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TARIFF AUTHORITY FOR MAJOR PORTS

G.No. 06

New Delhi,

04 January 2019

NOTIFICATION

In exercise of the powers conferred under 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 Mumbai Port Trust (MBPT) for fixation of lease rental for allotment of MBPT workshop & Clarke Basin area to Mazagon Dock Shipbuilders Limited (MDL) on long term lease basis, as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/72/2018-MBPT

The Mumbai Port Trust

- - -

Applicant

QUORUM

- (i). Shri. T.S. Balasubramanian, Member (Finance)
- (ii). Shri. Rajat Sachar, Member (Economic)

ORDER

(Passed on this 19th day of December 2018)

This case relates to a proposal received from Mumbai Port Trust (MBPT) for fixation of lease rental for allotment of MBPT workshop & Clarke Basin area to Mazagon Dock Shipbuilders Limited (MDL) on long term lease basis.

2.1. The main points made by the MBPT in its proposal vide its letter No. FA/OEA-L-6 (2018)/U-8/522 dated 26 October 2018 are summarized below:

- (i). The Mazagon Dock Shipbuilders Ltd. (MDL) vide their letter No.CH/07/MBPT/19 dated 21.02.2018 has proposed for acquisition of MBPT Workshops land & Clarke Basin area and part of Materials Management Division premises on long term lease, as the said land being contiguous to MDL's existing leasehold premises. It would ease out the space crunch being currently experienced by them for executing orders of the Indian Navy which are of strategic and national importance.
- (ii). Valuer was appointed by MBPT for carrying out the valuation of the subject land and water parcel proposed to be leased to MDL for a term of 30 years. The Valuers submitted their report on 24.07.2018.
- (iii). Land Allotment Committee (LAC) comprising of Dy. Chairman, Financial Adviser & Chief Accounts Officer, Traffic Manager and Chief Engineer & HOD (Estate) held detailed deliberation on Valuer's report dated 24.07.2018. The LAC in its report dated 25 July 2018 has decided as under:
 - (a). To accept the valuation report submitted by Valuer, valuing the property mentioned therein @ ₹.937,36,03,735.00. [₹.937.36 crores]
 - (b). To recommend value of ₹. 937,36,03,735.00 for Board's approval.
 - (c). To recommend the lease of the area to MDL for a period of 30 years with a renewal clause for another 30 years at the rate prevailing after initial 30 years.
 - (d). To calculate upfront amount for 30 years payable by MDL on taking over the property on lease, based on the value of ₹.562,416,224.10 @ 6% return with annual escalation of 4%. Applying a discounting rate of 8.1% as per RBI bulletin for longest period of G. Sec upfront amount worked out to ₹.944,16,35,500.45 [₹.944.16 crores]. However, as the amount of upfront premium for lease exceeded the outright purchase value of the property, LAC has recommended that the upfront fee may be capped at market value only. In addition to upfront premium, MDL would also be liable to pay nominal lease rent of ₹ 1/- per Sq. Mtr. per annum in terms of Clause 11.2(d) of Policy Guidelines for Land Management by Major Ports, 2014 (PGLM-2014) and applicable duties/ taxes thereon.
- (iv). The matter of capping of upfront premium was also discussed by the Chairman with the Managing Director, Indian Ports Association (IPA), during the HOD's meeting held on 25.7.2018. LAC decided that this matter shall be taken up by the IPA with the Ministry. Subject to final decision of the Ministry, LAC recommended the above proposition.
- (v). Subsequently, MBPT Board vide TR No.98 dated 02.08.2018 approved LAC's recommendations and also approved proposal to issue preliminary offer letter to

MDL for acquisition of subject land and water parcel on “as is where is basis” for a period of 30 years on lease basis against the advance payment of upfront premium to MBPT amounting to ₹.937,36,03,735.00 in lump sum and on the condition that all applicable taxes and duties (i.e. 18% GST, Stamp Duty & Registration charges, Property Tax & Cesses, etc.) to be borne by MDL.

- (vi). The fund so received would be partially utilized for bridging the gap between the actuarial valuation and corpus of the Pension Fund.

