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Tariff Authority for Major Ports

G.No. 77

New Delhi,

25 February 2019

NOTIFICATION

In exercise of the powers conferred by Section 49 of the Major Port Trusts Act, 1963 (38 of 1963), and in pursuance of the direction of the Hon'ble High Court of Judicature at Madras in Writ Petition No.41444 of 2002 and 25104 of 2016 and WMP No.21496 of 2016 filed by M/s.Tuticorin Salt and Marine Chemical Ltd (TSMC), the Tariff Authority for Major Ports hereby disposes of the proposal received from the V.O Chidambaranar Port Trust for revision of lease rent of land for Salt Pan year 1998 and for the period 1999 to 2021 as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/70/2018-VOCPT

V. O. Chidambaranar Port Trust

Applicant

QUORUM

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

O R D E R

(Passed on this 18th day of January 2019)

This case relates to the proposal dated 11 September 2018 received from the V.O. Chidambaranar Port Trust (VOCPT) for revision of lease rent for Salt Pan for every 3 years during the period from 1998 to 2017. The proposal flows from the direction from the Hon'ble High Court of Judicature at Madras with reference to Writ Petition No.41444 of 2002 and 25104 of 2016 and WMP No.21496 of 2016 filed by M/s.Tuticorin Salt and Marine Chemical Ltd (TSMC).

2.1. The brief history of the case as submitted by VOCPT is as under:

- (i). An extent of 262.8 acres of land was transferred on 01.04.1979 to the Major Port of Tuticorin by the erstwhile Tuticorin Port Trust (Minor Port) which was under the control of State Government.
- (ii). This land was initially leased out by the State Government during 1943 by the Minor Port to Shri. M.R. Mannar Iyer for a period of 25 years for manufacture of salt, which was subsequently leased out in the name of M/s.Tuticorin Salt & Marine Chemicals Ltd. (TSMC) during 1946.
- (iii). After expiry of the period in 1968, the same land was again leased out by the erstwhile Minor Port to M/s.TSMC, Tuticorin, for a further period of 25 years (i.e.) upto 07.07.1993.
- (iv). Based on the approval of the Ministry of Surface Transport vide letter No. PT-17011/53/93-PT, dated 27 October 1994 the lease period was further extended for 20 years, with effect from 08.07.1993 valid upto 07 July 2013. The lease rent fixed by the port was ₹100 per acre/ annum with 10% compoundable for the period from 1993 to 1998.
- (v). Subsequently, the Authority has approved annual lease rent of ₹2016 per acre/ annum vide Order No.TAMP/34/2001-TPT dated 5 September 2002 to TSMC Ltd with retrospective effect from 8 July 1998 upto 7 July 2003.
- (vi). M/s.TSMC Ltd. filed a W.P. No.41444/2002 before the Hon'ble High Court of Madras challenging the TAMP Order dated 5 September 2002 making TAMP as respondent no.1, Tuticorin Port Trust (TPT) as respondent no.2 and Deputy Salt Commissioner as respondent no.3 and prayed to grant stay of all further proceedings pursuant to the order passed by the First Respondent (i.e. TAMP) in Case No.TAMP/34/2001-TPT dated 27 August 2002 pending disposal of the writ petition.
- (vii). In the above Writ Petition, an Order of interim stay was granted by the Hon'ble High Court on 8 October 2003 staying all further proceedings pursuant to the order passed by the TAMP pending disposal of Writ Petition No.41444/2002 with condition to make payment of 50% lease rent as approved by TAMP within eight weeks failing which, the stay shall stand vacated automatically.
- (viii). M/s.TSMC Ltd. filed a Writ Appeal No.3941/2003 before the Hon'ble High Court, Madras.
- (ix). In the WA 3941/2003, TSMC Ltd., has filed a W.A.M.P. No.6450/2003 praying to pass an order to stay of all further proceedings consequent to the order passed by TAMP pending Writ Appeal.
- (x). An interim order was issued and M/s.TSMC was directed to deposit the annual lease rent at the rate of two times the basic rent (i.e.) ₹264 + ₹264 from 08.07.1998.

- (xi). Later, the Hon'ble High Court of Madras vide Order dated 22 October 2007 in WA 3941/2003 and WAMP 6450/2003 directed, the appellant (M/s.TSMC) to pay at the rate of ₹900/- per acre per annum for the period from 08.07.1998 to 31.10.2007 and thereafter to pay at the rate of ₹1,000/- per acre per annum starting from 1 November 2007.
- (xii). As per High Court Order dated 22.10.20017, the firm M/s.TSMC remitted the lease rent @ ₹900/- per acre per annum for the period from 08.07.1998 to 31.10.2007 and @ ₹1,000/- per acre per annum for the period from 01.11.2007 to 07.07.2013.
- (xiii). Since the lease period expires by 07.07.2013, M/s.TSMC had requested the port vide their letter dated 25 April 2012, to renew the lease period for further period of 30 years. This issue was discussed in the LAC meeting and in the Board Meeting No.1 for the year 2013-14 held on the 7 June 2013. The Board vide Resolution No.27 resolved to renew the lease period of salt pans of M/s.TSMC for a period of 2 years (Upto 07.07.2015).
- (xiv). Since the land was in continuation possession of the TSMC from 1946 onwards prior to the allotment by VOC Port itself the request of TSMC was sent to Empowered Committee. Ministry of Shipping for extension, however no approval was communicated. In the meantime, new Land Policy Guidelines, 2014 was received and as per the Land Policy Guidelines, 2014, all the lands after expiry of the lease period has to be put to Tender for the new allotment. Hence, termination order was issued to M/s.TSMC on 14 June 2016 and e-tender cum auction was called by the port on 20 June 2016.
- (xv). The firm M/s.TSMC filed W.P.No.25104/2016 on 29 July 2016 before the Hon'ble Madras High Court against the tender invited by the VOCPT and the hearing was completed on 23 August 2016. The Court has pronounced Judgement on 1 September 2016 in respect of WP No.41444 of 2002 also and WP No.25104 of 2016 as follows:
- (a). WP No.41444 of 2002:
WP No.41444 of 2002 is partly allowed and the impugned order passed by the first respondent (i.e. TAMP) in Case of TAMP/34/2001-TPT dated 27 August 2002 is set aside in so far as the fixation of market value for the lands in question and to arrive at the market value for the year 1998. It is once again remanded to the first respondent for fresh consideration and adjudication and the first respondent may take note of the provisions contained in Land Acquisition Act, 1894 (Central Act 1 of 1894) which was in operation in the relevant field and thereafter re-fix the market value in accordance with law and decide the lease rent per acre per annum. In all other aspects, the order of the first respondent is confirmed. The petitioner till such time, shall continue to pay lease rent @ ₹1,000/- per acre per annum in terms of the judgement dated 22 October 2007 made in WA No.3941 of 2003. No costs.
- (b). WP No.25104 of 2016:
WP No.25104 of 2016 is disposed off and the second respondent (i.e. VOCPT) is directed to send a communication/ information in terms of clause 11.3 (b) of the clarification and amendments issued in respect of Policy Guidelines for Land Management by Major Ports, 2014 vide communication of the Ministry of Shipping (Ports Wing), Government of India in No.PD-13017/2/2014-PD.IV dated 17 July 2015, to the petitioner within a period of four weeks from the date of receipt of a copy of this order and till such time, defer further proceedings in respect of the impugned tender cum e-auction notice in No.EST-3/2016-17, No.E(C)-56/02/2004-EST published in Hindu News Daily dated 20 June 2016.
- (xvi). Further, M/s.TSMC has filed the WP No.34323/2016 to challenge the Port Termination order and the Hon'ble Madras High Court on 29 September 2016 has granted an interim stay restraining the respondents from disturbing the petitioners peaceful possessions and to stay all further proceeding of the impugned order the 4th Respondent (i.e.) Deputy Chairman & Estate Officer in File no. E(c)-56/2/2002-Est (Vol-VI)/D.1935 dated 15.06.2016. As per the court order dated 28 April 2017, the court directed to post the matter for hearing on 12 June 2017 but was not listed.

Port has filed stay vacate petition to take up the matter for early disposal but the same has not been listed.

2.2. In this backdrop, the VOCPT has filed the current proposal. The main points made by VOCPT are summarised below:

- (i). Tariff Authority for Major Ports (TAMP) has approved an annual lease rent of ₹2,016 per acre/ annum vide TAMP Notification No.TAMP/34/2001-TPT, dated 5 September 2002 to M/s.Tuticorin Salt & Marine Chemicals Ltd. (TSMC), with retrospective effect from 8 July 1998. This rate was subject to annual escalation clause stipulated in the Lease Agreement and next revision from 8 July 2003.
- (ii). As per the Land Policy Guidelines, 2014 port engaged M/s.KITCO Govt. approved valuer to assess the lease rental fixation as per the court direction issued vide judgment dated 15 December 2016. In order to fix the lease rental as per the Court order, with effect from 1998, VOC Port requested M/s.KITCO Government approved valuer, Kochi to assess the lease rental fixation as per the direction of the Hon'ble High Court Judgement dated 1 September 2016 i.e. to take note of the provisions contained in Land Acquisition Act 1894.
- (iii).
 - (a). For the revision of lease rates, the VOCPT has constituted the Land Allotment Committee (LAC) under the Chairmanship of Deputy Chairman, Chief Engineer I/C and other Members. The other members of the LAC are Traffic Manager and Financial Adviser & Chief Accounts Officer of VOCPT.
 - (b). The meeting of the LAC was held on 2 March 2018. [The minutes of the LAC meeting is furnished by VOCPT.] The Committee had detailed discussion in the meeting on the land value report furnished by M/s.KITCO. The Committee also had gone through the report and discussed the report in the meeting.
 - (c). The main points made by the LAC for finalizing the special rates for Salt Pan Land are summarized below:
 - (i). The Land Allotment Committee gone through the lease rents recommended by M/s.KITCO to the port's Salt Pan Land for the period from 1998, 2003, 2008 and 2013.
 - (ii). The valuer has stated that there is no provision in the Land Acquisition Act 1894 to arrive the lease rental which was also confirmed by the Legal Department of VOC Port.
 - (iii). Hence, M/s.KITCO has worked out lease rent for the years 1998, 2003, 2008 and 2013 in respect of Salt Pan based on the Guideline values issued by the Sub-Registrar Tuticorin. Considering the Guideline value of the adjacent land/ area, M/s.KITCO has worked out Special rate for salt pan land which are tabulated below:

Year	Guideline Value (per acre in ₹)							Lease Rent assuming 6% (per acre per annum in ₹)	Lease rent assigned by Salt Commissioner (Per acre per annum in ₹)	Deducted Rate (Per acre per annum in ₹)
	Sy Nos.									
	348, 349, 350	805-815	1/2A1	1/2A2A	1/2C1	342/1E	Average			
1	2	3	4	5	6	7	8=(2+3+4+5+6+7)/5,4	9=8*6%	10	11
1998	39200	0	39200	39200	39200	110800	53520	3211.2		585**
2003	0	0	47500	47500	47500	134000	69125	4147.5	755**	
2008	0	0	1740210	1740210	1740210	859717	1520087	91205.2		4039**
2013	0	0	3015015	3015015	3015015	2427328	2868093	172086	7620**	

- (iv). The approved valuer M/s.KITCO has stated that the Salt extraction is a traditional activity in the area and considerable number of people are surviving as operators, employees/ workers. It is not feasible to charge a commercial rate as applicable to other land for the following reasons:
 - (a). The land can be used only for the purpose of salt extraction and cannot be used for any other purpose.

