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TARIFF AUTHORITY FOR MAJOR PORTS

G.No. 357

New Delhi,

13 September 2017

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 Reserve Price for land and water area for deployment of Floating Dry Dock at Berth No. 7 inside the Indira Dock for development of ship repair facilities, as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/35/2017-MBPT

The Mumbai Port Trust

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Applicant

QUORUM

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

ORDER

(Passed on this 21st day of July 2017)

This case relates to a proposal received from the Mumbai Port Trust (MBPT) for fixation of Reserve Price for land and water area for deployment of Floating Dry Dock at Berth No. 7 inside the Indira Dock for development of ship repair facilities.

2.1. The MBPT vide its letter No. FA/OEA/L-24(2016)/DT/153 dated 13 April 2017 has filed the proposal on the subject cited above. The main points made by the MBPT in its proposal are summarized below:

- (i). MBPT intends to give land and water area at Berth No. 7 inside the Indira Dock on license basis for Deployment of Floating dry dock for development of ship repair facilities for a period of five years.
- (ii). As per amended (17.07.15) Land Policy, 2014, the land inside custom bond area shall be given on license basis only. As per clause 10.1 (b), *the Port may also allot land inside the Custom bond area for activities vital to Port operations or for those which clearly aid port activities and sea trade, such as, setting up of duty free shop, communication centres, parking facilities, passenger facilities like shopping centres, cyber café, health clubs etc. and security related activities. The tenure of license for such land shall be decided by respective Port Trust Boards and such tenures shall not exceed five years. However, such proposals should have necessary statutory and administrative approvals. Land is to be allotted through tender cum auction methodology through a competitive bidding process over the reserve price, which shall be worked out by the Land Allotment Committee and approved by the Board*". Land is to be allotted through tender cum auction methodology through a competitive bidding process over the reserve price of such plots which shall be the updated SOR notified by TAMP. The bidder will quote annual rent which will have annual escalation of 4% as per the land policy.
- (iii). Board of Trustees of MBPT vide TR No. 210 dated 13.02.2014 approved formation of Land Allotment Committee (LAC) comprising of Dy. Chairman, FA& CAO, Traffic Manager and Estate manager. As per the guidelines of Land Policy for Major Ports, 2014, the valuation of land and water areas for port related projects is to be approved by LAC, respective Board and TAMP.
- (iv). M/s. G.A. Advisory Valuation and Consultancy were appointed by MBPT for valuation of properties at MBPT Operational Areas. The findings contained in the Valuation report with regard to enquires done and information collected during the site visit are as follows;
 - Comparable Land parcel for the period of 30 years lease is not available.
 - The Transactions that have been recorded in the market are for the freehold land parcels or land parcels which are having long term lease with the use other than industrial.

- The long term lease of minimum 90 years is required for maximum commercial exploitation by the lessee.

Considering the above constraints, the Land Valuer has stated that the ready reckoner rates reflect the true value of the proposed land.

- (v). Hence, the valuation of Land area as well as for water area is recommended as per the Ready Reckoner Book (Year 2016-17). The details are as follows.

Sr.	Description	Details
1	Ready Reckoner Rate Book (Year 2016-17) Page No	53
2	Village No/Zone No	2 Land 23
3	Ready Reckoner Rate (Land Area) (₹. Per sq mtr)	92,400
4	Ready Reckoner Rate (Water Area) (₹. Per sq mtr)	46,200
Leasehold Value (60 Years)		
5	Valuation Rates Land Area (₹. Per sq mtr)	92,400
6	Valuation Rates Water Area (₹. Per sq mtr)	46,200
Leasehold Value (30 Years)		
7	Valuation Rates Land Area (₹. Per sq mtr)	83,160
8	Valuation Rates Water Area (₹. Per sq mtr)	41,580

The relevant extract (Page 53) of the Stamp Duty Ready Reckoner Mumbai 2016-17 is furnished along with the proposal. The Valuation report dated 29 March 2017 is also furnished.