2.2. The summary of valuation submitted by the valuer as seen from the Valuation Report is as under:

- (a). Valuation of land as worked out by the Valuer:

No.	Particulars	Area in sq.m
A	Area Statement	
1	Plot area	52345.20
2	Deduction for Clarke Basin	12698.00
3	Deduction for Under Water Body-2	1988.78
4	Net Plot area (1 – 2 – 3)	37658.42
5	Road set back	0.00
6	Recreation/ Amenity Open spaces (25% of 4)	9414.61
7	Net area (4 – 5 – 6)	28243.82
8	FSI	1.00
9	Permissible built up area	28243.82
10	Fungible area (20% of Permissible built up area)	5648.76
11	Total permissible built up area (9 + 10)	33892.58
12	10% loading on permissible built up area	3389.26
13	Total construction built up area (11 + 12)	37282
14	Total area (in sq ft.) (1sq.m. = 10.76 sq.ft)	401302
		Amount in ₹
B	Expenses	
1	Cost of construction @ ₹ 2150/- per sq.ft.	862799300
2	Architect fees, Structural engineer, plan approval @ 7%	60395951
3	Out of pocket expenses @ ₹ 100/- per sq.ft.	40130200
4	Premium for fungible 80% of R.R rate i.e. ₹ 21680/- per sq.m	122465182
5	Total Expenses (1 + 2 + 3 + 4)	1085790633
6	Interest for 1 year @ 15%	162868480
7	Total Gross Expenses (5 + 6)	1248658346
C	Income	
1	Saleable area (in sq.m.) (considering 25% on permissible built up area) (A11 + 25%)	42366
2	Saleable area (in sq.ft) (1sq.m. = 10.76 sq.ft)	455855
3	Rate of sale for industrial unit @ ₹ 20000/- per sq.ft. on saleable built up area	9117102482
4	Gross Income	9117102482
D		
1	Net Income inclusive of land cost (C3 – B7)	7868444136
2	Developer's profit @ 30% of net income	2360233541
3	Land cost (D1 – D2)	5507911595
4	Land rate per sq.m (D3 / A9)	195013
		Say 195204/-

(b). Summary of Valuation of Land and Water Area:-

Plot description	State Govt. Ready Reckoner (Stamp duty ready reckoner, Mumbai 2018)	Rate as per Actual Transaction	Highest Accepted Tender-Cum-Auction Rate	Value considering existing infrastructure facilities, as per Valuer (in ₹.)	Factors identified by Port	Value adopted by the MBPT (in ₹.)
Land and water body	₹ 27,100 per sq.m.	No transactions occurred in the last 3 years for Dock land by the Port Trust Board.	As per information no such transaction of land in the vicinity have occurred.	(i). Land rate adopted as per feasibility ₹.195,204 per sq.m. (ii) Rate adopted for Clarke basin and water body 2 – ₹.136,643 per sqm. (30% discount on land rate).	Nil	i). Land rate adopted as per feasibility ₹.195,204 per sq.m. (ii) Rate adopted for Clerk basin and water body 2 – ₹.136,643 per sqm. (30% discount on land rate).

(c). Valuation of Structures:-

All Structures mentioned below were constructed prior to 1920 except canteen structure which was constructed in 1970.

Sr. No.	Structure Details	Area in Sq. Mt.	Construction rate (in ₹.)	Construction Cost (in ₹.)	Depreciated cost of construction considering 90% depreciation (salvage value 10%) (in ₹.)	Depreciated cost of construction considering 70% depreciation (as per ready reckoner 2018) (in ₹.)
1.	Carpenter shop	937.68	16146	15139781	1513978	4541934
2.	Pattern Shop	309.54	21528	6663777	666378	1999133
3.	Pattern shop extension	179.20	21528	3857818	385782	1157345
4.	Canteen	226.87	16146	3663043	1025652*	1831522**
5.	Blacksmith & other	2239.83	16146	36164295	3616430	10849289
6.	Electric repaired store	304.30	16146	4913228	491323	1473968
7.	LHM Store & Clerk room	74.31	16146	1199809	119981	359943
8.	F&M and Motor Shop	3009.47	16146	48595424	4859542	14578627
9.	Coast guard (boiler & Loco) leased to ICG	1638.00	16146	26447148	2644715	7934144
10	Coal shed	223.00	16146	3600558	360056	1080167
Total		9142.48			15683837	45806072

* Age of canteen structure is 48 years, 72% depreciation is considered.