- (b). There is no right to transfer / sublease or for alternate value added ventures.
- (c). The economics of the salt manufacturing do not support in the forgoing para.
- (v). The Guideline value of the adjacent land/ area has been worked out and with 6% return on the same, the rates arrived are stated in the column No.9 of the above table. However, the said lands are not salt land.
- (vi). Hence, KITCO has calculated the lease rental as stated in column no.(10) based on the rates charged as Royalty based on production and ground rent, by the Salt Commissioner for the salt pans which is given in (a) below:

(a). As per copy of Ministry of Commerce & Industry, New Delhi letter dated 27 January 2004.
 Minimum production of salt in Tuticorin 75 MT/ Acre/ Annum
 Assignment fee / lease money ₹10/- per MT/ annum
 Ground rent ₹5/- per Ace per annum.
 ** M/s.KITCO has worked out the calculation of **lease rent for the year 2003** as given below:
 $75 \text{ MT} \times ₹10/- = ₹750 + ₹5/- = ₹755/-$ per acre p.a.

(b). As per copy of Ministry of Commerce & Industry, New Delhi letter dated 9 October 2013.
 Minimum production of salt in Tuticorin 75 MT/ Acre/ Annum
 Assignment fee/ lease money ₹100/- per MT/ annum
 Ground rent ₹120/- per Ace per annum.
 ** M/s.KITCO has worked out the calculation of **lease rent for the year 2013** as given below:
 $75 \text{ MT} \times ₹100/- = ₹7,500 + ₹120 = ₹7,620/-$ per acre per annum.

(c). It is observed that no rates have been fixed by Salt Commissioner for the period 1998 and 2008 or the rates are not available. Hence, KITCO has arrived the rates for these period based on the rates fixed by the Salt Department in comparison with market value of adjacent area during the period by apportioning the ratio to the unavailable period.
 ** **Lease rent for the year 1998** = $(755 / 4147.5) \times 3,211.20 = ₹585$ per acre p.a
 ** **Lease rent for the year 2008** = $(₹7620 / 172085.6) \times 91205.2 = ₹4039$ per acre p.a.

- (vii). Finally, M/s.KITCO has recommended the lease rent for the period from 1998, 2003, 2008 and 2013 as follows with increase by 10% after every 3 years.

Year	Rate per Acre per Annum in ₹
1998	585.00
2003	755.00
2008	4,039.00
2013	7,620.00

- (viii). **Recommendations of LAC:**
 After detailed discussion the LAC recommends, as suggested by M/s.KITCO, lease rent rate to the Port's Salt Pan leased to M/s. TSMC for the period from 1998, 2003, 2008 & 2013 and to place the proposal in the ensuing Board Meeting and to send the proposal to TAMP.

(iv). The Board in its meeting held on 18 July 2018 vide Resolution No. 53 has approved the following:

- (a). To fix the Lease Rentals for Salt Pan for the period from 8 July 1998 to & 7 July 2018 as per the directions of the Hon'ble High Court.
- (b). To approve the recommendation of Land Allotment Committee for fixation of lease rentals with 10% escalation after every 3 years based on the recommendation of M/s.KITCO, Approved Govt. Valuer.
- (c). To send the proposal to TAMP for its approval following the Land Policy Guidelines in view of the orders of Hon'ble High Court to TAMP to refix the lease rentals as per the provisions contained in Land Acquisition Act, 1894 (Central Act 1 of 1894).
- (d). To send the proposal for the ensuing Quinquennium 2018-23 separately on receipt of the approval from the TAMP for the period from 07 July 1998 to 7 July 2018.
[Subsequently, Board of Trustees of VOCPT has approved interim lease rent for the period 2018-2021 to invite tender.]

(v). Accordingly, proposal for fixation of lease rental following the procedures prescribed in the Land Policy Guidelines, 2014 is forwarded herewith with a request to approve the following lease rent as approved by the TAMP vide Order dated 27 August 2002:

Sl. No.	Period	M/s.KITCO recommended rate per Acre per Annum
1	08.07.1998 to 07.07.2001	₹585/-
2	08.07.2001 to 07.07.2003	₹644/-
3	08.07.2003 to 07.07.2006	₹755/-
4	08.07.2006 to 07.07.2008	₹831/-
5	08.07.2008 to 07.07.2011	₹4,039/-
6	08.07.2011 to 07.07.2013	₹4,443/-
7	08.07.2013 to 07.07.2016	₹7,620/-
8	08.07.2016 to 07.07.2018	₹8,382/-

Note: The lease rentals recommended by M/s.KITCO is subject to revision by 10% at every three years. [The same is considered in the proposed lease rent in the above table.]

3.1. The relevant part of the Order of the Hon'ble High Court downloaded from the website of High Court and the operative part of the Order with reference by Writ Petition No.41444 of 2002 is reproduced below:

Para 16 of the Order dated 1 September 2016:

"It is not as if there was no methods available at the time of consideration of revised lease rent by the first respondent for the reason that the Land Acquisition Act, 1894 [Central Act 1 of 1984] as amended, provides for fixation of market rate. Section 23 of the said Act speaks about Matters to be considered for determining the compensation. Sub-section (1) of Section 23 says that in determining the amount of compensation to be awarded for land acquired under this Act, the Court shall take into consideration first, the market value of the land at the date of the publication of the notification under Section 4(1) of the said Act. The guidelines for fixation of market value under the said Act may be taken note of by the first respondent as the second respondent did not get any cooperation from the District Revenue Officer as to the prevailing market rate for the year 1998 and the first respondent themselves had observed that the Government guidelines do not prescribe any formula for fixation of market value."

The Operative part of the Order is reproduced below:

"In the result,

- (a). WP No. 41444 of 2002 is partly allowed and the impugned order passed by the first respondent in Case of TAMP/34/2001-TPT dated 27 August 2002 is set aside in so far as the fixation of market value for the lands in question and to arrive at the market value for the year 1998, it is once again remanded to the first respondent for fresh

consideration and adjudication and the first respondent may take note of the provisions contained in Land Acquisition Act 1894 (Central Act 1 of 1894) which was in operation in the relevant field and thereafter re-fix the market value in accordance with law and decide the lease rent per acre per annum. In all other aspects, the order of the first respondent is confirmed. The petitioner till such time, shall continue to pay lease rent @ ₹1,000/- per acre per annum in terms of the judgement dated 22 October 2007 made in WA No. 3941 of 2003. No costs."

3.2. The legal opinion given by Legal Department of VOCPT furnished by VOCPT is as follows:

- (i). The Hon'ble High Court has allowed the WP partly and passed order setting aside the order of TAMP in so far as the fixation of the market value for the lands in question and to arrive at the market value for the year 1998 and remanded the case back for fresh consideration, adjudication and TAMP was directed to take note of the provisions contained in the Land Acquisitions Act 1894 which was in operation in the relevant field and thereafter to refix the market value in accordance with the law and decide the lease rent per acre per annum.
- (ii). There is no provision in the above act prescribing the mode for fixation of lease rent. But, the Hon'ble High Court has passed orders, while fixing the lease rent, the market value for the year 1998 has to be taken into consideration and in accordance with law the lease rent has to be refixed. Since the Hon'ble High Court has remanded back the matter with the direction to refix the lease rent with effect from 8 July 1998, the rates already proposed and notified cannot be considered as conclusive one and a fresh lease rate as per the direction of the High Court has to be fixed. The Hon'ble High Court has passed order while considering the market value of the land the provisions contained in the Land Acquisition Act, 1894 has to be taken into consideration and it means that the market value of the leased land should be arrived at as per the provisions in the above act.
- (iii). The proposal is for revision of lease rent for the period from 08.07.2003 to 07.07.2008 from 08.07.2008 to 07.07.2013 and from 08.07.2013 to 07.07.2018. Before revision of rent has to be made for the above period, the revision of rent made with effect from 08.07.1998 has to be regularised by fixing a revised rate as per the direction of the Hon'ble High Court.

4. The VOCPT has confirmed that the port has forwarded the copy of complete valuation report to the Petitioner i.e. TSMC and other users organisations as intimated by this Authority.

5.1. It is relevant to state that this Authority had approved the annual lease rental @ ₹2,016/- per acre per annum for the Salt Pan, allotted to M/s.Tuticorin Salt and Marine Chemicals Ltd. (TSMC) vide TAMP Order No.TAMP/34/2001-TPT dated 27 August 2002 with retrospective effect from 8 July 1998 notified on 5 September 2002 as proposed by the VOCPT. This rate was subject to the annual escalation clause stipulated in the concerned lease agreement.

5.2. This Authority has passed another Order No.TAMP/6/2012-VOCPT dated 4 April 2014 approving the revised lease rate for lease of other lands belonging to the VOCPT for the periods 1 July 2007 to 30 June 2012 and 1 July 2012 to 30 June 2017. During processing of the proposal, the TSMC has pointed out that the High Court of Madras has stayed the Order of this Authority dated 27 August 2002. This Authority at that point of time had advised VOCPT to initiate appropriate action in line with the applicable land policy guidelines and in consistent with the direction, if any, issued by the Hon'ble High Court in this matter.

5.3. While approving the subsequent revision of lease rental of port land vide Order No.TAMP/52/2017-VOCPT dated 14 November 2017, the VOCPT has clarified that the land allotted for salt industry does not fall under the current proposal. The port has decided to file a separate proposal in this regard.