- (vi). The LAC met on 01/04/2017. The valuation report submitted by the appointed valuer for area at 7-Indira Dock was perused by LAC. The valuer has considered the basis on "as is where is" to derive the market rate of land and water area present at 7-Indira Dock. The summary of valuation submitted by valuer is as under:

Area Description	State Govt. Ready Reckoner rate Per Sq. M	Rate as per Actual Transaction	Highest Accepted Tender Cum Auction rate	Rate as per Estate Department	Adopted Rate by Appointed valuer
7-Indira Dock Land Area.	INR 92400/-	As per search and discussions with officials of port trust, there is no similar recent transaction in past (three) 3 yrs having 30 yrs for lease policy in the vicinity of subject properties of such magnitude in nature.	As per search and discussions with officials of port trust there is no similar recent transaction in past (three) 3 yrs having 30 yrs for lease policy in the vicinity of subject properties of such magnitude in nature	As per search and discussions with officials of port trust, there is no similar recent transaction in past (three) 3 yrs having 30 yrs for lease policy in the vicinity of subject properties of such magnitude in nature.	<ul style="list-style-type: none"> • Leasehold value (60 yrs) Valuation Rate INR 92,400/- per sq. mtr • Leasehold value (30 yrs) Valuation Rate INR 83,160/- per sq. mtr
7-Indira Dock Water Area	INR 46200/-	As per search and discussions with officials of port trust, there is no similar recent transaction in past (three) 3 yrs having 30 yrs for lease policy in the vicinity of subject properties of such magnitude in nature.	As per search and discussions with officials of port trust there is no similar recent transaction in past (three) 3 yrs having 30 yrs for lease policy in the vicinity of subject properties of such magnitude in nature	As per search and discussions with officials of port trust, there is no similar recent transaction in past (three) 3 yrs having 30 yrs for lease policy in the vicinity of subject properties of such magnitude in nature.	<ul style="list-style-type: none"> • Leasehold value (60 yrs) Valuation Rate INR 46,200/- per sq. mtr • Leasehold value (30 yrs)

					Valuation Rate INR 41,580/- per sq. mtr
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(vii). LAC has taken into account the highest of the factors mentioned in clause 13(a) of Land Policy Major Ports 2014 (amended 17 July, 2015), which are as under:

- State Government's ready reckoner of land values in the area, if available for similar classification/ activities.
- Highest rate of actual relevant transactions registered in last three years in the Port's 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.
- 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.
- Rate arrived at by an approved valuer appointed for the purpose by the Port.
- Any other relevant factor as may be identified by the Port.

(viii). As can be seen in table at above point (vi) values for three factors are not stated on account of non-availability of values in the port. The Land Allotment Committee noticed that the valuer has arrived at the market value based on the stamp duty Ready Reckoner rates for thirty (30) and sixty (60) year Leasehold value, in view of the local condition of the plots such as- i) Lower development area, ii) Restricted usage, iii) Vicinity Area etc.

(ix). As per extract of sr. 13 (b) of Land Policy Major Ports 2014 (amended 17 July, 2015), the Reserve Price in terms of the annual lease rent would be considered as a percentage of the latest market value, and would in no case be less than 6% of the latest market value. The land allotment committee has considered market value of the area proposed based on the valuation arrived by the appointed valuer for the lease hold value for 60 years, 30 years and factors based on SOR rates. The Reserve Price for license fee based on above three factors works out as follows:

(a). Valuation based on SOR

A scenario is considered wherein it is assumed that a FDD along with dry-docked repair vessel with combined GRT of 10000 tonnes, berthed at 7 ID for 365 days, then the revenue earned would be:

- As per MbPT Scale of Rates at 2.17 – Composite Berth hire charges (coastal vessel) – ₹ 0.1606 per GRT per hour

