for the lands belonging to the Port Trusts, this Authority is mandated to follow the land policy guidelines issued by the Government from time to time vide clause 8 of the tariff guidelines issued by the Government in March 2005.

As already brought out, the proposal filed by the VPT seeking approval for lease rental for the 12 zones was part of the original proposal filed by the VPT in July 2005. Since the proposal of the VPT seeking revision of lease rental based on the quinquennial valuation wherein valuation of lands assessed in 1952 were subjected to adhoc percentage increase recommended by the DRA every quinquennium was not found to be in line with the Government guidelines on the land matters, the port was advised to relook it. While reviewing the proposal, the port in the final revised proposal of July 2007 sought approval for only 19 zones based on the basic value of the land which was approved vide Order dated 22 April 2008. The instant proposal relates to the remaining 12 zones of land.

- (ii). (a). As required by the Government guidelines, a Committee under the Chairmanship of Chairman (VPT) with the Collector, Visakhapatnam District and Deputy Secretary, Ministry of Shipping as other members was constituted to review and recommend the rates ascertained by the District Revenue Authority during the proceeding of the last tariff Order of April 2008. During the last proceedings, the VPT was advised to review of valuation of DRA for all the zones duly reckoning all the relevant information concerning lands at the different zones and the report obtained from the DRA to be examined by the Committee headed by Chairman (VPT). The VPT vide letter dated 29 November 2006 submitted that Joint Collector in a meeting with the VPT expressed that a fresh review by DRA would not be possible and hence it was decided that DRA valuations recommended earlier may be reviewed by the Rate Fixation Committee. The Rate Fixation Committee after reviewing the minutes of the previous meetings of the Committee and other relevant records finally made the following recommendations for valuation of land for the quinquenniums 1998-2003 and 2003-08 in respect of the 12 zones under consideration:

- (i). For the quinquennium 1998-2003:
The Rate Fixation Committee after examining the basic land valuation furnished by the District Revenue Authority recommended adoption of the same in toto for the quinquennium 1998-2003.
- (ii). For the quinquennium 2003-08:
The basic value of land furnished by the DRA is recommended by the Rate fixation Committee.

Though the report of the Rate Fixation Committee does not mention the basis adopted by the DRA for valuation of Land, the VPT while replying to our queries had clarified that basic value provided in the State Government's ready reckoner is adopted by DRA for fixation of land valuation for VPT lands.

The recommendations of the Committee included the valuation of land for the 12 zones which is the subject matter of the exercise in hand. The current proposal filed by the VPT for revision of lease rental for the 12 zones is based on the revised recommendations made by the Committee constituted by the port during the last proceedings.

- (b). It is notable that while according approval to the lease rental proposals of KPT and VPT in April 2008, this Authority had taken the view that it would be appropriate for a Port Trust to assess the market value under all options given in the Government guidelines. Accordingly, the VPT was advised to review the basic value of land under all the methods and derive the lease rentals based on the one which is most beneficial to the port. The port has not adhered to this advice for the 19 zones for which the rates were provisionally approved in April 2008 and also in respect of 12 zones covered by the current proposal.

The VPT has clarified that no tendering or auctioning of land in respect of 12 zones has happened during these periods. Hence valuation of land under this option is not feasible. The valuation of land adopted by the VPT is reportedly based on the State Government Ready Reckoner. As this is one of the methods prescribed in the Government guidelines for valuation of land, the basic valuation of land for the 12 zones considered by the VPT for the quinquennium 1998-2003 and 2003-2008 based on recommendation of the Committee is relied upon and the lease rentals are provisionally approved in line with the approach followed while according approval for the 19 zones in the April 2008 Order.

The VPT is advised to comply with the advice rendered in the last order and to assess the market value of land under all the options and to derive the lease rentals based on the one which is most beneficial to the port.