5.4. Thus, in short after 2002, the VOCPT has now filed the present proposal for revision of rent of salt pan land leased to TSMC.

6. In accordance with the consultation process prescribed, a copy of the VOCPT proposal dated 11 September 2018 was circulated to the petitioner M/s.TSMC and users/ user organizations who were consulted by this Authority while approving the Order dated 27 August 2002. While forwarding a copy of the proposal of VOCPT a copy of the judgement of justice Shri. M. Sathyanarayanan dated 1 September 2016 was also forwarded to them for information. Comments are received from M/s.Tamilnadu Desia Uppala Thozhilalar Sammelanam (TDUTS) dated 15 October 2018 and Tuticorin Salt and Marine Chemicals Ltd. (TSMC) dated 11 October 2018. Apart from this, no comments are received from any other user / user organisations. A copy each of the comments received from M/s.TDUTS and TSMC was forwarded to the VOCPT as feedback information vide our letter dated 30 October 2018. This was followed by reminder dated 16 November 2018 and 31 December 2018. The VOCPT has not furnished its comments, despite reminder.

7.1. The Order of the Hon'ble High Court has set aside the Order No.TAMP/34/2001-TPT dated 27 August 2002, so far as fixation of market value for the land is concerned and has remanded the matter to this Authority for fresh consideration to arrive at market value for the year 1998 taking into note the provisions contained in Land Acquisition Act, 1894 which was in operation in the relevant field and thereafter refix the market value in accordance with law and decide the lease rent.

7.2. Para 16 of the Order of the Hon'ble High Court also makes reference to the Land Acquisition Act, 1894. The said para has been reproduced in earlier paragraphs and hence not reiterated here. The said para states that the Land Acquisition Act, 1894 [Central Act 1 of 1984] as amended, provides for fixation of market rate. Section 23 of the said Act speaks about Matters to be considered for determining the compensation. Sub-section (1) of Section 23 says that in determining the amount of compensation to be awarded for land acquired under this Act, the Court shall take into consideration first, the market value of the land at the date of the publication of the notification under Section 4(1) of the said Act.

7.3. Section 4(1) and Section 23 sub-section (1) of the Land Acquisition Act 1894 are reproduced hereunder:

(i). Section 4(1)

"Whenever it appears to the [appropriate government] that land in any locality is needed or is likely to be needed for any public purpose [or for a company], a notification to that effect shall be published in the Official Gazette [and in two daily newspapers circulating in that locality of which at least one shall be in regional language] and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality (the last of the dates of such publication and the giving of such public notice, being hereinafter referred to as the date of the publication of the notification)]"

(ii). Section 23 sub-section (1)

Matters to be considered in determining compensation

(1) In determining the amount of compensation to be awarded for land required under this Act, the court shall take into consideration
First, the market-value of the land at the date of the publication of the notification under section 4, sub-section (1).

Secondly, the damage sustained by the person interested by reason of the taking of any standing crops or trees which may be on the land at the time of the Collector's taking possession thereof.

thirdly, the damage (if any), sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of severing such land from his other land;

fourthly, the damage (if any) sustained by the person interest, at the time of the Collector's taking possession of the land, by reason of the acquisition

injuriously affecting his other property, movable or immovable, in any other manner or his earning;

fifthly, if, in consequence of the acquisition of the land by the Collector, the person interested is compelled to change his residence or place of business, the reasonable expense (if any) incidented to such change; and

sixthly, the damage (if any) bona fide resulting from diminution of the profits of the land between the time of the publication of the declaration under section 6 and time of the Collector's taking possession of the land.

8. It is relevant here to state that the Land Acquisition Act 1894 has been repealed and is replaced with the Right to fair compensation and transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Section 26 of the said new Act of 2013 stipulates provisions for determination of market value of land.

9. Based on the preliminary scrutiny of the proposal dated 11 September 2018, the VOCPT was requested to furnish information/ clarification on a few points vide our letter dated 16 November 2018. The VOCPT was requested to furnish requisite information/ clarification latest by 23 November 2018. The response of VOCPT is awaited. A summary of the information/ clarifications sought by us is given below:

- (i). The High Court judicature at Madras in W.P.Nos.41444 of 2002 and 25104 of 2016 and WMP.No.21496 of 2016 filed by M/s.Tuticorin Salt and Marine Chemicals Ltd. has passed an Order dated 1 September 2016 disposing of the said W.Ps. Para 16 and the operative part Para 20 (a) of the Order of the Hon'ble High Court are reproduced below:

Para 16:

"It is not as if there was no methods available at the time of consideration of revised lease rent by the first respondent for the reason that the Land Acquisition Act, 1894 [Central Act 1 of 1894] as amended, provides for fixation of market rate. Section 23 of the said Act speaks about Matters to be considered for determining the compensation. Sub-section (1) of Section 23 says that in determining the amount of compensation to be awarded for land acquired under this Act, the Court shall take into consideration first, the market value of the land at the date of the publication of the notification under Section 4(1) of the said Act. The guidelines for fixation of market value under the said Act may be taken note of by the first respondent as the second respondent did not get any cooperation from the District Revenue Officer as to the prevailing market rate for the year 1998 and the first respondent themselves had observed that the Government guidelines do not prescribe any formula for fixation of market value."

Para 20 (a):

"WP No. 41444 of 2002 is partly allowed and the impugned order passed by the first respondent in Case of TAMP/34/2001-TPT dated 27 August 2002 is set aside in so far as the fixation of market value for the lands in question and to arrive at the market value for the year 1998, it is once again remanded to the first respondent for fresh consideration and adjudication and the first respondent may take note of the provisions contained in Land Acquisition Act 1894 (Central Act 1 of 1894) which was in operation in the relevant field and thereafter re-fix the market value in accordance with law and decide the lease rent per acre per annum. In all other aspects, the order of the first respondent is confirmed. The petitioner till such time, shall continue to pay lease rent @ ₹1,000/- per acre per annum in terms of the judgement dated 22 October 2007 made in WA No. 3941 of 2003. No costs."

Thus, the Hon'ble High Court has set aside the Order No.TAMP/34/2001-TPT dated 27 August 2002, so far as fixation of market value for the land is concerned and has remanded the matter to TAMP for fresh consideration to arrive at market value for the year 1998 taking into note the provisions contained in Land Acquisition Act,

1894 which was in operation in the relevant field and thereafter refix the market value in accordance with law and decide the lease rent.

Hence, with reference to the above, the VOCPT is requested to take a note of point no.(a) below and furnish information / clarification on the other points:

- (a). It is seen that the VOCPT in the proposal has sought approval of lease rent for four quinquenniums viz. 08.07.1998 to 07.07.2003, 08.08.2003 to 07.07.2008, 08.08.2008 to 07.07.2013 and 08.08.2013 to 07.07.2018. The period of revision of lease rent sought by VOCPT for the second, third and fourth quinquennium is in addition to the lease rent for the year 1998 as directed by Hon'ble High Court.

Hence, VOCPT may kindly note that in order to comply with the Order of the Hon'ble High Court, this Authority is required to fix the lease rent for the year 1998. The lease rent proposed by the port for the subsequent period i.e. 08.08.1999 to 07.08.2003, 08.08.2003 to 07.07.2008, 08.08.2008 to 07.07.2013 and 08.08.2013 to 07.07.2018 shall be delinked and shall be considered separately for approval. This delinking is to ensure that the direction of the Hon'ble High Court to TAMP to decide lease rent for the year 1998 is complied with.

- (ii). Para 16 of the Order of Hon'ble High Court states that the Land Acquisition Act, 1894 [Central Act 1 of 1894] as amended, provides for fixation of market rate. Section 23 of the said Act speaks about matters to be considered for determining the compensation. Sub-section (1) of Section 23 says that in determining the amount of compensation to be awarded for land acquired under this Act, the Court shall take into consideration first, the market value of the land at the date of the publication of the notification under Section 4(1) of the said Act.

The VOCPT in the proposal (LAC Report) has stated that the valuer has stated that there is no such provision in the Land Acquisition Act 1894 to arrive the lease rental. On perusing the Land Valuation Report furnished, it is seen that there is no such mention in the report by the valuer.

Even the copy of the noting of legal section of VOCPT furnished by port vide letter dated 19 October 2018 while stating that there is no provision in the said Act prescribing mode of fixation of lease rent does not elaborately deal with the relevant provisions of Land Acquisition Act 1894 referred by the Hon'ble High Court in the judgement.

Hence, relevant Section 4(1) of the Land Acquisition Act 1894 referred in the Hon'ble High Court Order is reproduced hereunder:

"Whenever it appears to the [appropriate government] that land in any locality is needed or is likely to be needed for any public purpose [or for a company], a notification to that effect shall be published in the Official Gazette [and in two daily newspapers circulating in that locality of which at least one shall be in regional language] and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality (the last of the dates of such publication and the giving of such public notice, being hereinafter referred to as the date of the publication of the notification))"

It is relevant here to state that the Land Acquisition Act, 1894 has been repealed and is replaced with the Right to fair compensation and transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Section 26 of the said new Act of 2013 stipulates provisions for determination of market value of land. The Hon'ble High Court has observed in para 16 of the order that it is not as if there was no methods available at the time of consideration of revised lease rent by the first Respondent for the reason that the Land Acquisition Act, 1894, "as amended" provides for fixation of market value.

It is seen that the proposal filed by VOCPT for fixation of lease rent is based on product of the royalty rate and minimum salt production plus ground rent as fixed by the Salt Commissioner under Ministry of Commerce and Industry, New Delhi letter vide letter dated 27 January 2004 for the year 2003 and letter dated 9 October 2013 for the year 2013. Taking that as the base, lease rent is arrived for the quinquennium 2003-2008 and 2013-2018 citing that rates have been fixed by Salt Commissioner for the period 1998 and 2008, the lease rent arrived based on the royalty rates fixed by the Salt Department for years 2003 and 2013 is compared with the increase in Guideline Values of land issued by the Sub-Registrar Tuticorin for immediate adjacent land and proportionally adjusted to arrive at the proposed lease rent for the years 1998-2003 and 2008-2013.

The VOCPT to confirm that the above approach followed by VOCPT to arrive at the proposed lease rent for the year 1998 at ₹585/- per acre / annum complies with the direction of the Hon'ble High Court which requires fixation of the lease rent for the year 1998 following the Land Acquisition Act, 1894 [Central Act 1 of 1984] as amended.