** As per ready reckoner 2018, depreciation percentage above 40 upto 50 years is 50%.

(d). Total Market Value of Land, Water Area and Structures:-

Sr. No.	Description	Valuation as per Feasibility	Valuation as per Ready Reckoner, 2018.
1.	Market value of the Land (a x b)	735,10,74,218	102,05,43,182
a.	Land Area of the plot (in sqm)	37658.42	37658.42
b.	Land rate (₹. Per sqm)	195,204.00	27100.00
2.	Market value of the Water Area (c x d)	200,68,45,680	NIL
c.	Water Area (in sqm) and area of clarke basin	14686.78	-
d.	Water area rate (₹. Per sqm) [(70% of (b))]	136643.00	-
3.	Depreciated cost of construction of structures (as per table at (b) above)	1,56,83,837	4,58,06,072
	Total (1 + 2 + 3)	937, 36,03,735	106,63,49,254

Among the above total market value of land, water and structures, the valuation of ₹.937.36 crores has been recommended by the valuer.

2.3. Accordingly, the MBPT has requested this Authority to approve the amount of upfront premium payable by MDL (exclusive of applicable taxes / duties and incidental charges in connection with registration of Lease Deed) and to the annual rent of ₹ 1 per sq.mtr. per annum (exclusive of applicable taxes / duties) .

2.4. The MBPT has also enclosed a copy each of the Land valuation report, Land Allotment Committee Report, Board Resolution and list of users for consultation.

3.1. In accordance with the consultative procedure prescribed, a copy of the MBPT letter dated 26 October 2018 was forwarded to the concerned users/ user organizations vide our letter dated 02 November 2018 seeking their comments. In response, Mazagon Dock Shipbuilders Limited (MDSL) and Indian Coast Guard Region (ICG) have furnished their comments which were forwarded to MBPT as feedback information. The MBPT vide its letter dated 07 December 2018 and 14 December 2018 has furnished its comments on the submissions made by MDL and ICG respectively.

3.2. The submissions of ICG were also forwarded to MDL for its comments. The MDL vide its letter dated 19 December 2018 has responded.

4. On preliminary scrutiny of the proposal of MBPT, it was seen that some information/ clarification were required from MBPT. Accordingly, we have vide our letter dated 02 November 2018 sought information/ clarification from MBPT. The MBPT has responded vide its letter No. FA/OEA-L-6(2018)/U-8/569 dated 20 November 2018. The information/ clarification sought by us and the response of MBPT thereon are tabulated below:

Sr. No.	Information/ clarification sought by us	Response of MBPT														
(i).	MBPT to furnish the draft Scale of Rates (SoR) incorporating the proposed Lease rent alongwith the conditionalities governing the proposed lease rental.	<p>Since there will be an agreement between MBPT and MDL, a separate chapter or clause is not felt necessary to be incorporated in the SOR. However, the following draft scale of rates is furnished :- “Scale of Rate for MBPT’s Workshops</p> <table border="1"> <thead> <tr> <th>Location</th> <th>Rate (in ₹. per Sq. Mtr. p.m)</th> </tr> </thead> <tbody> <tr> <td colspan="2">Mazagon</td> </tr> <tr> <td>Land Area</td> <td></td> </tr> <tr> <td>Land</td> <td>1,95,204</td> </tr> <tr> <td colspan="2">Water Area</td> </tr> <tr> <td>Clarke Basin</td> <td>1,36,643</td> </tr> <tr> <td>Water Body - 2</td> <td>1,36,643</td> </tr> </tbody> </table> <p style="text-align: center;">Premise at Mazgaon</p> <p>NOTES:</p>	Location	Rate (in ₹. per Sq. Mtr. p.m)	Mazagon		Land Area		Land	1,95,204	Water Area		Clarke Basin	1,36,643	Water Body - 2	1,36,643
Location	Rate (in ₹. per Sq. Mtr. p.m)															
Mazagon																
Land Area																
Land	1,95,204															
Water Area																
Clarke Basin	1,36,643															
Water Body - 2	1,36,643															

