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**Tariff Authority for Major Ports**

G. No. 218

New Delhi, 9 November 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 disposes of the proposal received from the V.O. Chidambaranar Port Trust for revision of the lease rent for a period of five years from 1 July 2007 to 30 June 2012 as in the Order appended hereto.

**(Rani Jadhav)**  
Chairperson

**Tariff Authority for Major Ports**  
**Case No. TAMP/14/2009-TPT**

V.O. Chidambaranar Port Trust

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Applicant

**ORDER**

(Passed on this 11<sup>th</sup> day of October 2011)

This case relates to a proposal filed by the V.O. Chidambaranar Port Trust (VOCPT) [earlier, Tuticorin Port Trust] for revision of the lease rentals of port lands for period of five years from 1 July 2007 to 30 June 2012.

2. The lease rent of VOCPT was last revised by this Authority vide Order No.TAMP/35/2003-TPT dated 18 November 2004 which was made effective from 1 July 2002. It was decided to review the rates after five years as per the extant Government guidelines on the land policy of major ports.

3. The VOCPT, vide its letter dated 21 April 2009 had filed a proposal for revision of the lease rates for Zone A and Zone B. Based on the recommendation made by the Committee, the VOCPT had proposed revision of lease rental which interalia considered 12% return on Market Value of land and 18% return on Development Cost for arriving at the proposed lease rentals.

4.1. Since the computation of the proposed lease rental by the VOCPT was not in conformity with the land policy guidelines issued by Government, the port has advised to file a revised proposal vide our letter dated 4 May 2009 as per the Government guidelines on land policy apart from seeking clarifications on the gaps observed in its proposal.

4.2. The port furnished its reply vide letter dated 23/26 June 2009 on the points observed and has also filed a revised proposal. In the revised proposal, the market value of port land was considered uniformly at 120 lakhs per acre for the lands at both Zone A and B as considered in the original proposal. Development cost is considered at its depreciated value as on 1 July 2007 and additional development cost planned during the period 2007 to 2012 is also considered. For arriving at lease rental, return @ 6% of the market value of land and 15% on the total development cost is considered.

In line with the recommendations made by the Committee, the lease rent for port related activities in Zone B is proposed at the same rate as proposed for land in Zone A. In respect non-port related activities in Zone B, the rates are 80% more that the rate proposed for Zone B port related maintaining the differential percentage as per the recommendations made by the Committee in its report. Accordingly, the lease rent proposed by the port in the revised proposal for lands in Zone A and Zone B is given below:

Purpose	Proposed lease rate per sq. mtr. per annum from 1.7.2007 to 30.6.2012		
	Zone A	Zone B	
		Port related	Non-port related
Service/ residential	146.30	146.30	263.34
Industrial	271.53	271.53	488.75
Commercial	438.51	438.51	789.32

The lease rent proposed will carry 2% annual escalation (compoundable).

5. In accordance with the consultative procedure prescribed, the proposal of the VOCPT dated 21 April 2009 and 23/26 June 2009 were circulated to the concerned users/ user organisations as well as the additional users forwarded by the VOCPT seeking their comments. The comments received from the concerned users/ user organisations have been forwarded to the VOCPT for feedback information. The VOCPT has furnished its views on the comments made by users.

6. Based on a preliminary scrutiny of the proposal, the VOCPT was requested to furnish additional information / clarifications on various points vide our letter dated 9 August 2010. The VOCPT has furnished its reply vide letter dated 13 October 2010. Some of the main queries raised by us with reference to valuation of land and the reply furnished by the VOCPT is tabulated below:

Sl. No.	Queries raised by us	Reply furnished by VOCPT
(i).	The Authority while deciding the revision of lease rentals of some of the Major Port Trusts felt that it would be appropriate to assess the market value of land under all the options given in the Land Policy guidelines for Major Port Trusts and derive the lease rental based on the one which is most beneficial to the port. Recently, other ports like Cochin Port Trust, New Mangalore Port Trust, Kandla Port Trust and Kolkata Port Trust have filed their proposals with proper valuation report. Chennai Port Trust has also been advised recently to carry out valuation by engaging a qualified valuer. The statement of the port that it does not have a valuer is not understood. When other ports could engage the services of qualified valuers, the reasons why VOCPT could not appoint such professional agency is not clear. The advice rendered earlier by us is reiterated.	Land Policy guidelines vide Para 5.3(1) specify taking into account any/ all the factors indicated in the Policy by the Committee. The same interalia include State Government Ready Reckoner of land value in the area which is being/ has been adopted by Port uniformly. Hence the question of obtaining Valuation Report by valuer does not arise as far as Tuticorin Port is concerned.
(ii).	Please justify the reasons for adopting uniform land value of ₹2965 per square metre for all lands at Zone A and that too based on the highest valuation of land at Zone B for South Beach Road. The VOCPT may confirm as to whether land at South Beach Road in Zone B considered by the VOCPT is representative enough to adopt it as the base value of land for service, industrial and commercial purposes for lands at Zone A.	Since the location of South Beach Road is adjacent to both Zone A and Zone B, land value of South Beach Road of ₹2965/- sq.m., has been adopted.
(iii).	The approach adopted by VOCPT to club all its estate under one group for valuation and consider the same market value for the entire estate does not appear to be sound. Market value of land is influenced by various factors like location, facilities available, end use, etc. The State Government guideline values do not appear to be uniform for all parcels of land considered by VOCPT.	The land values are assessed based on the land value declared in the ready reckoner of the State Government for port vicinity land.
(iv).	It has to be recognised that the development carried out by the port for strengthening of road, improvement in the electrification, medical facilities, railway infrastructure, etc. will have an influence on market value of land. Hence when the market value of land, determined on a realistic basis, is considered for fixing lease rentals, it is expected that the market value factors the effect of such development. As advised earlier, the port may re-assess the market value of land on a realistic basis for each location/ area in both the zones.	For the lands for which market values are available in the corporation/ Panchayat limits, the value is with reference to the developments. The public utilities like roads, water supply and electricity are being susceptible for taxation like property tax, electricity and water tax. Port does not collect any such taxes like property tax etc. Hence both cannot be compared.

7. A joint hearing in this case was held on 29 March 2011 at the V.O. Chidambaranar Port Trust (VOCPT) premises. The VOCPT made a power point presentation of its proposal. At the joint hearing, VOCPT and the concerned users/ organisation bodies have made their submissions. A few user associations have also filed written submissions.

8. Some of the main objections/ points made by the users/ user associations during the processing of this case are summarised below:

- (i). The increase at the proposed rate is steep almost 20 times per year for service and residential basis and 12 times per year for industrial basis and 8 times per year for Commercial basis.
- (ii). The highest land value in unconnected areas like Meelavittan which is 30 kms. from port is taken for valuation of land. This is highly arbitrary and basis of considering value of unconnected land is incorrect. The land adjoining the port boundary alone need to be considered and not distant land. The methodology for arriving at the land value needs to be relooked.
- (iii). The statistics taken from the Revenue Department and rental fixed accordingly is not a healthy system. The Revenue Department is adopting dual standards for the collection of stamp duty and for fixation of land value when the land is acquired and hence any increase sought for by the port trust taking the revenue authorities alone into confidence will in the long run kill the basic port activities.
- (iv). It is only the Parliament that is empowered to tax retrospectively and no retrospective rentals can be charged from July 2007 even if it is so permitted by the Tariff Authority.
- (v). Salt land cannot have the same value as the land inside the town, hat too used for residential purpose. The port has not considered the prevailing market rent levied on adjacent salt lands leased by Government of Tamil Nadu. TPT has not taken into consideration the lease rent of the Salt Department land which is adjoining the Port Trust Salt land, leased to the Company, and which forms part and parts of the Salt Works. Both the Salt lands are worked as one unit. The land policy adopted for such land by Kandla Port should be applicable to Salt land of Tuticorin Port Trust.
- (vi). Rate revision can't be retrospective as it will put undue burden on small tenants.
- (vii). TAMP had already directed CHPT to consider valuation by authorised land valuer, in the absence of other options to assess market value for all lands. The same approach should be adopted in this case.
- (viii). Land policy does not provide for recovery of Development charges. Whenever there is development, market value increases. So considering development charges in addition to market value is a double cushion.