- (iii). The Land Valuation Report on Special rate for salt pan land furnished by the port vide its letter dated 19 October 2018 at the beginning of para on Page No.52 states that as directed by port vide email dated 15 November 2017 (exhibit no:1), the rate levied by Salt Commissioner, Department of Industrial Policy & Promotion (Salt Section) is considered as the base for estimating the lease rent. The said exhibit stated to have been attached to valuation report is not attached. The VOCPT to forward a copy of said exhibit to us for our records.

10.1. A joint hearing in this case was held on 8 November 2018 at the VOCPT premises. The VOCPT made a brief power point presentation of its proposal. At the joint hearing, the VOCPT and TSMC have made their submissions.

10.2. As agreed at the joint hearing, the VOCPT was requested vide our letter dated 16 November 2018 to take action on the following points, followed by reminder dated 31 December 2018:

- (i). The written submission furnished by Tamilnadu Desia Uppala Thozhilalar Sammelanam (TDUTS) is in vernacular language. The VOCPT to arrange to translate the same in English language and also furnish its comments on the written submissions made by TDUTS within a week's time i.e. by 16 November 2018.
- (ii). The VOCPT to furnish its comments on the points made by M/s.Tuticorin Salt & Marine Chemicals Ltd. (TSMC) in its addendum dated 8 November 2018 to its earlier letter dated 11 October 2018 within a week's time i.e. by 16 November 2018.
- (iii). At the joint hearing, TSMC has pointed out that royalty rate fixed by Salt Commissioner under Ministry of Commerce and Industry at ₹100/ MT/ annum for the year 2013 has been challenged by them in the High Court and matter is pending before the Hon'ble High Court. The VOCPT to ascertain the factual position from TSMC in this regard and give us brief note on the matter in 10 days' time i.e. 28 November 2018.
- (iv). For 1998-2003, Port has proposed lease rent of ₹585/ acre/ annum, ₹755/ acre/ annum for 2003-2008, ₹4,039/ acre/ annum for 2008-2013 and ₹7,620/ acre/ annum for 2013-2018. TSMC has stated that proposed rate for the period 1998-2003 and 2003-2008 is acceptable to TSMC. TSMC has, however, objected the proposed rate of ₹4,039/ acre/ annum for the quinquennium 2008-2013 and ₹7,620/ acre/ annum for 2013-2018 stating that the hike proposed is very steep and they cannot bear the said increase. As agreed at the joint hearing, port and TSMC to sit together and arrive at mutually agreed rate as interim rate till the matter pending before the High Court on the rate fixed by Salt Commissioner which the VOCPT has adopted as the basis for arriving at the proposed lease rent for 2008-2013 and 2013-2018 is settled. The VOCPT to respond in 10 days' time i.e. by 20 November 2018 in this regard. The VOCPT was also to simultaneously endorse a copy of the same letter to TSMC.

11.1. With reference to point of action decided at the joint hearing at point no.10.2 (i), the VOCPT vide its email dated 9 January 2019 has furnished the translated comments of Tamilnadu Desia Uppala Thozhilalar Sammelanam (TDUTS) and also furnished their comments on the comments of TDUTS.

11.2. With reference to point of action decided at the joint hearing, at point no.10.2 (ii), the VOCPT vide its email dated 9 January 2019 has furnished its comments on the addendum comments furnished by M/s.TSMC dated 8 November 2018.

11.3. With reference to point of action decided at the joint hearing, at point no.10.2(iii) and (iv), the VOCPT vide its email dated 9 January 2019 has submitted a brief note on the factual position of Writ Petition of the TSMC. The submission made by VOCPT is hereunder:

- (i). The Salt Manufacturers and Merchants Association, Tuticorin has filed W.P.No. 34859 of 2013 against the Union of India, Ministry of Industry & Commerce, the Salt Commissioner, Jaipur and Deputy Salt Commissioner, Chennai and prayed that
 - (a). To frame the Transparent Policy on Management of saline lands belonging to the Central Govt. keeping in mind welfare of the numerous salt workers, who are involved in the industry by Union of India.
 - (b). To issue stay for the operation and effect of the letter dated 09.10.2013, (i.e.) issued by Ministry of Commerce & Industry for Revision of assignment fee, Ground rent and rate for minimum production of salt per acre for charging assignment fee and ground rent etc.,
- (ii). The Hon'ble High Court considering the request of the petitioner advocate that due to unilateral enhancement of assignment fee and ground rent the impugned order is bad and law and the court issued an order of interim stay for a period of 4 weeks on 20.12.2013. The case is not yet closed.

M/s.TSMC had filed a W.P. No.41444/2002 before Hon'ble High Court of Madras challenging the TAMP order dated 05.09.2002. While disposing the case, Hon'ble High Court of Madras has remanded the matter to the TAMP for fresh consideration.

- (iii). TAMP joint hearing was held on 08.11.2018. A meeting with M/s.TSMC officials was held on 09.11.2018. A copy of Minutes of Meeting duly signed by both officials was forwarded to M/s.TSMC on 03.12.18.

The decision taken at the joint hearing meeting with regard to fixation of lease rentals on Adhoc/ Interim basis for the period from 1998 to 2018 was paced before the Board held on 12.11.2018 alongwith the minutes of meeting. The Board of Trustees of VOCPT has approved to send the proposal to TAMP for approval to interim tariff as mutually agreed upon till finalization of lease rental.

- (iv). It is to inform that VOC Port had already sent a letter alongwith copy of Minutes of the meeting duly signed by M/s.TSMC and VOC Port to the Managing Director, M/s.TSMC on 03.12.2018 for further course of action as agreed by them in the joint hearing meeting conducted by TAMP and subsequent meeting held with port officials. A copy of the letter dated 03.12.2018 is furnished.

12.1. With reference to action points from VOCPT arising out of the joint hearing proceedings, the VOCPT has furnished its reply on point no. 10.2. (iii) and (iv) vide its letters dated 3 December 2018. The VOCPT has convened meeting with TSMC on 9 November 2018 for fixation of lease rental on adhoc/ interim basis for the period from 1998 to 2018. The VOCPT has furnished the Minutes of the meeting held on 9 November 2018 with M/s.TSMC under the chairmanship of Dy. Chairman, VOCPT. The highlights of the minutes of the said meeting are summarized below:

- (i). M/s.TSMC has agreed to pay the lease rentals on interim basis till finalization of the Writ Petition No.34859 of 2013 filed by Tuticorin Salt Manufacturers & Merchant Association against Union of India and Salt Department, challenging the rate fixed by Salt Commissioner during the year 2013 and considering the representation given by the General Secretary, Tamilnadu Desia Uppala Thozhilalar

Sammelanam, Tuticorin to TAMP vide their letter dated 08.11.2018 stating that more than 1000 families are earning their livelihood through this industry decades together and requested for fixation of lease rentals at reasonable levels. The following rates proposed are mutually agreed as interim rates:

Sl. No.	Period	Rate proposed by the Port before TAMP per acre / per annum (₹)	Interim rate agreed by TSMC per acre / per annum (₹)
1	08-07-1998 to 7-7-2001	585	585
2	08-07-2001 to 7-7-2003	644	644
3	08-07-2003 to 7-7-2006	755	755
4	08-07-2006 to 7-7-2008	831	831
5	08-07-2008 to 7-7-2011	4039	2020
6	08-07-2011 to 7-7-2013	4443	2222
7	08-07-2013 to 7-7-2016	7620	3810
8	08-07-2016 to 7-7-2018	8382	4191
9	08-07-2018 to 7-7-2021*	--	4610

* Till finalization of tender.

The above rate is subject to final verdict of the Writ Petition No.34859 of 2013 and Misc. Petition No.2 of 2013 filed by the Tuticorin Salt Manufacturers & Merchant Association against the Salt Commissioner, Salt Department. Upon finalization of the WP filed, the final lease rentals will be as per the above or the rate finalized by the Hon'ble High Court whichever is higher.

(ii). As agreed by M/s.TSMC during the joint hearing held by TAMP on 8 November 2018, M/s.TSMC shall withdraw immediately the writ petition filed by them against the port vide W.P. No.34323/2016 to quash the e-auction, not to disturb the peaceful possession of the petitioner and to direct the Respondent (i.e.,) VOCPT to renew the Lease for a further period of 30 years by fixing a fair rent. Subsequently, the port will go for Tendering of the Land as per LPG, 2014.

(iii). The VOCPT has also furnished a copy of Board approval approving to fix the lease rental on interim basis till finalization of lease rental by Hon'ble High Court of Madras. The Board of VOCPT in the Board Meeting held on 12 November 2018 vide Resolution No.104 has resolved the following:

(a). To fix the lease rental on interim basis till finalization of lease rental by Hon'ble High Court of Madras in the Writ Petition No.34859 of 2016 filed by M/s.Tuticorin Salt Manufactures and Merchant Association based on which the port has finalized the proposed lease rental, as follows:

Sl. No.	Period	Rate proposed by the Port in the original proposal dated 11.09.2018 before TAMP per acre / per annum (₹)	Interim rate agreed by TSMC per acre / per annum (₹)
1	08-07-1998 to 7-7-2001	585	585
2	08-07-2001 to 7-7-2003	644	644
3	08-07-2003 to 7-7-2006	755	755
4	08-07-2006 to 7-7-2008	831	831
5	08-07-2008 to 7-7-2011	4039	2020
6	08-07-2011 to 7-7-2013	4443	2222
7	08-07-2013 to 7-7-2016	7620	3810
8	08-07-2016 to 7-7-2018	8382	4191
9	08-07-2018 to 7-7-2021*	--	4610

* till finalization of tender. [This rate was not proposed by VOCPT in its original proposal.]

(b). To send the Minutes of the meeting dated 9 November 2018 to TAMP for its approval to the Interim Tariff as mutually agreed upon till fixation of lease rental by Hon'ble High Court of Madras in Writ Petition No.34859 of 2016.

12.2. The VOCPT vide its letter dated 3 November 2018 has also furnished a copy of Order of Ministry of Commerce and Industry dated 27 January 2014 and 9 October 2013 which were sought while seeking additional information / clarification vide our letter dated 16 November 2018. The said Order relates to revision of assignment fee, ground rent and rate of minimum production of

salt per acre announced by the Salt Commissioner with effective from 1 January 2004 and 1 January 2013 respectively.