The total charges (considering 100% utilization) for one year would be ₹.0.1606x24x365x10000 = ₹**1,40,68,560/-**
(a)

- As per MbPT Scale of Rates at 3.3-A-III - License fee for management of cargo operation (for occupation other than for cargo storage)-

License fee for open areas permitted to be used for carrying out cargo activities by placing chowkey/ porta cabin etc. – ₹.191.25 per Sq.M. per Month

The land area is 3250 sq. mtr

Total charges for land = 3250 sq. mtr x ₹.191.25 x 12 =
₹74,58,750/- (b)

Total charges based on SOR for the proposed area shall be (a) + (b)= ₹.2,15,27,310/-

(b). Valuation for Leasehold value (60 yrs)

location	Type of area	Approx. Area Sq.m	Unit rate INR per Sq.m	Market Value (In ₹ in Lacs)
7- Indira Dock	Land	3250	92,400/-	3003.00
	Water	3300	46,200/-	1524.6
Total ₹ 4527.6 Lacs				

Reserve price for license fee @ 6% of the market value works out to ₹ 271.65 lacs

(c). Valuation for Leasehold value (30 yrs)

location	Type of area	Approx. Area Sq.m	Unit rate INR per Sq.m	Market Value (In ₹ in Lacs)
7- Indira Dock	Land	3250	83,160/-	2702.7
	Water	3300	41,580/-	1372.14
Total ₹ 4074.84 Lacs				

Reserve price for license fee @ 6% of the market value works out to ₹ 244.49 lacs.

- (x). The Land Allotment Committee has taken into consideration the highest of the factors as mentioned in clause no. 13(a) of the Land Policy Major Ports 2014 (amended 17 July, 2015) and it is observed that the highest factor is the valuation rate for **Leasehold value for 60 yrs**. Therefore, the Land Allotment Committee has recommended for acceptance of rate for **Leasehold value (60 yrs)** for the purpose of valuation of land and water area required for deployment of Floating Dry-dock at 7-Indira Dock. The Land allotment committee has recommended the acceptance of Reserve Price for license fee of ₹ 271.65 Lacs (which is 6% of the market value of ₹4527.6 Lacs) and an annual escalation of 4% on accepted license fee. If the additional area is required at proposed project site, the same shall be calculated on pro-rata basis.
- (xi). The recommendations of the Land Allotment committee for fixing of the reserve price (License fee) for grant of license for deployment of Floating Dry Dock at 7-Indira Dock, Mumbai Port Trust at ₹ 271.65 lacs for 6550 sq mtrs (Water and Land) (which is 6% of the market value of ₹ 4527.6 Lacs) is submitted for approval as per extract of Sr. No. 10.1(b) of Land Policy Major Ports 2014 (amended 17 July, 2015).

2.2. The MBPT has furnished the following documents along with the proposal.

- (i) Copy of the report of the Land Allotment Committee.
- (ii) Copy of the Report of the Valuer.
- (iii) Draft proposed Scale of Rates.
- (iv) List of users / user associations/ lessees to be consulted with contact details viz. address, telephone number and email.
- (v) Copy of the Board Resolution to be forwarded after the approval of the Board.

2.3. Accordingly, the proposal of the MBPT seeks approval for the following:

Sr. No.	Location	Type of Area	Unit rate INR per Sq. mtr. (as per RR 2016-17)	Rate in ₹ per Sq.mtr. Per Annum	Approx. Area Sq. mtr.	Reserve price for License fee @ 6% of the market value (₹ In lakh)
1.	7 -Indira Docks	Land	92400	5544	3250	180.18
		Water	46200	2772	3300	91.47
					Total	271.65

Note:-

1. Terms and Condition as per agreement and Tender.
2. All the rates provided in the above schedule shall get automatically escalated by 4% per annum after expiry of one year.
3. Any levy or levies including increase therein of taxes, duties, cess and the hike, on account of/in respect of Payable to the State Government or any statutory authority shall be met and paid by the Licensee/lessee at actual. ”