9.1. At the joint hearing, it was brought out that the approach adopted by the VOCPT of adopting the market value of land based on the highest rate obtained for the land at Zone B (i.e. South Beach Road) and applying it uniformly for all lands in Zone A and Zone B is not found to be realistic in representing the facilities, infrastructure and the market value of lands at different areas used for different purposes in Zone and Zone B. Users have also raised objection for adopting the same rates for Zone A and Zone B (port related).

9.2. The VOCPT at the joint hearing submitted that it has already initiated action towards engaging approved valuer to assess the market value of land. As agreed by the VOCPT at the joint hearing, the port was requested to complete the valuation of market land and furnish its response within three months i.e. by 29 June 2011 alongwith its action on the following points as decided at the joint hearing.

- (i). Explore other options envisaged in the land policy guidelines including engagement of approved valuer to assess realistic market value of lands at different areas and different category.
- (ii). Revisit its proposal to ensure that it is in line with the recent land policy guidelines announced by the Ministry which came into effect from 13 January 2011.

- (iii). Explain the reason why development cost should be considered in addition to market value of land. Market value will be the function of developments carried out in an area. In any case, development cost given by the VOCPT from 1.7.2002 to 30.6.2007 does not indicate for which of the zone/ purpose the development cost was incurred. The details relating to development cost may be furnished area wise and for each categories in the Zone A and B.

10.1. The VOCPT in its letter no.E(C)-38/2/206-EST D 517 dated nil April 2011 intimated that action has been taken to appoint valuer to assess the market values of land and the proposal would be adjusted to conform to the Land Policy Guidelines of 2010.

10.2. Since no further response was heard from the VOCPT till the stipulated time of 29 June 2011, a reminder was issued to VOCPT vide our letter dated 1 July 2011. This was followed by another reminder dated 29 July 2011 advising VOCPT to furnish the requisite information/ data positively by 13 August 2011. It was also brought out to VOCPT that if no response is received within the stipulated date, this Authority would be constrained to close the case and initiate fresh proceedings when revised proposal is received.

11.1. The VOCPT vide its letter dated 11 August 2011 conveyed that the report from the valuer is expected by middle of September 2011 and on the receipt of the same, the Port will send the same to us. No further communication is received from the VOCPT about report of the valuer which was expected by mid September and the outcome of revisiting the proposal based on the valuer's report.

11.2. The joint hearing in this case was held on 29 March 2011. The proposal for revision for lease rentals of the port lands is pending for quite a considerable time after the joint hearing for further action to be taken by the port. It is not found appropriate to keep the case pending indefinitely. Further, the port has also agreed to revise its proposal based on valuation report.

12.1. In the light of the above position and based on collective application of mind, this Authority decides to close this case as withdrawn. The revised proposal when filed by the port will be processed afresh. The VOCPT is advised to expedite filing of its revised proposal.

12.2. In the current proceedings it has been observed that a few users/ user associations have objected retrospective revision of lease rental sought by the VOCPT with effect from 1 July 2007. It is, therefore, by way of abundant caution clarified that the revised lease rates when approved by this Authority based on the revised proposal to be filed by the VOCPT can apply in the existing leases subject to provision for periodic revision of rents agreed in the surviving lease agreements. It is for the VOCPT to ensure that all the leases/ licences granted after 1 July 2007 contain a suitable provision regarding retrospective revision of lease rentals.

**(Rani Jadhav)**  
Chairperson