12.3. The VOCPT has stated that action is being taken on the other points communicated by this Authority vide its letter dated 16 November 2018 and suitable reply will be furnished shortly. In the meantime, the VOCPT has requested to accord approval for the interim tariff on ad-hoc basis as mutually agreed between both VOCPT and M/s.TSMC.

13. 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>.

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

- (i). This case is processed in compliance of the Order dated 1 September 2016 of the Single Judge Shri. M. Sathyanarayanan of the Hon'ble High Court of Judicature at Madras partly allowing W.P.No.41444 of 2002 filed by M/s.Tuticorin Salt & Marine Chemicals Limited (TSMCL). The relevant para 16 and the operative part of the Order of the Single Judge on the said Writ Petition have already been brought out in earlier paragraph no.4.3. and hence not repeated for the sake of brevity. The brief background of the VOCPT filing this proposal is also brought out in para 2.1. and 2.2. and hence not repeated here for the sake of brevity.
- (ii).
 - (a). The lease rent for salt pan land leased out by the VOCPT to M/s.TSMC for production of salt was last approved by this Authority vide its Order No.TAMP/34/2001-TPT dated 27 August 2002. In the said Order, this Authority has approved an annual lease rent of ₹2016/- per acre per annum retrospectively with effect from 8 July 1998. This rate was subject to annual escalation clause stipulated in the Lease Agreement and next revision of rental was due from 8 July 2003.
 - (b). Subsequent to that the VOCPT has not filed any proposal for revision of lease rent for the said land. This was presumably because of pending litigation in the Hon'ble High Court of Judicature at Madras filed by the TSMC against the lease rent approved by this Authority in August 2002 Order.
As far as port land is concerned, the port had sought revision of lease rent of port land which was approved by this Authority in its Order No.TAMP/6/2012-VOCPT dated 4 April 2014 for the periods 1 July 2007 to 30 June 2012 and 1 July 2012 to 30 June 2017. During processing of this case, the TSMC has pointed out that the High Court of Madras has stayed the Order of this Authority dated 27 August 2002. This Authority at that point of time had advised VOCPT to initiate appropriate action in line with the applicable Land Policy Guidelines and in consistent with the direction, if any, issued by the Hon'ble High Court in this matter.
 - (c). The Writ Petition filed by the TSMC has been disposed of by the Hon'ble High Court of Madras in September 2016. The Single Judge of the Hon'ble High Court in the said Judgment dated 1 September 2016 has set aside the Order No.TAMP/34/2001-TPT dated 27 August 2002 passed by this Authority so far as fixation of market value for the land is concerned and has referred the matter to this Authority for fresh consideration to arrive at market value for the year 1998 taking into note the provisions contained in Land Acquisition Act, 1894 which was in operation in the relevant field and thereafter refix the market value in accordance with law and decide the lease rent.
 - (d). In pursuance of the Order of the Single Judge of the Hon'ble High Court, the VOCPT has filed the current proposal in September 2018. As brought out in the earlier paragraphs, neither the W.P 41444 of 2002 filed by the TSMC challenging the Order of this Authority nor the Order of the Hon'ble Court of 1 September 2016 was received by the office until the VOCPT

forwarded it while filing the current proposal in September 2018. Since the current proposal filed by the port is in compliance of the Order of the Hon'ble High Court, the proposal filed by the port is taken up for consideration.

- (iii). The current proposal of the VOCPT seeks approval of this Authority for fixation of lease rent for the land allotted to the TSMC for salt production for four quinquennium viz. 8.7.1998 to 7.7.2003, 8.7.1993 to 7.7.2008, 8.7.2008 to 7.7.2013 and 8.7.2013 to 7.7.2018.

Before proceeding to analyse this case, it is relevant here to state that the period of revision of lease rent sought by VOCPT is for the period beyond 1998 and for the second, third and fourth quinquennium are in addition to the lease rent for the year 1998 referred by Hon'ble High Court to TAMP for fresh consideration. In order to comply with the Order of the Hon'ble High Court, this Authority is required to fix the lease rent for the year 1998. That being so, while approving the lease rent sought by the port on interim basis as brought out in the subsequent paragraphs, the lease rent proposed for the relevant part for the year 1998 i.e. from 08.07.1998 till 31.12.1998 is delinked from the lease rent proposed for the first quinquennium by the port from 08.07.1998 to 07.07.2003. This delinking is to ensure that the direction of the Hon'ble High Court to TAMP to decide lease rent for the year 1998 is correctly complied with. The above position was already brought out to the notice of the port.

Thus in short, the lease rent proposed by the port on interim basis is approved in two sets viz. (a). for the period from 08.07.1998 till 31.12.1998; (b). for the subsequent period i.e. 01.01.1999 to 07.07.2003 for the first quinquennium, and the three quinquenniums viz. 08.07.2003 to 07.07.2008, 08.07.2008 to 07.07.2013 and 08.07.2013 to 07.07.2018.

- (iv). Para 16 of the Order of Hon'ble High Court states that the Land Acquisition Act, 1894 [Central Act 1 of 1894] as amended, provides for fixation of market rate. Section 23 of the said Act speaks about matters to be considered for determining the compensation. Sub-section (1) of Section 23 says that in determining the amount of compensation to be awarded for land acquired under this Act, the Court shall take into consideration first, the market value of the land at the date of the publication of the notification under Section 4(1) of the said Act.

The VOCPT was requested to confirm whether the approach followed by VOCPT to arrive at the proposed lease rent for the year 1998 at ₹585/- per acre/ annum arrived based on product of the royalty rate and minimum salt production plus ground rent as fixed by the Salt Commissioner under Ministry of Commerce and Industry for the year 1998 complies with the direction of the Hon'ble High Court which requires fixation of the lease rent for the year 1998 following the Land Acquisition Act, 1894 [Central Act 1 of 1894] as amended. The port has stated that information/ clarification sought on this and few other points shall be submitted shortly.

The port has, however, proposed lease rent based on the recommendation of the lease rent determined by the Government approved valuer. The recommendation of the Approval valuer has been considered by the LAC and recommendation of the LAC has been approved by the Board of Trustees of the port. For the present, the above position is relied upon till the VOCPT examines the matter and the observation made by us.

In the meantime, the port has, after the joint hearing, vide its letter dated 3 December 2018 filed a proposal seeking approval of lease rent on interim basis with the consent of the TSMC. The port has also furnished approval of the Board of Trustees of the VOCPT for the interim rate proposed by the port. Thus, the exercise of this Authority here is limited to grant approval of the interim rate proposed by the port as mutually agreed between the concerned parties i.e. VOCPT and the TSMC and approved by the Board of Trustees of the port. The lease rent proposal filed by the port in the original proposal, the approach followed by the port in arriving at the proposed lease

rent in the original proposal which was based on the recommendation of the approved valuer and subsequently the interim rate proposed by the port in December 2018 are discussed in the subsequent paragraphs.

- (v). (a). The valuer has arrived at the lease rental for the years 1998, 2003, 2008 and 2013 in respect of Salt Pan based on the Guideline values for five groups of survey nos. issued by the Sub-Registrar, Tuticorin. The average value of land of the six groups of survey land is arrived at first and then lease rent @ 6% of the average value of land is calculated to arrive at the lease rent.

However, on the grounds that Salt extraction is a traditional activity in the area and considerable number of people are surviving as operators, employees/ workers, the valuer has not found feasible to charge a commercial rate as applicable to other land for the following reasons recorded in the report of the valuer:

- (i). The land can be used only for the purpose of salt extraction and cannot be used for any other purpose.
(ii). There is no right to transfer / sublease or for alternate value added ventures.
(iii). The economics of the salt manufacturing do not support in the forgoing para.

- (b). The approved valuer has, therefore, calculated the lease rental based on product of the per tonne royalty rate and minimum salt production plus ground rent as fixed by the Salt Commissioner under Ministry of Commerce and Industry, New Delhi vide letter dated 27 January 2004 for the year 2003 and letter dated 9 October 2013 for the year 2013 which was explained in the earlier paragraphs and is reproduced here for ease of ready reference:

- (i). **Lease rent for the year 2003:**
75 MT (minimum production/ acre) x ₹10/- per tonne (royalty rate)
= ₹750 + ₹5/- (ground rent per acre) = ₹755/- per acre p.a.

- (ii). **Lease rent for the year 2013:**
75 MT (minimum production/ acre) x ₹100/- royalty rate = ₹7,500 +
₹120 (ground rent per acre) = ₹7,620/- per acre per annum.

- (iii). **Lease Rent for the year 1998 and 2008:**
The approved valuer has observed that no rates have been fixed by Salt Commissioner for the period 1998 and 2008. Hence, lease rent for these period are arrived based on the rates fixed by the Salt Department in comparison with market value of adjacent area during the period by apportioning the ratio to the unavailable period. In short, the lease rent arrived based on the royalty rates fixed by the Salt Department for years 2003 and 2013 is compared with the increase in Guideline Values of land issued by the Sub-Registrar, Tuticorin for immediate adjacent land and proportionally adjusted to arrive at the proposed lease rent for the years 1998-2003 and 2008-2013 as given below:

(a). **Lease rent for the year 1998** = $(755 / 4147.5) \times 3,211.20$
= ₹585 per acre p.a.

(b). **Lease rent for the year 2008** = $(₹7620 / 172085.6) \times 91205.2$ = ₹4039 per acre p.a.

- (c). To summarise, the lease rent arrived by the port in its original proposal based on the Guideline value of the adjacent land / area and then based on the royalty rate announced by the Salt Commissioner are tabulated below:

Year	Guideline Value (per acre in ₹)		Lease Rent assuming 6%	Lease rent assigned by	Deducted Rate
	Sy Nos.	Average			

	348, 349, 350	805-815	1/2A1	1/2A2A	1/2C1	342/1E		(per acre per annum in ₹)	Salt Commissioner (Per acre per annum in ₹)	(Per acre per annum in ₹)
1	2	3	4	5	6	7	8=(2+3+4+5+6+7)/5.4	9=8*6%	10	11
1998	39200	0	39200	39200	39200	110800	53520	3211.2		585**
2003	0	0	47500	47500	47500	134000	69125	4147.5	755**	
2008	0	0	1740210	1740210	1740210	859717	1520087	91205.2		4039**
2013	0	0	3015015	3015015	3015015	2427328	2868093	172086	7620**	

- (d). Based on the above, the approved valuer has recommended the lease rent for the period from 1998, 2003, 2008 and 2013 as follows with increase by 10% after every 3 years.