3.1. On initial scrutiny of the proposal of MBPT, it was seen that some information/ clarification are required from MBPT. Accordingly, we have vide our letter dated 21 April 2017 sought information/ clarification from MBPT. The MBPT has responded vide its letter dated 11 May 2017. The information sought by us and the reply of MBPT thereon are tabulated below:

Sl. No.	Information/ Clarification sought by us	Response of MBPT
(i).	The extract (page 53) of the Stamp Duty Ready Reckoner, Mumbai 2016-17, as furnished by MBPT alongwith its proposal reflects only the rate of open land per sq. mtr. It does not reflect the rate of water area nor does it reflect the Leasehold value (60 years) or Leasehold value (30 years), as submitted by MBPT. The MBPT to clarify the position in this regard and furnish the relevant document.	The valuer has referred the stamp duty ready reckoner 2016-17, for land, published by Government of Maharashtra. It is to emphasize that the only land rates are published and for water area is not covered. However, MBPT has taken reference of the Policy Guidelines for Land Management by Major Ports, 2014 (amended on 17.07.2015), clause no.12 (I) wherein it is clearly indicated as under : “Licence fee for water area would be 50% of licence fee for abutting land”. The leasehold value indicated in valuation report of the appointed valuer for 30 years and 60 years lease hold period is a concept developed by the appointed valuer. However, MBPT has considered the highest of the factor for fixing up of reserve price as per the Land Policy Guidelines.
(ii).	The MBPT has stated that Copy of the Board Resolution will be forwarded after the approval of the Board. The same to be forwarded at the earliest.	[MBPT has forwarded the Board resolution which reflects that the recommendation of the LAC for fixation of the Reserve Price (License fee) for grant of license for development of Floating Dry Dock at 7-Indira Dock, MBPT at ₹.271.65 lakhs and an escalation of 4% on accepted license fee quoted by highest bidder has been approved].
(iii).	As against the list of user/ user association/ lessees to be consulted with contact details,	The proposal to allot land on annual license basis to the ship repairers is

	<p>MBPT has enclosed only the attendance sheet of the bidders meeting for the development of HDD held by MBPT on 09 February 2017. The information furnished in this regard is not sufficient to forward a copy of the proposal to the users as part of consultative process. The MBPT to, therefore, furnish the list of users/ user association/ lessees with full contact details viz. address, telephone number and email, who may have to be consulted in the proposal in reference, afresh.</p>	<p>being mulled first time in MBPT. There is no list of users available. The land/ water area will be allotted through e-tendering process. Hence, the list of probable users / bidders who have shown interest and have attended various workshops and presentation is enclosed.</p>
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4. In accordance to the consultation procedure prescribed, a copy each of the MBPT letters dated 13 April 2017 and 11 May 2017 was forwarded to the relevant users/ user organisations for their comments. None of the users have given their comments except for Mazgaon Dock Shipbuilders Limited (MDSL) which has stated that since MDSL has not done any similar leasing out of its premises, no market rates are available with MDSL for the same and hence, the comments of MDSL is treated as 'NIL'.

5. A joint hearing on the case in reference was held on 20 June 2017 at the office of this Authority in Mumbai. At the joint hearing, the MBPT and users/ user organisations have made their submissions.

6.1. During the joint hearing, it emerged that MBPT intends to levy only lease rentals for the land and water area from the successful bidder and that the person authorized by MBPT would be free to charge his own rates from the users for various services rendered by him. MBPT was also of the view that though its Scale of Rates (SOR) prescribes charges for docking and undocking of vessels and charges for occupation of the vessels thereat, such charges at proposed floating dry dock need not be prescribed by this Authority, since the deployment of dry dock is a package of ship repair facilities. The MBPT also stated that in a workshop conducted by it with various stakeholders of the proposed facility, the demand of stakeholders was that the rates for docking and undocking of vessels at the proposed facility should not be fixed by TAMP.