- (c). It is observed that the value of land for the zone IIA 1 for the quinquennium 2003-08 is assessed Rs.2800 per sq. yard which is lower than the value of the land assessed for the immediate previous quinquennium 1998-2003 at Rs.3000 sq. yard. The proposal of the VPT or for that matter the recommendation of the Rate Fixation Committee recommending adoption of the basic value of land to the VPT has not attributed any reasons for fall in the value of land for this particular zone. Since the rates proposed are based on the recommendation of the Rate Fixation Committee which after the review has recommended these value of land, the same is relied upon and considered for determining the lease rentals.
- (d). Except Food Corporation of India (FCI) and Rain CII Carbon (India) Limited, none of the users/ lessees consulted on the proposal have furnished any adverse comment on the proposal of the port. The point made by the FCI that the revision in lease rental should be restricted to maximum of 30% once in every five years is not in line with the Government guidelines on land policy matter which requires the port trusts to revise the base value of land once in every five years. In any case the rate approved by this Authority are ceiling levels and the VPT has the flexibility to charge rates lower than the rates approved by this Authority based on the commercial decision of the port.
- (iii). (a). This Authority is to prescribe the lease rentals for port lands. As against this position, the VPT has sought approval to the basic valuation of land. During the revision of lease rentals in April 2008, the port had clarified that the lease agreements entered by the port prescribe lease rentals to be levied at different percentages of the land value. Some of the long term agreements entered prior to May 1987 prescribe rent at 6% of land value and in few other lease agreements entered subsequent to 1986, rent is prescribed at 9% of the value of land fixed by the DRA. It had reported that this provision is based on the sanction obtained from the Government vide letter No.PT/17011/2/86-PG dated 18 May 1987.
- (b). It is noteworthy that the Government guidelines prior to the 2004 guidelines did not prescribe any specific percentage of land value as lease rent. There was no uniformity in this respect across the Major Ports. The Cochin Port Trust in a case relating to fixing of lease rent of land at

Puthuvypeen adopted a figure of 3.33% of the land value. In case of Tuticorin Port Trust, lease rent for land allotted for a salt industry was fixed at 6% of the value of the land. The Kolkata Port Trust in the case relating to lease rent of land at Haldia adopted 7% to 10% of the value of lands for different zones for fixation of lease rent.

In view of the specific approval granted by the Government to VPT in May 1987, while according approval of lease rental for 19 zones in the April 2008 Order, the lease rent for the quinquennium 1998-2003 was prescribed at 9% of the basic value of land in those lease agreements which are covered by the specific sanction from Government. In respect of all other lease agreements the lease rent was prescribed 6% of the basic value of the land. The same approach is followed while revising the lease rentals for the balance 12 zones.

- (c). The Government guidelines of March 2004 require fixation of lease rent of port lands @ 6% of the market value of land. That being so, for the quinquennium 2003-08, lease rent in respect of the 12 zones is prescribed at 6% of the basic value of land as done in the April 2008 Order for the other 19 zones.
- (iv). The point made by the Rain CII Carbon (India) Limited about 10% annual increase in the lease rental arises from the condition prescribed in the lease agreement entered by it with the port. The port has clarified that based on the order of the Government in this case, the condition was included in the lease agreement. It is not for this Authority to intervene into the condition prescribed in the individual lease agreements entered between the lessees and the port. The lease rental approved by this Authority are for the overall estate of the port and not with reference to individual leases. It is for the port to apply the lease rentals approved by this Authority and to comply with the Government guidelines in this regard.

In some relevant cases decided earlier, this Authority has held that in those cases where the leases have already been granted should be governed by the provisions prescribed in the respective lease agreements. Any changes made in the rates or the guidelines issued after execution of the lease agreement cannot be seen to alter the provisions in the lease agreement unless it is contradictory to any of the provisions / guidelines of the Government or to the overall tariff setting principles followed by this Authority.