Year	Rate per Acre per Annum in ₹
1998	585.00
2003	755.00
2008	4,039.00
2013	7,620.00

The LAC has recommended the lease rent for Salt Pan as recommended by M/s.KITCO for the period from 1998-2003, 2003-2008, 2008-2013, 2013-2018 and the Board of Trustees of the VOCPT has approved the same.

- (e). The port has reported that the Hon'ble High Court of Madras in interim order of October 2007 has directed TSMC to pay the Lease rental @ ₹900/ acre/ annum from 8.7.1998 to 31.10.2007 and ₹1,000/ acre/ annum from 1.11.2007 to 07.07.2013. In the final Order dated 1 September 2016 as well the Hon'ble High Court has directed TSMC to continue to pay ₹1,000/ acre/ annum till rates are reviewed in compliance of the Order of the Hon'ble High Court. The TSMC has paid the lease rent as directed by the Hon'ble High Court in the interim Order.

The port has admitted that the lease rent proposed by it in the current proposal at ₹585/ acre/ annum for the quinquennium 8.7.1998 to 7.7.2003 and ₹755/ acre/ annum for quinquennium 8.7.2003 to 7.7.2008 are lower than the lease rent paid by TSMC at ₹900/ acre/ annum and ₹1,000/ acre/ annum respectively as per the interim Order of the Hon'ble High Court. However, the rate of lease rent proposed by VOCPT for the 5 year periods starting from 2008 and 2013 are more than the rate of lease rent ordered by the Hon'ble Court till rates are reviewed.

- (f). Since the proposed lease rent has been arrived afresh in compliance of the Order dated 1 September 2016 of the Hon'ble High by engaging an approved valuer to arrive at the lease rent, and recommendation of the approved valuer has been approved by the LAC headed by the Deputy Chairman and comprising of other officials of the port viz. Financial and Chief Accounts Officer, Traffic Manager and Chief Engineer, and the Board of Trustees of the VOCPT has also approved the same, this Authority decides to go ahead with the proposal of the port in this regard. The TSMC has also agreed to the rates proposed for these two quinquenniums.

- (vi). (a). As stated earlier, during the processing of the case, the TSMC accepted the proposed rate of ₹585/ acre/ annum and ₹755/ acre/ annum for 1998-2003 and 2003-2008 respectively. However, they contended that Salt industry cannot bear huge increase proposed at ₹4,039/ acre/ annum for 2008-2013 and ₹7,620/ acre/ annum for 2013-2018. TSMC also pointed out that major Salt production of around 80% is done in Gujarat. The base rate fixed by Salt Commissioner is ₹30/ tonne for Gujarat State. Whereas, for Tamilnadu State it is fixed at ₹100/ tonne in the year 2013. They have contended that different Yard Stack is applied by the Salt Commissioner for fixing rate of royalty for Gujarat and for Tamilnadu for which there is no justification. The port and TSMC have reported that Tuticorin Salt

Manufacturer and Merchant Association have filed Writ Petition challenging the said royalty rate fixed by the Salt Commissioner in the year 2013 and the matter is pending before the Hon'ble High Court. The TSMC has agreed to pay 50% of the proposed rates for the period 2008-2013 and 2013-2018 as an interim measure responding to the port's question at the joint hearing as to what is acceptable to TSMC.

The VOCPT vide its letter 3 December 2018 has filed a proposal with the consent of the TSMC seeking approval of this Authority for fixation of lease rental on interim basis till the Hon'ble High Court of Madras decides the matter on the pending litigation filed by M/s. Tuticorin Salt Manufactures and Merchant Association challenging the royalty rate of ₹100 per tonne fixed by the Salt Commissioner. The lease rent proposed by the port earlier and the interim rate now proposed by the port as agreed by the TSMC are tabulated below:

Sl. No.	Period	Rate proposed by the Port in the original proposal dated 11 September 2018 (₹ acre / per annum)	Interim rate proposed by the Port as agreed by TSMC (₹ per acre / per annum)
1	08-07-1998 to 7-7-2001	585	585
2	08-07-2001 to 7-7-2003	644	644 *
3	08-07-2003 to 7-7-2006	755	755
4	08-07-2006 to 7-7-2008	831	831*
5	08-07-2008 to 7-7-2011	4039	2020
6	08-07-2011 to 7-7-2013	4443	2222*
7	08-07-2013 to 7-7-2016	7620	3810
8	08-07-2016 to 7-7-2018	8382	4191*
9	08-07-2018 to 7-7-2021*(till finalisatoin of tender)	--	4610

* Lease rent proposed by the port at Sr. No.2,4,6,8 is after applying 10% annual escalation in lease rent every 3 years as recommended by the approved valuer, recommended by the LAC and approved by the Board of Trustees of the VOCPT.

- (b). Recognising that the mutually agreed rates of lease rent proposed by the port are on interim basis in view of pending litigation and also recognising that the interim rates proposed by the port are with the approval of the Board of Trustees in the Board meeting dated 12 November 2018, the interim rates of lease rent proposed by the port for the period from 8.7.1998 to 7.7.2018 are approved.

As regards the interim lease rent of ₹4610/- per acre per annum for the period 8.7.2018 to 7.7.2021 proposed by the port in its proposal dated 3 December 2018, it is to state that the original proposal did not incorporate the proposed rate for 8.7.2018 to 7.7.2021. The four quinquenniums for which the port had proposed lease rent in the original proposal were viz. 8.7.1998 to 7.7.2003, 8.7.2003 to 7.7.2008, 8.7.2008 to 7.7.2013 and 8.7.2013 to 7.7.2018. No lease rent was proposed by the port in the original proposal for the period 8.7.2018 to 7.7.2021 following the amended LPG, 2014. The last quinquennium for which the port has proposed the lease rate was 8.7.2013 to 7.7.2018 in the original proposal. Since the Board of Trustees of VOCPT has approved the lease rent of ₹4,610/- per acre per annum for the period 8.7.2018 to 7.7.2021 in order to invite tender and is agreed by the TSMC, this Authority approves the proposed lease rent on interim basis. This shall be subject to fixation of final rate to be fixed based on proposal to be filed by the port.

- (c). Clause 13 (c) of the amended LPG, 2014 stipulates that the Board of Trustees of the Major Port Trust shall fix the rate of annual escalation in

lease rent which shall not be less than 2% per annum. The approved valuer has recommended escalation @ 10% per annum every three years. This is not in line with the amended LPG, 2014 which stipulates clause for annual escalation shall not be less than 2%.

If 2% annual escalation as per the amended LPG, 2014 is to be applied, the total compounded escalation shall be work out to be 8.24% (1.02*1.02*1.02*1.02). The escalation proposed by the port at 10% every three year is found to higher than the total escalation in lease rent approved for the quinquennium as per the amended LPG, 2014.

However, recognising that the LAC has recommended the proposal of the approved valuer and the Board of Trustees has also approved 10% escalation once in three years recommended by the LAC and the 2% escalation being at floor level, the escalation of 10% in rate as proposed by the port is approved.

- (d). As stated by the port, the interim rate approved by this Authority (a). for the period from 08.07.1998 till 31.12.1998 to comply with the Order of the Hon'ble High Court to fix lease rent for the year 1998; (b). for the subsequent period i.e. 01.01.1999 to 07.08.2003 for the first quinquennium, and the three quinquenniums viz. 08.07.2003 to 07.07.2008, 08.07.2008 to 07.07.2013 and 08.07.2013 to 07.07.2018 is subject to fixation of final rate based on the decision of the Hon'ble High Court in the Writ Petition No.34859 of 2013 and Misc. Petition No.2 of 2013 filed by the Tuticorin Salt Manufacturers & Merchant Association against the Salt Commissioner, Salt Department. The port has stated that the final lease rentals will be as per the interim rates or the rates arrived based on the decision of the Hon'ble High Court whichever is higher which is agreed by the TSMC as per the minutes of the meeting with the port dated 9 November 2018. The VOCPT is, therefore, advised to ensure that the port files proposal for fixation of final rates within two months from the date of decision of the Hon'ble High Court in the pending litigation. The proposal to be filed by the port for fixation of final rate will be treated afresh.
- (e). As stated earlier, the lease period for the land allotted to TSMC expired on 7 July 2015. The termination order issued by the VOCPT stands challenged by the TSMC by its W.P. No.34323 of 2016 in the Hon'ble High Court of Madras. The Hon'ble High Court by Order dated 29 September 2016 has granted an interim stay restraining the VOCPT from disturbing the peaceful possession of the land by TSMC. The matter is pending before the Hon'ble High Court. By way of a measure of caution, it is to state that the approval accorded by this Authority for the lease rentals on interim basis for the period beyond 7 July 2015 should not be treated as an incidental approval to the lease of land to TSMC for the period beyond 7 July 2015.

14.2. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves interim lease rent for the land allotted by the VOCPT to M/s.TSMC for salt pan as follows:

- (i). **Interim lease rent for the year 1998 i.e. from 8.7.1998 to 31.12.1998 for the land allotted by the VOCPT to M/s.TSMC for salt pan in compliance of the Order of the Hon'ble High Court dated 1 September 2016 as follows:**

Sl. No.	Period	Interim lease ₹ acre / per annum
1	08-07-1998 to 31.12.1998	585

- (ii). **Interim lease rent for the subsequent period from 01.01.1999 to 07.07.2021 for the land allotted by the VOCPT to TSMC for salt pan as follows:**

Sl. No.	Period	Interim lease rent in ₹ per acre/ per annum
1	01-01-1999 to 07-07-2001	585

2	08-07-2001 to 07-07-2003	644
3	08-07-2003 to 07-07-2006	755
4	08-07-2006 to 07-07-2008	831
5	08-07-2008 to 07-07-2011	2020
6	08-07-2011 to 07-07-2013	2222
7	08-07-2013 to 07-07-2016	3810
8	08-07-2016 to 07-07-2018	4191
9	08-07-2018 to 07-07-2021	4610

- (iii). The interim lease rent approved by this Authority is subject to fixation of final rate by this Authority based on the proposal to be filed by VOCPT for final rates of lease rent after the decision of the Hon'ble High Court in the Writ Petition No.34859 of 2013 and Misc. Petition No.2 of 2013 filed by the Tuticorin Salt Manufacturers & Merchant Association against the Salt Commissioner, Salt Department as agreed by the port and M/s.TSMC. The VOCPT is directed to file proposal for fixation of final rates within two months from the date of decision of the Hon'ble High Court in the pending litigation. The current proposal of VOCPT is treated as disposed of. The proposal to be filed by the port for fixation of final rate shall be treated afresh.