		<p>1. All the rates provided in the above schedule shall get automatically escalated by 4% per annum after expiry of one year.</p> <p>2. Any hike on account of / in respect of levy or levies including increase therein of taxes, duties, cesses, etc. payable to the State / Central Government or any other statutory authority shall be met and paid by the licensee / lessee at actual.”</p> <p>(The rates proposed in the Draft SOR furnished by MBPT reflects Market Value per sqm. of the proposed Land and Water area.)</p>
(ii).	<p>Clause 13 (c) read with clause 13 (b) of the Land Policy Guidelines, 2014, requires the Authority to notify the Reserve Price in terms of Annual Lease Rent. The MBPT has sought approval for Reserve Price in terms of Upfront payment for 30 years. As stipulated in clause 11.2(d) of the amended Land Policy Guidelines, 2014, issued by the Ministry of Shipping vide its letter No. PD-13017/2/2014-PD IV dated 17 July 2015, fixation of Reserve Price for leasing of Land on upfront basis, which would be the NPV of the sum total of annual lease rentals calculated as per latest SOR, is in the domain of MBPT and not within the ambit of the Authority either under Section 49 of the Major Port Trust Act, 1963 or under Land Policy Guidelines, 2014. Therefore, the MBPT to propose Reserve Price in terms of annual lease rent and incorporate the same in the Scale of Rates to be furnished, as discussed at para (i) above.</p>	<p>The upfront payment to be made by Mazagon Dock Shipbuilders Ltd. (MDL) is to be treated as Reserve Price.</p>

5.1. A joint hearing on the case in reference was held on 29 November 2018 at the office of this Authority in Mumbai. At the joint hearing, MBPT made a brief power-point presentation of its proposal. The MBPT, the Indian Coast Guard and MDL have made their submissions.

5.2. As decided at the joint hearing, the MBPT was requested vide our letter dated 06 December 2018 to furnish the revised SOR incorporating the lease rental separately for land, water area and structures and seek approval for lease rent instead of market value of land.

5.3. In this connection, the MBPT vide its letter No. FA/OEA-L6(2018)/U-8/604 dated 07 December 2018 has furnished the revised draft scale of rates, as given below:

“Scale of Rate for MBPT’s Workshops Area and Clarke Basin

Description	Rate per Sq. Mtr. p.a. (@ 6% return)
Land - Open to sky	11,712.24
Land – Under structures	11,712.24
Structures	102.93
Water Area	8,198.58

NOTES:

- All the rates provided in the above schedule shall get automatically escalated by 4% per annum after expiry of one year.
- Any hike on account of / in respect of levy or levies including increase therein of taxes, duties, cesses, etc. payable to the State / Central Government or any other statutory authority shall be met and paid by the licensee / lessee at actual”.
- 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 MBPT

and 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>.