- (v). As per the Government guidelines, the lease rents fixed is subject to an automatic annual escalation. In terms of 1995 guidelines, the annual escalation in lease rent is @ 5% (compoundable). In the revised guidelines of 2004, the quantum of annual escalation is reduced to 2%. The annual escalation of lease rental is accordingly to be computed at 5% p.a. (compounded) for the period upto 31 March 2004 and thereafter @ 2% p.a. The conditionality on annual escalation in lease rental prescribed in the tariff Order of April 2008 alongwith other general conditions prescribed in the Order No.TAMP/41/2005-VPT dated 22 April 2008 will apply in respect of the 12 zones for which the rates approved in this Order.
- (vi). The Government guidelines of April 1995 as well as the revised policy guidelines issued by the Government in March 2004 for land management at major ports prescribe revision of the base rate once in five years. In view of the Government guidelines in this regard, it is inevitable but to consider revision of lease rents for the 12 zones under consideration with retrospective effect from 1998. It is notable that for the same reasons the lease rental for the 19 zones revised in the Order of April 2008 were also allowed retrospective effect.

Accordingly, the revised lease rentals provisionally approved by this Authority will come into effect retrospectively for quinquennium 1998-2003 and also for the quinquennium 2003-2008.

As already mentioned earlier, the revised lease rental will be applicable in case of existing leases / licenses and in those cases renewed / allotted after 1 April 1998 for the quinquennium 1998-2003 and 1 April 2003 for the quinquennium 2003-08 only if the respective lease agreement or letter of allotment, if no lease deed is still executed, explicitly provides for revision of lease rentals during the currency of the lease period.

- (vii). The Vizag Sea Port Limited has raised a valid question about the lease rental applicable after 2008. The lease rent of the land belonging to the VPT last approved by this Authority on 22 April 2008 for 19 zones and the current proposal according revision of lease rentals for the balance 12 zones pertain to the quinquennium 1998-2003 and 2003-2008. Revision of lease rentals for the period beyond 2008 is already overdue but the port has not yet filed any proposal for revision of lease rental in line with the guidelines of the Government on land policy of major ports despite alerting the position while dealing with the tariff fixation of upfront tariff proposals filed by the port. Till such time any revision takes place for the period beyond 2008, the existing lease rental subject to the applicable annual escalation will continue to apply.

10. In the result, and for the reasons given above, and based on a collective application of mind, this Authority provisionally approves the revised lease rate for lands at the following 12 Zones belonging to the VPT for the quinquennium 1998-2003 and 2003-2008 subject to the condition that the port would review the basic valuation under all the methods prescribed in the Government guidelines and derive lease rentals based on the one which would be most beneficial. Consequent upon such review, the port should also review/ readjust the billings made.

“ **Schedule of Lease rate of land belonging to the Visakhapatnam Port Trust**

| | | Rate in Rs. per sq. yard per annum | | |
|------------|--------|--|--|--|
| | | With effect from 1 April 1998 upto 31 March 2003 | | With effect from 1 April 2003 upto 31 March 2008 |
| Sr. No. | Zone | For the Quinquennium 1998-2003 | | For the Quinquennium 2003-08 |
| | | In case of lease agreements covered by the specific sanction from the Government for levy of lease rent at 9% of land value | For the other lease agreements not covered by the specific sanction from the Government | |
| 1. | I-B | 121.50 | 81.00 | 132.90 |
| 2. | II-A1 | 270.00 | 180.00 | 168.00 |
| 3. | II-A3 | 72.00 | 48.00 | 60.00 |
| 4. | II-C | 72.00 | 48.00 | 60.00 |
| 5. | III-A | 72.00 | 48.00 | 60.00 |
| 6. | III-B1 | 72.00 | 48.00 | 63.00 |
| 7. | III-B3 | 58.50 | 39.00 | 82.50 |
| 8. | IV | 99.00 | 66.00 | 82.50 |
| 9. | VI-A | 180.00 | 120.00 | 144.00 |
| 10. | X-A | 450.00 | 300.00 | 360.00 |
| 11. | X-B | 450.00 | 300.00 | 360.00 |
| 12. | XIII | 252.00 | 168.00 | 276.00 |

Note: The conditionalities approved by this Authority in Order No.TAMP/41/2005-VPT dated 22 April 2008 will apply in respect of the above 12 zones as well. ”

(Rani Jadhav)
Chairperson

**SUMMARY OF THE COMMENTS RECEIVED FROM THE PORT USERS / SHORTLISTED
BIDDER / RFQ APPLICANTS AND ARGUMENTS MADE IN THIS CASE DURING THE
JOINT HEARING BEFORE THE AUTHORITY**

F. No.TAMP/37/2009-VPT - Proposal from the Visakhapatnam Port Trust for revision of lease rentals of Visakhapatnam Port Trust lands in respect of 12 zones for the quinquenniums 1998-2003 and 2003-2008.