6.2. Therefore, as decided at the joint hearing, the MBPT was requested vide our letter dated 29 June 2017 to furnish a Note to justify why the rates for docking and undocking of vessels at the proposed deployment of floating dry dock and the charges for occupation of the vessels thereat would not fall under purview of this Authority.

6.3. In this connection, the MBPT has responded vide its letter dated 13 June 2017. The submissions made by MBPT are furnished below:

- (i). The project has been envisaged as a provision of ship repair facility on a floating dry dock to provide wholesome packaged service and depending upon the quantum of repairs required in each case. The successful bidder (Licensee) will have to bid over and above the declared Reserve Price (i.e. Updated SoR). This is the only factor which will be considered for the grading of the received offers and award of the License. The Licensee will bring the vessel for repairs on FDD by offering end to end services package consisting of Docking-Undocking of vessels, repairs of hull etc. afloat repair for deck and machineries.
- (ii). Further, the development of ship repair facility by deployment of Floating dry dock (FDD) at 7ID is planned under scheme of Sagarmala projects decided by the Ministry of Shipping. MBPT has decided to grant License for land and water area for Deployment of FDD to the private developer at 7-ID for gainful utilization of berth. The project has been conceptualized based on the guidelines of Land Policy 2014, where the Land and Water area is to be given based on the approved SOR. This SOR has been decided by the Land Allotment Committee as per clause no. 13 of the amended Land Policy guidelines 2014 and the recommendations are duly approved by the Board.

- (iii). The existing SOR for Docking, Undocking and stay is prescribed for the services rendered by MBPT at HDD and there is no SOR other than these for Ship Repair. Such charges are levied with TAMP approval based on the fact that the Port is deploying the manpower and other resources for doing such operation at HDD, even though the activity of ship repair is not covered under Section 42. In respect of the FDD project, MBPT will not be providing any kind of ship repair services in the premises of the Licensee other than licensing of the water front adjoining land area. In the envisaged project of FDD deployment the licensees is expected to develop integrated ship repair facility through deployment of FDD and development of workshops at site and carry out for ship repair activity including docking undocking of vessels and repairs. Since the complete ship repairs services will be provided by the licensee at the dry-dock facility developed by themselves, the statutory provisions applicable for this project are duly complied with.
- (iv). As clarified during Joint Hearing, the MBPT is not at all involved in the operational part of the ship repair activity at the facility developed by the Licensee and service charges applicable in each case will only be decided by the Licensee. Hence, segregation of charges for various activity will not be possible for MBPT and even if done so, it will be arbitrary. The reserve price fixed for this project is based on the State Government Ready Reckoner rate of zone 2/23.
- (v). As per the clause 42(1-e) of MPT Act, the mention of any services is with reference to any measurable specific services to be provided to the vessel by the Board or other person. The cost of repair of such vessels coming for repairs would be different for each case depending upon the quantum of repairs. The ship repair is combination of various complex services with cost of spares and other materials and as explained above the segregation of charges is not practically possible and hence ship repair service cannot be quantified in absolute measurable term.
- (vi). Further, the vessels coming for repairs are not used for any type of conveyance of human being/ goods or as a caisson and therefore does not fall under the definition of the term "vessel" as specified in MPT Act. The vessels coming for repairs are not fit for any commercial activity. Only after proper repairs, the competent statutory authority certifies and allows plying of the craft for commercial activity. Therefore, strictly speaking Section 48(I)(e) does not apply in this case since the vessels coming for repairs cannot be termed as "Vessel".

7. The proceedings relating to consultation in this case are available on records at the office of this Authority. An excerpt of the arguments made by the MBPT and submissions of 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>.