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

- (i). The Mumbai Port Trust (MBPT) has decided to allot some area of Land alongwith some structures to Mazagon Dock Shipbuilders Limited (MDL) on a long term basis for a period of 29 years. Accordingly, the MBPT has come up with a proposal for fixation of lease rent for the land and the structures based on the provisions of the amended Land Policy Guidelines, 2014.
- (ii). The MBPT has filed its proposal vide its letter dated 26 October 2018. The said proposal alongwith the information/ clarification furnished by MBPT during the processing of the case, is considered in this analysis.
- (iii). This Authority is mandated to follow the Land Policy Guidelines issued by the Government from time to time for the purpose of determining lease rentals for the lands belonging to the Port Trusts. The Ministry of Shipping in the Government of India has announced Land Policy Guidelines for Major Ports, 2014 in January 2014 which has come into effect from 2 January 2014. Subsequently, the Ministry of Shipping has issued amended Land Policy Guidelines, 2014 under Section 111 of the MPT Act, 1963 for implementation with effect from 17 July 2015. The MBPT has come up with a proposal for fixing Scale of Rates (SOR) for allotment of land and structures to MDL for a period of 29 years based on the provisions of the Land Policy Guidelines for Major Port Trusts, 2014, as amended in July 2015. The proposal of MBPT has the approval of its Board of Trustees
- (iv). As per clause 13(a) read with clause 11.2(e) of the Land Policy Guidelines 2014, a Land Allotment Committee (LAC) constituted by the Port Trust Board consisting of Deputy Chairman of the Port, and Heads of Departments of Finance, Estate and Traffic shall determine the market value of land as per the methodology prescribed in clause 13(a). Accordingly, the MBPT has reported about constitution of a Land Allotment Committee (LAC) headed by the Dy. Chairman of the Port and the Heads of Departments of Finance, Traffic and Estate and Chief Engineer being the other members.
- (v).
 - (a). Para 13(a) of the Land policy guidelines of July 2015 prescribes the methodology for determination of market value of the land based on the five factors as prescribed therein. In terms of the said para of the amended Land policy guidelines of 2014, the Land Allotment Committee may normally take into account the highest of the factors mentioned therein, viz. (i). State Government ready reckoner of land values in the area if available for similar classification/ activities, (ii). Highest rate of actual relevant transactions registered in the last three years in the Port's vicinity with an appropriate annual escalation rate to be approved the Port Trust Board, (iii). Highest accepted tender-cum-auction rate of Port land for similar transactions, updated on the basis of the annual escalation rate approved by the Port Trust Board, (iv). Rate arrived at by an approved valuer appointed for the purpose by the Port and (v). Any other relevant factor as is identified by the Port. The amended Land Policy guidelines of 2014 also stipulates that in case the LAC is not choosing the highest factor, the reasons for the same have to be recorded.
 - (b). In this connection, the LAC has observed that there are no actual relevant transactions and tenders in the past three years in the vicinity of the area under reference of such magnitude in nature. The value of the land as reflected in the Stamp Duty Ready Reckoner 2018-19 is reported at ₹ 27100/- per sq.m. The Valuer has also determined the market value of the land at ₹ 195204/- per sq.m., as brought out in the earlier part of this Order. Therefore, for the land component, the LAC in its Report has recommended to take into account the value of the land as determined by the Valuer in the Valuation Report.
 - (c). Clause 13(b) of the guidelines stipulates that Reserve Price in terms of annual lease rent would be arrived, as a percentage of latest market value of land determined based on the five factors in accordance with para 13(a)

and that the percentage should not be less than 6% which is to be fixed by the Port Trust Board. Accordingly, the lease rental for the land component has been arrived by MBPT at 6% of the market value of the land at ₹ 195240/- per sq.m which works out to ₹11712.24 per sq.m per annum.

- (d). Considering that the market value of the land as determined by the Valuer has been recommended by the LAC and given that the Board of Trustees of MBPT has approved the recommendation of the LAC and also since the MDL has accepted the market value, this Authority is inclined to prescribe the Lease Rent for the land under reference at 6% of the market value of the land at ₹ 195240/- per sq.m., which works out to ₹ 11712.24 per sq.m per annum, as proposed by the MBPT.
- (vi). (a). With regard to the valuation of structures, the Ministry of Shipping (MOS) vide its letter no. PD-13017/2/2014-PD.IV dated 14 May 2018 has issued Clarification Circular (Land Management) no. 1 of 2018. Vide the said Circular, the MOS has issued clarifications on some issues relating to the Land Policy Guidelines, 2014. In this regard, the issue no. 6 (iii) and clarification no. 6 issued in the Circular is reproduced below:

“Issue 6:

There are cases, where land was allotted on lease for setting up of industrial, service sector or commercial units. The units are still functioning as going concern and lease did not provide for renewal. What is the methodology to be adopted for grant of fresh lease and what are the rates which shall apply?

Clarification 6:

“(iii). The valuation of the structure should be done on a ‘replacement’ basis which is defined in Indian Accounting Standard (Ind AS 113) as Fair Value measurement on cost basis, that is, the current replacement value/ cost of the asset i.e. current market value of the original asset less the depreciation for the period of usage and obsolescence.”