(T.S. Balasubramanian)
Member (Finance)

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

F. No.TAMP/70/2018 - VOCPT - Proposal from the V.O Chidambaranar Port Trust for revision of lease rent for Salt Pan for the period from 1998, 2003, 2008, 2013 & 2017 as per the direction from the Hon'ble High Court of Judicature at Madras with reference to Writ Petition No.41444 of 2002 and 25104 of 2016 and WMP No.21496 of 2016 filed by M/s.Tuticorin Salt and Marine Chemical Ltd (TSMC).

A summary of comments furnished by M/s. Tamilnadu Desia Uppala Thozhilalar Sammelanam (TDUTS) and M/s.Tuticorin Salt and Marine Chemical Ltd (TSMC) is tabulated below: The VOCPT has not furnished its comments despite reminder.

Sl. No.	Comments of the users/ user organisations/ long term allottees
1.	Tamilnadu Desia Uppala Thozhilalar Sammelanam (TDUTS)
(i).	Tamilnadu Desia Uppala Thozhilalar Sammelanam (TDUTS) is recognised Trade union of M/s. Tuticorin Salt and Marine Chemical Ltd. (TSMC), Tuticorin. It has noted that the lease rent proposed by VOCPT on the recommendation of KITCO is very high and abnormal.
(ii).	TDUTS has mentioned that TSMC is giving employment directly to 250 labourers and more than 300 labourers are employed indirectly. Salt is a traditional and labour intensive industry.
(iii).	TSMC is giving all labour benefits like PF, ESI to the workers, which is a very few in Tuticorin. The Company is run in a very professional manner.
(iv).	The lease rent fixed by Tamil Nadu State Government for Salt land is only ₹135/- per acre/ annum, whereas VOCPT has recommended a rent of ₹4,039/- for the year 2008 and ₹7,620/- for the year 2013. If such rates are fixed, the salt works will become uneconomical for working and will forced to stop production of salt. No one else will be able to run the salt works at such a high lease rent.
(v).	TDUTS also noted that KITCO has suggested that 5 acre land would be an economical viable unit, which is not true. No one run 5 acre salt pans in Tuticorin. Atleast 25% of the land will be used for roads, Storage yard, bunds etc. and thereby leaving very little area for salt production. Moreover, if the area is divided into 5 acre plot, the port will face difficult in dealing with allotting the land to various lessees and may future problems. Further, the employment opportunities for the labours will also come down, if the area is divided into 5 acre salt pans.
(vi).	TDUTS has requested to take into consideration the labour intensive nature of Salt industry and fix a fair and economically viable lease rent and save the livelihood of hundreds of workers.
2.	Tuticorin Salt and Marine Chemicals Ltd.
(i).	The Report fixing the special rate for Salt pan land of VOCPT, submitted by M/s. KITCO has elaborately dealt with the nature of the Salt industry. The salient features are: "One of the prominent industrial activity in Tuticorin in Salt manufacturing. Salinity of Ground water is high in this region which paved the way for development of SALT PAN in this area. The yield from the Salt pan varies with climatic condition and price of salt is governed by factors which are beyond control of the manufacturers of the region. A certain level of risk is also involved in the industry."
(ii).	The report also stated that "There are historical, economic and socio political issues to be addressed on changing the methods and classification for pricing. Considering that salt extraction is a traditional activity in the area and considerable number of people are surviving as operators, employees / workers, it is not feasible to charge a commercial rate as applicable to other land. (a). The land can be used only for the purpose of Salt extraction and cannot be used for any other purpose. (b). There is no right to transfer / sublease or used for alternate value added ventures.

	<p>(c). The economic of the salt manufacturing do not support a large value for the land as in the other industries.</p> <p>M/s. KITCO, having taking into consideration of above facts, has arrived at a fair rent of ₹581/- per acre / annum for the period from 1998 to 2003 and ₹755/- per acre / annum, for the period from 2003 to 2008.</p>																								
(iii).	<p>Unfortunately, KITCO has fixed an abnormal rent of ₹4,039/- per acre / annum for the year 2008. It was based on the proposed increase in lease rent by Salt Department for the year 2013. Hence KITCO has erred in taking the Salt Department data of the year 2013 and fixing it for the year 2008. It has to be noted that, during the year 2008, Salt Department lease rent was ₹750/- per acre / annum. Having understood the nature of the Industry and clearly mentioning about it in the report, KITCO also erred in taking the Guidelines value of 2013 of the adjacent private commercial land for calculating the rent for the year 2008. The cumulative effect of taking both the unrealistic values has resulted in abnormal fixation of rent, for the year 2008.</p>																								
(iv).	<p>For the year 2013, KITCO has fixed a rent of ₹7,630/- based on the Salt Department data. At this juncture, they wish to state that aggrieved by the steep increase from ₹750/- to ₹7,500/- per acre / annum by Salt Department in the year 2013, all the lessees of Salt Department of Tamil Nadu filed a Writ Petition No. 34859 of 2013 in the High of Madras and the Hon'ble Court was pleased to stay the abnormal increase of lease rent. The matter is still pending before the Court. They have enclosed the Order of the High Court for ready reference. Hence KITCO has erred in fixing ₹7,620/- for the year from 2013, ignoring the fact that the matter is subjudice.</p>																								
(v).	<p>Objection to Analysis of data supplied from VOCPT: The port has clarified that classification for Salt pan is agriculture. The guidelines value adjacent to the port land, is that of a commercial land and not agriculture land. Only large stretch of Salt Department land is adjacent to VOCPT, which is given for Salt production, so it is only just and fair to take the rent fixed by Salt Department.</p>																								
(vi).	<p>Based on the nature of the industry and value of the commodity, they are willing pay the lease rent as given below:</p> <table border="1"> <tr> <td>1.</td> <td>08.07.1998 to 07.07.2001</td> <td>₹585/-</td> </tr> <tr> <td>2.</td> <td>07.07.2001 to 07.07.2003</td> <td>₹644/-</td> </tr> <tr> <td>3.</td> <td>08.07.2003 to 07.07.2006</td> <td>₹755/-</td> </tr> <tr> <td>4.</td> <td>08.07.2006 to 07.07.2008</td> <td>₹831/-</td> </tr> <tr> <td>5.</td> <td>08.07.2008 to 07.07.2011</td> <td>₹914/-</td> </tr> <tr> <td>6.</td> <td>08.07.2011 to 07.07.2013</td> <td>₹1,005/-</td> </tr> <tr> <td>7.</td> <td>08.07.2013 to 07.07.2016</td> <td>₹1,105/-</td> </tr> <tr> <td>8.</td> <td>08.07.2016 to 07.07.2019</td> <td>₹1,215/-</td> </tr> </table>	1.	08.07.1998 to 07.07.2001	₹585/-	2.	07.07.2001 to 07.07.2003	₹644/-	3.	08.07.2003 to 07.07.2006	₹755/-	4.	08.07.2006 to 07.07.2008	₹831/-	5.	08.07.2008 to 07.07.2011	₹914/-	6.	08.07.2011 to 07.07.2013	₹1,005/-	7.	08.07.2013 to 07.07.2016	₹1,105/-	8.	08.07.2016 to 07.07.2019	₹1,215/-
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(vii).	<p>The TSMC therefore request us to use its discretionary power to fix a fair rent, taking into consideration the eco-social, environmental impact and labour intensive nature of the Salt industry and render justice.</p>																								

2. A joint hearing in this case was held on 8 November 2018 at the VOCPT premises. The VOCPT made a brief power point presentation of its proposal. At the joint hearing, the VOCPT and TSMC have made the following submissions:

V.O. Chidambaranar Port Trust (VOCPT)

[Dy. Chairman]

- (i). An extent of 262.80 acres of land was leased out in the name of M/s.Tuticorin Salt & Marine Chemicals Ltd. (TSMC) during 1946 by Government of Tamilnadu.
- (ii). After expiry of the initial lease period of 25 years in 1968, the same land was again leased out by the erstwhile Minor Port to M/s.TSMC, Tuticorin for a further period of 25 years upto 07.07.1993.
- (iii). Ministry approved the lease extension for further period of 20 years with effect from 08.07.1993 and valid upto 07.07.2013.

- (iv). The lease rent fixed by the Port then was ₹100 per acre per annum with 10% compoundable for the period from 1993 to 1998.
- (v). TSMC paid this lease rent without any dispute.
- (vi). The lease rent was revised to ₹2,016/ acre/ annum by TAMP with retrospective effect from 08.07.1998 based on the proposal of the port. TSMC challenged the approved rate in the High Court of Madras on the ground that the revised lease rent is steep.
- (vii). In interim order of October 2007, Hon'ble High Court has directed TSMC to make the payment @ ₹900/ acre/ annum for the period from 08.07.1998 to 31.10.2007 and thereafter @ ₹1,000/ acre/ annum from 01.11.2007 to 07.07.2013 to VOCPT.
- (viii). Accordingly, TSMC has remitted the lease rent @ 900/ acre/ annum for the period from 08.07.1998 to 31.10.2007 and @ ₹1,000/ acre/ annum for the period from 01.11.2007 to 07.07.2013 to VOCPT as against the TAMP approved rate of ₹2,016/ acre/ annum.
- (ix). The Hon'ble High Court has passed an Order dated 1 September 2016 disposing of the Writ Petition nos.41444/2002 and 25104/2016 filed by TSMC setting aside the market value of land in the TAMP Order dated 27.8.2002 and has remanded the matter to TAMP for fresh consideration taking note of the provisions contained in the Land Acquisition Act, 1894 (Central Act 1 of 1894) which was in operation in the relevant field and thereafter re-fix the market value in accordance with law and decide the lease rent per acre per annum.
- (x). The current proposal of VOCPT flows from the Order dated 1 September 2016 of the Hon'ble High Court.