8. 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) intends to give its land and water area at Berth no. 7 inside Indira Dock on license basis for a period of five years for development of Floating dry dock for undertaking ship repair facilities. Therefore, the MBPT has come up with a proposal for fixation of Reserve Price for the land and water area.
- (ii). The MBPT has filed its proposal in April 2017. The MBPT has furnished the additional information/ clarification sought by us in May 2017. The proposal of MBPT along with the information/ clarification furnished by the MBPT during the processing of the case, is considered in this analysis.
- (iii). Before we start with the analysis of the case, it is relevant to draw reference to the proposal of the Port. As stated earlier, the proposal of the MBPT is for fixation of Reserve Price for the land and water area to be allotted by MBPT to the successful bidder. For the services rendered by the successful bidder, the MBPT has stated

that the successful bidder would be free to charge his own rates from the users. Considering the position that the existing Scale of Rates of MBPT prescribes charges for docking and undocking of vessels at MBPT dry dock and rental charges for occupation of dry dock, the MBPT was requested to clarify as to why the rates for docking and undocking of vessels at the proposed deployment of floating dry dock and the charges for occupation of the vessels thereat would not fall under purview of this Authority

In this connection, the MBPT is of the view that the charges prescribed for docking and undocking of vessels in its Scale of Rates is collected by the MBPT for rendering the docking and undocking services by deploying its own manpower and resources, whereas, in the proposed facility, the deployment of floating dry dock is a total package for development of ship repair facilities by the successful bidder, where the successful bidder would render all the services at the Floating Dry Dock, including the docking and undocking of vessels coming for repairs and that the MBPT will not be involved in any of the operational part of the facility to be developed by the successful bidder. The MBPT has also stated that the charges levied by the successful bidder from the users for the services rendered by him would be a composite charge wherein the docking and undocking charges will only be one of the components of the total charges.

The MBPT is advised to follow the provisions of the MPT Act, 1963. Incidentally, reference is drawn to a proposal filed recently by Kolkata Port Trust (KOPT). As per the said proposal, the land has been allotted by KOPT to a private party to lay pipelines to transport edible oil from the port facility to its factory. The private party has invested to lay the pipelines. The port collects way leave charges from the said party. The spare capacity of the pipeline is envisaged to be utilized by the private party by handling liquid cargo of other users. Since cargo is envisaged to be handled at the facility, the KOPT has come up with a proposal for fixing the handling charges for the other liquid cargo. The scenarios at MBPT and KOPT are comparable. Nevertheless, the proposal under reference is processed for fixation of reserve price for the land and water area to be allotted for Floating Dry dock.

- (iv). 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, thus, come up with a proposal for fixing Scale of Rates (SOR) for allotment of land and water area on licence basis at Berth no. 7 inside Indira Dock, based on the provisions of the Land Policy Guidelines for Major Port Trusts, 2014, as amended in July 2015.
- (v). 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 that Land Allotment Committee (LAC) headed by the Dy. Chairman of the Port and the Heads of Departments of Finance and Traffic and Estate Manager being the other members, was constituted. A land valuer was also engaged by MBPT for determining the market value of the MBPT land areas as per Clause 13 (a)(iv) of Land Policy Guidelines of 2014. The LAC after going through the Report of the approved valuer and after considering the parameters provided under Clause 13(a)(i) to (v) of Land Policy Guidelines, 2014 has given its recommendations. Further, the Board of Trustees of MBPT has accepted the recommendations of the LAC. Thus, the proposal filed by the MBPT complies with the procedure to be followed for determination of rental. Accordingly, the Port's proposal is taken up for consideration.

- (vi). 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 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.