- (b). As per the above referred clarification, 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, based on the workings related to determination of market value of the structures as given by the Valuer as brought out in the earlier part of this Order, the methodology followed by the Valuer in case of MBPT is in line with the methodology prescribed for valuation of structures as per the clarification issued by the MOS in the year 2018. Accordingly, the valuer has determined the value of the various structures at ₹15683837/- for the structure area of 9142.48 sq.m.
- (c). It is based on the said market value so determined, that the annual rent at 6% of the market value has been calculated by the MBPT for the various structures as a whole at a consolidated amount of ₹ 102.93 per sq.m. per annum.
- (d). Considering that the market value of the structures as determined by the Valuer has been recommended by the LAC and given that the Board of Trustees of MBPT has approved the recommendation of the LAC and also since the MDL has accepted the market value, this Authority is inclined to prescribe the Lease Rent for the structure under reference at 6% of the market value of the structure at ₹ 15683837/- for a total area of 9142.48 sq.m., which works out to ₹ 102.93 per sq.m per annum, as proposed by the MBPT.
- (vii). As per Clause 12 (A) (I) of the amended Land Policy Guidelines, Licence fee for water area would be 50% of licence fee of abutting land. In the case in reference, the MBPT has prescribed the rental for the water area at 70% of the rental of the land area i.e. 70% of ₹11712.24 per sq.m per annum, which works out to ₹ 8198.58 per sq.m per annum. The rental for the water area has been prescribed by MBPT

at a higher level at 70% as compared to 50% prescribed in the Guidelines. Since the proposed license fee for water area has the recommendation of LAC, approval of Board of MBPT and the MDL has no issue on valuation, this Authority is inclined to approve the rental for the water area at ₹ 8198.58 per sq.m per annum as proposed by the port.

- (viii). The MBPT is seen to have proposed a note to the effect that that the rates shall automatically be escalated by 4% per annum after expiry of one year. In this regard, it is relevant here to mention that 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 has proposed 4% annual escalation. Since the annual escalation rate of 4% is as per the provision of the Land Policy Guidelines of 2014, the proposed rate of 4% annual escalation is approved.
- (ix). The MBPT has proposed another note to the effect that any hike on account of/ in respect of levy or levies including increase therein of taxes, duties, cesses etc., payable to the State/ Central Government or any statutory authority shall be met and paid by the Licensee/ lessee at actual. 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.
- (x). The annual lease rent shall come into effect after expiry of 30 days from the date of notification of the Order in the Gazette of India. 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. Accordingly, a note is prescribed in the Rent Schedule that the annual lease rentals shall remain in force for a period of five years.
- (xi). The Pollution Response Team unit of the Indian Coast Guard (ICG) is operating in some of the area out of the total area proposed to be taken on lease by MDL. The ICG has entered into an agreement with MBPT for allotment of the said land for a period of 5 years. During the proceedings, the ICG has made a request to be permitted to continue at existing terms & Conditions for period beyond 5 years. In this regard, though the MDL has assured about continuance of existing terms and conditions for the balance tenure of 5 years, it has expressed its inability to make commitment for a period beyond 5 years, at this juncture. The MBPT has assured to address these issues by entering into a tripartite agreement between MBPT, MDL and ICG.

8.1. In the result, and for the reasons given above, and based on the collective application of mind, the Schedule of lease rental for allotment of land and structures at Mumbai Port Workshop area and Clarke Basin at Mazgaon, as attached as **Annex**. is approved.

8.2. The Schedule of Lease Rentals shall come into force after expiry of 30 days from the date of notification of this Order in the Gazette of India and shall remain in force for a period of five years. The approval accorded shall automatically lapse thereafter unless specifically extended by this Authority.

(T.S. Balasubramanian)
Member (Finance)

Schedule of Lease Rentals for land and structures at Mumbai Port Trust (MBPT) Workshops and Clarke Basin at Mazgaon.