A summary of comments received from some of the users / user organisations / lessees and the comments of VPT thereon are given below:

| Sl. No. | Comments of users / user organisations/ lessees | Comments of VPT | | | | | | | | | | | | | | | | | |
|-------------|--|---|--------|----------------------------|--------|-----------|--------|-----|-----------|--------|-----|-----------|--------|------|-------------|--------|---------|-------------|------|
| 1. | Visakha Container Terminal Private Limited | | | | | | | | | | | | | | | | | | |
| | No comments to offer. | -- | | | | | | | | | | | | | | | | | |
| 2. | The Food Corporation of India | | | | | | | | | | | | | | | | | | |
| (i). | We have already furnished comments earlier not to raise lease rent by 100% and requested TAMP to pass orders for nominal hike of below 30% for the quinquennial period 2003-08 as was done for the period from 1998-2003. | VPT has submitted the land valuation proposal for approval of rates by TAMP in respect of the balance 12 zones for the quinquenniums 1998-2003 and 2003-2008 but where as the point raised by FCI regarding hike of lease rent is for the years 2008-2009 and 2009-2010 under the quinquennium 2008-2013 which is not covered in the above said proposal submitted to TAMP and hence there are no comments to offer. However, VPT is preferring the rent bills for the years 2008-09 and 2009-10 purely on provisional hike basis to avoid the accumulation of arrears of rentals in huge amount duly obtaining approval of Board. | | | | | | | | | | | | | | | | | |
| (ii). | The details of lease rent paid are furnished hereunder: <table border="1" style="margin-left: 40px;"> <thead> <tr> <th align="center">Period</th> <th align="center">Rate per Sq. Yard (in Rs.)</th> <th align="center">% Hike</th> </tr> </thead> <tbody> <tr> <td align="center">1993-1998</td> <td align="center">115.20</td> <td align="center">20%</td> </tr> <tr> <td align="center">1998-2003</td> <td align="center">149.76</td> <td align="center">30%</td> </tr> <tr> <td align="center">2003-2008</td> <td align="center">299.52</td> <td align="center">100%</td> </tr> <tr> <td align="center">2008-2009)</td> <td align="center" rowspan="2">716.45</td> <td align="center" rowspan="2">100% to</td> </tr> <tr> <td align="center">2009-2010)</td> <td align="center">125%</td> </tr> </tbody> </table> | | Period | Rate per Sq. Yard (in Rs.) | % Hike | 1993-1998 | 115.20 | 20% | 1998-2003 | 149.76 | 30% | 2003-2008 | 299.52 | 100% | 2008-2009) | 716.45 | 100% to | 2009-2010) | 125% |
| Period | Rate per Sq. Yard (in Rs.) | | % Hike | | | | | | | | | | | | | | | | |
| 1993-1998 | 115.20 | | 20% | | | | | | | | | | | | | | | | |
| 1998-2003 | 149.76 | 30% | | | | | | | | | | | | | | | | | |
| 2003-2008 | 299.52 | 100% | | | | | | | | | | | | | | | | | |
| 2008-2009) | 716.45 | 100% to | | | | | | | | | | | | | | | | | |
| 2009-2010) | | | 125% | | | | | | | | | | | | | | | | |
| (iii). | We have informed to VPT, Visakhapatnam vide this office Lr. No. S&C.2(2)/2005-06/Vol.III, dated 30 June 2008, 30 April 2009 and 18 September 2009 under copy to TAMP that abnormal hike of 100% to 125% of lease rent for the year 2008-09 and 2009-10 under quinquennium 2008-13 is a blow on FCI, which is a subsidized organisation and requested that the escalation for every quinquennium only upto a maximum of 30% for every 5 years, as per the instructions of Government of India, Ministry of Surface Transport, Department of Shipping (Port Wing) vide Order dated 15 February 2000, but till date, no communication is received in this office. | | | | | | | | | | | | | | | | | | |
| (iv). | FCI is not a profit oriented organisation. The godowns are utilizing for storage of foodgrains which are meant for Public distribution system in main land and shipment to Andaman & Nicobar Islands as per the directions of Government of India to cater the needs of people living in the | The escalation for every quinquennium only upto a maximum of 30% for every 5 years contemplated in Ministry's letter dated 15 February 2000 quoted by FCI was in case of charging land premium upfront based on tender but however, the same has since been amended in the subsequent Ministry's Order dated 6 August 2002. | | | | | | | | | | | | | | | | | |