In the case in reference, based on the Valuation Report, the LAC has observed that there are neither actual sale transactions nor any tender cum auction rates in the past three years in the vicinity in respect of properties of such magnitude in nature. Therefore, the Valuer in his report has arrived at the market value for the land area in reference based on the market value as indicated in the Stamp Duty Ready Reckoner of 2016-17 for 60 years and 30 years. Further, as indicated in Clause 13(a)(v) of the amended Land Policy Guidelines, the LAC has also considered a factor by assuming the revenue calculated as per its existing scale of rates that would be earned by the Floating Dry Dock by dry docking a repair vessel with a combined GRT of 10000 for 365 days in a year. Thereafter, based on the market value of the land in reference, so derived by three options, the LAC has recommended to consider the highest of market value, being the market value as indicated in the Stamp Duty Ready Reckoner for the open land at ₹ 92400/- per sq.m. for land area.

The market value for water area has been recommended at ₹.46,200 per sq.mtr., being at 50% of the market value of land, as conceptualised by the valuer following clause 12(l) of Amended Land Policy Guidelines, 2014.

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. Based on the derived market value of land for the land in reference, the Reserve Price in terms of the Annual Lease Rent for the lands has been proposed by the MBPT at 6% of the said market value of land, which works out to ₹5544/- per sq.m per annum. (₹.92400 x 6% = ₹.5544/-)

Clause 12(l) of the amended Land Policy Guidelines states that Licence fee for water area would be 50% of licence fee of abutting land. Accordingly, the MBPT has considered the licence fee for the water area at 50% of the annual lease rent of land area, which works out to ₹ 2772/- per sq.m per annum.

The following table, briefly highlights these aspects:

Sl. No.	Area	State Government Ready Reckoner	Valuation Report	Other Method adopted by MBPT based on MBPT SOR
1.	Market Value of Land Area (Rate in ₹ per sq.m)	92400/-	60 years Leasehold Value – 92400/- 30 years Leasehold Value – 83160/-	Not applicable

2.	Area of land proposed to be allotted	3250 sq.m		
3.	Area of water proposed to be allotted	3300 sq.m		
4.	Total Market Value (₹ in lakhs)	- land area - 3003.00 - water area - 1524.60 -Total market value - 4527.60	<u>60 years Leasehold Market Value –</u> - land area - 3003.00 - water area - 1524.60 -Total market value – 4527.60 <u>30 years Leasehold Market Value –</u> - land area – 2702.70 - water area – 1372.14 -Total market value – 4074.84	Not applicable
5	Lease Rental @ 6% p.a.	271.66	60 years leasehold value – 271.66 30 years leasehold value – 244.49	215.27

- (vii). Considering that the market value of the land as assessed by the Valuer has been recommended by the LAC and given that the Board of Trustees of MBPT has approved the lease rentals based on the market value of the land so determined and recommended by the LAC, this Authority is inclined to prescribe the Reserve Price in terms of the Annual Lease Rent for the lands at 6% of the said market value of land at ₹ 5544/- per sq.m per annum and for the water area at 50% of ₹ 5544/- i.e. ₹ 2772/- per sq.m per annum.
- (viii). The MBPT is seen to have proposed a note to the effect that ‘Terms and Conditions as per agreement’. In order to ensure that the terms and conditions governing application of the rates have to be in line with the Land Policy Guidelines, the proposed note is replaced with the note that “All the terms and conditions as per the extant Land Policy Guidelines will be applicable”.
- (ix). The MBPT has proposed a note to the effect 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 recommended by the LAC, approved by the MBPT Board of Trustees and is as per the provision of the Land Policy guidelines of 2014, the proposed rate of 4% annual escalation is approved.
- (x). The MBPT has also proposed a note to the effect that any levy or levies including increase therein of taxes, duties, cess and the hike on account of/ in respect of payable to the State 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.
- (xi). The reserve price in terms of annual lease rent shall come into effect after expiry of 30 days from the date of notification of the Order passed 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 reserve price in terms of the annual licence fee shall remain in force for a period of five years.

9.1. In the result, and for the reasons given above, and based on a collective application of mind, this Authority accords approval for the Schedule of license fee for allotment of land and water area for deployment of Floating Dry Dock at Berth no. 7 inside Indira Dock of MBPT, which is attached as **Annex**.