Sl. No.	Location	Lease Rentals per Sq. Mt. per annum in ₹
1.	Land – Open to Sky	11712.24
2.	Land – Under structures	11712.24
3.	Structures	102.93
4.	Water area	8198.58

Note:-

1. All the rates provided in the above schedule shall get automatically escalated by 4% per annum after expiry of one year.
2. Any hike on account of/ in respect of levy or levies including increase therein of taxes, duties, cesses etc., payable to the State/ Central Government or any statutory authority shall be met and paid by the Licensee/ lessee at actual.
3. The lease rentals shall remain in force for a period of five years from the date of effect of this schedule.

SUMMARY OF THE COMMENTS RECEIVED FROM THE PORT USERS / DIFFERENT USER ORGANISATIONS AND ARGUMENTS MADE IN THIS CASE DURING THE JOINT HEARING BEFORE THE AUTHORITY.

F. No.TAMP/72/2018- MBPT - Proposal received from Mumbai Port Trust (MBPT) for fixation of lease rental for allotment of MBPT workshop & Clarke Basin area to Mazagon Dock Shipbuilders Limited (MDL) on long term lease basis.

A summary of the comments furnished by Mazagaon Dock Shipbuilders Limited (MDL) and Indian Coast Guard (ICG) and the comments of MBPT thereon is tabulated below:

No.	Comments of users/ user organisations	Comments of MBPT
1.	Mazgaon Dock Limited (MDL)	
(i).	MDL vide its letter No. CH/07/MBPT/19 dated 21 February 2018 had forwarded a proposal for acquisition of MBPT workshop land and Clarke basin on long term lease to MDL in order to mitigate the space constraints experienced by MDL in executing orders for the Indian Navy.	MBPT has no comments to offer on the comments of MDL as lease terms have been mutually agreed upon and MDL is to obtain approvals of competent authority.
(ii).	In response to MDL's letter dated 21.02.2018, MBPT vide its letter No. MEED/E/2-G(Estate)/3862 dated 9 August 2018 had given their offer for upfront lease for the said land. Subsequent to receiving MBPT's proposal, MDL had a formal discussion with MBPT on the proposal wherein the terms and conditions of the lease were mutually agreed. MDL would be taking up the proposal for lease to the Administrative Ministry viz. Department of Defence Production. Ministry of Defence after taking the requisite approval from the Board of Directors.	
2.	Indian Coast Guard (ICG)	
i (a)	ICG PRT unit is functioning from proposed land i.e. Loco Boiler Shed, under lease agreement for 05 years. The existing lease agreement between MBPT and ICG be permitted after acquiring of land by MDL, on the same terms & conditions including same rent/ taxes.	During the joint hearing held on 29.11.2018 with TAMP (wherein the Indian Coastguard's representative were also present), MDL's representative stated that, "MDL will honour the existing 5 years lease arrangement between the Coastguard and MBPT till 10.07.2022". Subsequently, the Coast Guard's unit in the MBPT workshop will have to be shifted out to another site outside the MBPT workshops. Clerk Basin parcel is proposed to be leased out to MDL.
i (b)	MDL should allow access/ approach to PRT unit for its operational and administrative requirements without any charges.	This aspect has been clarified in the para / point no.8 of the minutes of the PNC meeting held between MDL and MBPT in the Conference Room of Port

		Bhavan on 24.10.2018, the relevant portion of which is mentioned below : “MBPT brought out that MDL shall operate the ICG PRT of 1638 SQM in the premise leased out for five years w.e.f. 10.07.2017. The lease rent payable will be regulated pro-rata for the period held by MDL”.
ii.	<u>Slipway at MDL.</u> There are six (06) slipways and one basin within 12.77 acres of land with various repair and docking facilities. MDL to consider ICG ships’ emergent requirements for docking facility on priority.	No comments.