| | | |
|-----------|---|---|
| | scattered islands. It has, therefore, reiterated its request to restrict the escalation of lease rent for every quinquenniums i.e., 2003-2008 and 2008-2013 upto a maximum of 30% only. | |
| 3. | M/s.Bharat Petroleum Corporation Limited | |
| | The proposed enhancement of VPT lease rentals in line with proceedings of the Joint Collector, Visakhapatnam, is totally arbitrary, one-sided and exorbitant. We are making payment of enhanced rate of VPT lease rentals under protest upon pressure from VPT. | As per Government guidelines, VPT obtained the land valuations for port lands for the quinquenniums 1998-2003 & 2003-2008 from the District Revenue Authorities and submitted the same before Rate Fixation Committee. The said committee have thoroughly reviewed the land valuations and after their recommendations, the same are sent for approval of TAMP. As such, it is not correct to say that the enhancement of VPT lease rentals proposed is totally arbitrary, one-sided and exorbitant. |
| 4. | Rain CII Carbon (India) Limited (formerly known as Rain Calcining Limited) | |
| (i). | The land leased to Rain CII was a reclaimed marshy land. Rain CII has developed the site and other infrastructure e.g., roads, drains, lighting, water supply, etc., at its own cost, spending huge amounts. Substantial amounts have been spent for construction of the plant and buildings, by way of special foundations. In view of the above, it may not be proper to compare the lands on par with other commercial lands for fixing of market value and schedule of rates. | The proposal of VPT is for approval of revision of lease rentals for 12 zones, which is not relevant to RCL, as they do not have land / occupation in these zones. Accordingly, M/s.RAIN C-II also have stated that the 12 zones referred, does not pertain to the lands leased to them vide their letter dated 9 December 2009, there are no specific comments to offer. |
| (ii). | The lease rent is being increased by 10%, cumulative, every year and the rent paid by Rain CII is substantially higher compared to others. It is requested to kindly remove the anomalies and rationalise the lease rent and yearly increase. | The rent fixed on the leased land (Acs. 42.50 in Zone VIII) was as per quinquennial revision rates applied at that time, which are actually much lower to the commercial rates (Basic valuations) prevailing in the neighbouring lands. Moreover, the escalation @ 10% on annual lease rent is as per Orders by Government of India accorded in this case and the same has also been incorporated in the lease agreement entered between the Lessee and the Lessor. Hence, it may not be possible to remove the clause at this stage. |

2. A joint hearing in this case was held on 2 November 2010 at the Visakhapatnam Port Trust. The VPT made a power point presentation of its proposal along with a detailed map showing the relevant 12 zones of land under consideration. At the joint hearing, VPT and the concerned users/ organisation bodies have made the following submissions:

Visakhapatnam Port Trust

- (i). The proposed rates are already included in the concession agreements signed recently for PPP projects.
- (ii). No tendering or auctioning of land in respect of 12 zones has happened during these periods. So these values are not relevant to decide lease rents.

M/s HPCL Visakha Refinery

- (i). Considering our long term relations, some concession should be allowed in our favour.

M/s. Steel Authority of India Limited

- (i). No comments.

M/s. East India Petroleum Limited

- (i). No comments.

M/s. V. Dhana Reddy & Co.

- (i). We are asked to pay the prevailing market rate based lease rent while renewal of lease. This is unfair.

ABG-LDA Bulk Handling Private Limited

- (i). No comments.

Vizag Seaport Private Limited

- (i). The proposal is only upto the year 2008. What will be the rentals to be charged after 2008?