9 .2. The Schedule of license fee shall come into force after expiry of 30 days from the date of notification of the Order passed 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 License fee for deployment of Floating Dry Dock at 7 - Indira Dock, Mumbai Port Trust:

Sr. No.	Location	Type of Area	Rate in ₹ per Sq. mtr. Per Annum
1.	7 -Indira Dock	Land	5544/-
		Water	2772/-

Note:-

1. All the terms and conditions as per the extant Land Policy Guidelines will be applicable.
2. All the rates provided in the above schedule shall get automatically escalated by 4% per annum after expiry of one year.
3. Any levy or levies including increase therein of taxes, duties, cess and the hike, on account of/in respect of Payable to the State Government or any statutory authority shall be met and paid by the Licensee/ Lessee at actual.
4. The reserve price in terms of the annual licence fee shall remain in force for a period of five years

**SUMMARY OF THE ARGUMENTS MADE IN THIS CASE DURING THE JOINT HEARING
BEFORE THE AUTHORITY.**

F. No.TAMP/35/2017- MBPT - Proposal received from Mumbai Port Trust (MBPT) for fixation of Reserve Price for land and water area for deployment of Floating Dry Dock at 7 – Indira Dock for development of ship repair facilities.

A joint hearing on the case in reference was held on 20 June 2017 at the office of the Authority in Mumbai. At the joint hearing, MBPT and users/ user organisations have made the following submissions:

Mumbai Port Trust (MBPT)

- (i). MBPT envisages to allot Land and Water Front Area for deployment of Floating Dry Dock for ship repair at Indira Dock, MBPT. Since the area proposed to be allotted is inside the Custom Bond Area, it is proposed to be given on al license basis for a period of 5 years as per the Land Policy Guidelines, 2014. We have already floated tender.
- (ii). The proposed lease rentals for land and Water front area has been calculated as per the Land Policy Guidelines 2014.
- (iii). The LAC has recommended the rates and the Board has given approval for the same.

TAMP

- (i). Will there be any impact on the revenue of MBPT due to commissioning of this Floating Dock?

Mumbai Port Trust (MBPT)

- (i). The present dry dock of the Port is already operating at about 90% of occupancy level. There is a requirement of development of additional dry dock/ ship repair facilities in the Port and the proposed facility will bring in more vessels to the port for repairs. There will be no impact on the revenue of the Port.

M/s Sadhav Shipping, Mumbai

- (i). Fixation of reserve price for the bidding is not desirable, as when such a similar facility was put up in Paradip Port, no such minimum cap was prescribed.

Mumbai Port Trust (MBPT)

- (i). Fixation of reserve price is as per the Land Policy Guidelines. Moreover, the facility at Paradip Port and MBPT is at different footing, as in the case of Paradip Port project was for operation and maintenance of Dry Dock, whereas in MBPT, the operator would be in charge of the Floating Dry Dock facility.

TAMP

- (i). What tariff arrangement is envisaged for the various services to be rendered by the operator at the Floating Dry Dock.

MBPT

- (i). MBPT intends to levy only lease rentals for the land and water area on the successful bidder. He would be free to charge his own rates from users for various services rendered by him.

TAMP

- (i). Since the MBPT SOR prescribes charges for docking and undocking of vessels at dry dock and rental charges for occupation of dry dock, is it not that similar charges to be levied by the operator should come under purview of TAMP, given that MBPT is authorising a party to undertake a service on its behalf.

MBPT

- (i). In a workshop conducted by us with various stakeholders, they have demanded that the said charges should not be fixed by TAMP. Moreover, the operator of the Floating Dry Dock will develop the ship repair facility and undertake repairs of the vessels at the facility. It is a whole package deal. We will give a note on why the said charges do not come under the purview of TAMP.

All India Association of Industries, Mumbai

- (i) We had circulated the proposal to our members. We have not received any adverse comments from any of our members.