1.2. The submissions of ICG were also forwarded to MDL its comments. The MDL vide its letter dated 19 December 2018 has responded. The comments of ICG and the comments of MDL thereon is tabulated below:

No.	Comments of Indian Coast Guard (ICG)	Comments of MDL
i (a)	ICG PRT unit is functioning from proposed land i.e. Loco Boiler Shed, under lease agreement for 05 years. The existing lease agreement between MBPT and ICG be permitted after acquiring of land by MDL, on the same terms & conditions including same rent/ taxes.	It is understood that the existing lease agreement between MBPT and ICG is for a period of five (05) years in force from 10 July 2017. MDL in the event acquiring the said land on long-term lease will allow ICG to continue in the said premises until completion of the lease tenure between MBPT and ICG. Access / approach to the ICG will be deliberated and mutually agreed.
i (b)	MDL should allow access/ approach to PRT unit for its operational and administrative requirements without any charges.	
ii.	<u>Slipway at MDL.</u> There are six (06) slipways and one basin within 12.77 acres of land with various repair and docking facilities. MDL to consider ICG ships’ emergent requirements for docking facility on priority.	There are six (06) slipways and one basin within the land proposed for long-term lease to MDL from MBPT. MDL would examine the requirements of ICG for repair / docking on case to case basis as the requirements emerge from time to time.

2. A joint hearing on the case in reference was held on 29 November 2018 at the office of the Authority in Mumbai. At the joint hearing, MBPT made a brief power-point presentation of its proposal. The MBPT, the Indian Coast Guard and MDL have made the following submissions during the joint hearing:

Mumbai Port Trust (MBPT)

- (i). Government has allowed MBPT to allot land on nomination basis to Mazagoan Dock limited (MDL). The proposed land to be allotted to MDL is within the Port Operational area i.e. custom bound area. The Land Policy guidelines earlier did not permit to lease the land within the custom bond area for more than 5 years. However, recent clarifications of the Land Policy Guidelines permit Port Trusts to allot the land within the customs bond area for a period beyond 5 years and upto 30 years on long lease basis and also on nomination basis.
- (ii). In the meanwhile, owing to the space crunch being faced by MDL to execute orders of strategic & national importance, MDL has approached MBPT for allotment of MBPT workshop & Clarke Basin area to MDL on long term lease for their expansion

plans, as the said area is contiguous to their existing premises. Workshop activity has come down substantially due to man power shortage and other reasons. The MBPT after discussions with MDL, has agreed to allot the land at Mazagon Dock Area on long term basis on mutual agreed terms.

- (iii). The valuation of land and Water area has been done in accordance with Land Policy Guidelines 2014 by appointing a Land valuer. The valuer in his Report has valued the land and water parcel proposed to be allotted to MDL. The LAC has also accepted the Valuation Report and Board has approved the proposal to lease out the proposed land to MDL on nomination basis and collect the lease rental on upfront basis as per the Land Policy Guidelines 2014. The MDL will have to pay only Re.1/- per sq. mtr. per annum as a token during the tenure of lease period.
- (iv). At the request of MDL, the tenure of lease is reduced to 29 years instead 30 years as earlier envisaged in MBPT proposal.

TAMP

- (i). The rates proposed in the Draft SOR furnished by MBPT reflects Market Value per sqm. of the proposed Land and Water area. The MBPT is requested to propose the lease rental and not market value. The MBPT is also requested to propose the lease rental for the structures to be allotted to MDL in the Draft SOR.

MBPT

- (i). We will furnish the revised Draft SOR incorporating the lease rental per sqm per annum separately for land, water area and structures.

Indian Coast Guard (ICG)

- (i). Our Pollution Response Team unit is operating in some area out of the total area proposed to be taken on lease by MDL. We have entered into agreement with MBPT for 5 years. We request that we may be permitted to continue at existing terms & Conditions for period beyond 5 years.

MDL

- (i). We will continue with existing terms & conditions for the balance tenure of 5 years. However we cannot commit at present for period beyond 5 years. It will disturb our Master plan.

MBPT

- (i). We do not have any issue on the valuation of the Land and Building. We will discuss with MDL, ICG on the issue and enter into a tripartite agreement among MBPT, MDL and ICG, wherein all these issues can be addressed.

MDL

- (i). The payment regarding ₹1/- per sq. mtr. per annum was not brought to our notice earlier. MBPT may issue us a communication in this regard, so that we can intimate our Board accordingly.

MBPT

- (i). We admit that this aspect was missed out to be communicated to MDL. This prescription is as per Land Policy Guidelines. We will issue necessary communication to MDL.