VOCPT

[FA & CAO]

- (i). In the Order dated 1 September 2016, the Hon'ble High Court directed the TAMP re-fix the lease rent for TSMC. The Hon'ble High Court has also pronounced to take note of the provisions contained in Land Acquisition Act, 1894 while fixing the lease rentals.
- (ii). Since the lease rentals is to be fixed for the period from 1998 as per the direction of Hon'ble High Court of Madras, the Port Trust has filed this proposal under applicable Land Policy Guidelines (LPG) issued by Government of India.
- (iii). Accordingly, in order to fix the lease rental, with effect from 1998, VOC Port engaged M/s.KITCO, Government approved valuer, Kochi to assess the lease rental fixation duly considering the provisions contained in Land Acquisition Act, 1894.
- (iv). The valuer has stated that there is no provision in the Land Acquisition Act 1894 to arrive at the lease rental. This is also confirmed by the Legal Department of VOC Port.
- (v). Salt Commissioner under the Ministry of Commerce & Industry fixes minimum production per annum, royalty rate and ground rent rate.
- (vi). The royalty rate, minimum salt production and ground rent fixed by the Salt Commissioner under the Ministry of Commerce & Industry in the years 2003 and 2013 has been taken as the base by the approved valuer, KITCO to arrive at the proposed lease rent.
- (vii). KITCO has arrived at the lease rental for the subject land for 2003 and 2013 at ₹755/ acre/ annum and at ₹7,620/ acre/ annum respectively.

- (viii). No rates have been fixed by Salt Commissioner for the period 1998 and 2008. Hence for these periods, the KITCO has taken the lease rent arrived based on the royalty rates fixed by the Salt Department for the relevant period and compared it with the increase in Guideline Values of land issued by the Sub-Registrar Tuticorin for immediate adjacent land and proportionally arrived at the proposed lease rent for the years 1998-2003 and 2008-2013 considering the proportionate increase in the lease rent for the adjacent area.
- (ix). Following the above methodology, M/s.KITCO has arrived and recommended the lease rent for the period 1998-2003 at ₹585/ acre/ annum, 2003-2008 at ₹755/ acre/ annum, 2008-2013 at ₹4,039/ acre/ annum and 2013-2018 at ₹7,620/ acre/ annum.
- (x). It is relevant to submit, even though Hon'ble High Court of Madras has directed to make the Lease rental @ ₹900/ acre/ annum and ₹1,000/ acre/ annum, the Port is proposing lower rate (i.e.) ₹585/ acre/ annum and ₹755/ acre/ annum for 1998-2003 and 2003-2008 respectively. The proposed rate for these two quinquennium is lower than the rate directed to be paid by TSMC the Hon'ble High Court of Madras.
- (xi). The matter was placed before the LAC headed by the Deputy Chairman / VOCPT. The LAC recommended the lease rent for Salt Pan as recommended by M/s.KITCO for the period from 1998-2003, 2003-2008, 2008-2013, 2013-2018.
- (xii). The recommendation of LAC has been considered by VOC Port Board and the Board has recommended to send the proposal to TAMP for approval and notification.

M/s.Tuticorin Salt & Marine Chemicals Ltd. (TSMC)

- (i). For the year 2003, Salt Commissioner has fixed royalty rate for salt production at ₹10/ MT/ annum and minimum salt production of 75 metric tonne/ acre/ annum.
- (ii). Commercial value of land will increase. But, the land allotted for salt production which is fit for salt production only and hence value of land will not increase at the level of increase in value of land for commercial purposes.
- (iii). Salt industry cannot bear huge increase proposed at ₹4,039/ acre/ annum for 2008-2013 and ₹7,620/ acre/ annum for 2013-2018.
- (iv). For Gujarat, the Salt Commissioner has fixed the royalty at ₹30 per MT. [Dy. Chairman, VOCPT: Salt Commissioner is fixing the rate. Whatever Salt Commissioner has fixed is acceptable to TSMC. Hence, port asked KITCO to fix rate as per the rate fixed by Salt Commissioner under Ministry of Commerce & Industry.]

TSMC

- (i). Major Salt production i.e. around 80% is done in Gujarat. The base rate fixed by Salt Commissioner is ₹30/ tonne for Gujarat State. Whereas, for Tamilnadu State it is fixed at ₹100/ tonne in the year 2013.
- (ii). Different Yard Stack is applied by the Salt Commissioner for fixing rate of royalty for Gujarat and for Tamilnadu. There is no justification. We have gone to Court challenging the said royalty rate fixed by the Salt Commissioner in the year 2013. The matter is pending before the Hon'ble High Court.
- (iii). The Guideline value of the parcel land at Survey No.1/2A taken by VOCPT is for private purposes. It is not for salt production. Adjacent land considered by VOCPT to arrive at proportionate lease rent for 1998 and 2018 is not for salt pan purpose. [Dy. Chairman, VOCPT: Guideline value of adjacent land taken by the valuer are market value of land for same purpose i.e. salt pan industry]

- (iv). The proposed lease rent arrived at ₹7,620 acre/ annum applying royalty rate at ₹100/ MT as fixed by Salt Commissioner for minimum production of 75 MT plus Ground rent at ₹120/ tonne is very high.
- (v). The increase proposed in lease rent in the year 2008 and 2013 is very steep.

VOCPT

[Dy. Chairman]

- (i). Land Acquisition Act, 1894 does not give methodology of arriving at the market value of land. Moreover, there is no mention of how to arrive at lease rent. The said Act is for compensation to be given for land acquisition done by the Government for land acquired for the public activity. It does not stipulate how to arrive at the lease rent. In the current exercise, VOCPT needs approval of lease rent payable by TSMC which is not covered under the Land Acquisition Act, 1894.

TSMC

- (i). In Gujarat, the lease rent works out to ₹800/ acre/ annum. This is being levied presently.
- (ii). Let the Port moderate the proposed lease rent for the years 2008 and 2013.
- (iii). Quinquennium revision is giving us a hit.

VOCPT

[Dy. Chairman]

- (i). For 1998-2003, Port has proposed lease rent of ₹585/ acre/ annum, ₹755/ acre/ annum for 2003-2008, ₹4,039/ acre/ annum for 2008-2013 and ₹7,620/ acre/ annum for 2013-2018. TSMC to state what is acceptable to them.

TSMC

- (i). Proposed rate for the period 1998 to 2003 and 2003 to 2008 is acceptable to us. The rate proposed for subsequent two quinquennium is high and hence not acceptable to us.
- (ii). We have to compete with Salt produced at Gujarat.
- (iii). Salt Commissioner is the concerned Department which knows what the rate should be. We appreciate the methodology adopted by Port to settle the matter.
- (iv). Our only view point is there is discrimination in rate fixed by the Salt Commissioner for Gujarat and Tamilnadu.
- (v). We agree to pay 50% of the proposed rate from 2008-2013 and 2013-2018 as an interim measure till the matter is settled by Salt Commissioner.

Tamilnadu Desia Uppala Thozhilalar Sammelanam (TDUTS)

- (i). The workers working in Salt industry do not know any work other than salt production. Salt production happens only for 7 to 8 months. There is no work for the remaining months.
- (ii). Around 300 families are working in the Salt production industry who will be adversely impacted if the steep increase in lease rent proposed by the port is considered.

- (iii). The cost of production of Salt in Gujarat and Tuticorin need to be kept in mind while deciding the lease rent for this land.
- (iv). On the land allotted for Salt production, nothing else can be done. No other industry can be set up on that salt land, only salt can be produced.
- (v). Port may review the proposed rate.

TSMC

- (i). Benchmark salt production of 75 MT/ acre/ annum fixed by the Salt Commissioner does not materialise in real terms. There are various factors which impact salt production. Importantly, the climatic condition has an adverse impact in achieving this production level.

3.1. At the joint hearing, Tamilnadu Desia Uppala Thozhilalar Sammelanam (TDUTS) has made its written submission. A summary of the comments furnished by Tamilnadu Desia Uppala Thozhilalar Sammelanam (TDUTS) is given below:

Sl. No.	Comments of Tamilnadu Desia Uppala Thozhilalar Sammelanam (TDUTS)										
(i).	There are thousand of Saltpan workers and they are the members of INTUC which is functioning good at All India Level. Recently, TDUTS has been formed in order to unite all Salt pan workers in Tamilnadu in the places where salt is being extracted viz., Chennai, Kadalore, Vedaranyam, Ramanatha puram and our Association is functioning for that purpose.										
(ii).	300 workers are working in TSMC Ltd., which is functioning in leased lands of VOCPT from generation. Directly and indirectly more than 750 Saltpan workers and their families are depending only this salt extraction of TSMC. From the year of its inception i.e. from 1943 onwards the implementation of Labour welfare laws and protect labour interest for more than 80 years. Again, TSMC has implemented all the welfare Schemes Viz., Employees Provident Fund, ESI, Gratuity, maternity leave, Medical expenditure, Bonus and educational expenditure for Children.										
(iii).	Tuticorin is famous for Salt extraction for many decades and it is functioning in a very traditional manner and ancient work.										
(iv).	Salt extraction means the work which is being done by the workers and not by machines. It is being manufactured in the sea borne areas where salty and clay is there and the land is not useful for any other production purposes. In the said lands salt cannot be extracted immediately by stacking salt water. The dry lands belonging to VOCPT have been converted into salt pans by the blood and sweat of uncountable workers manually without the help of any machine and with manpower only.										
(v).	The people belonging to downtrodden, backward and SC / ST in the society are engaged in the salt production industry for every generations from their forefathers. They do not know any other work other than the work of salt production. Salt extraction work depends on the seasonal changes.										
(v).	They came to know that the lease rentals of M/s. TSMC was increased to ₹1,000/- per acre with effect from 2013 onwards i.e 100 times more.										
(vi).	It is not correct that VOCPT is fixing the lease rentals which was fixed for the private industries which are functioning on commercial basis for TSMC which is purely engaged in the work of salt production only.										
(vii).	IF the lease rent is fixed at higher rate than the existing rate, the lease rental arrears will have to be paid for the area of 262.8 acres. <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="text-align: center;">Salt Pan Lands</th> <th style="text-align: center;">Rental per acre (₹)</th> </tr> </thead> <tbody> <tr> <td>State Govt. of Tamil Nadu</td> <td style="text-align: center;">135</td> </tr> <tr> <td>Central Govt. Salt Department</td> <td style="text-align: center;">750</td> </tr> <tr> <td>Gujarat State Govt.</td> <td style="text-align: center;">800</td> </tr> <tr> <td>VOC Port Trust</td> <td style="text-align: center;">1000</td> </tr> </tbody> </table>	Salt Pan Lands	Rental per acre (₹)	State Govt. of Tamil Nadu	135	Central Govt. Salt Department	750	Gujarat State Govt.	800	VOC Port Trust	1000
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State Govt. of Tamil Nadu	135										
Central Govt. Salt Department	750										
Gujarat State Govt.	800										
VOC Port Trust	1000										
(viii).	As per the above table, VOC Port Trust alone is demanding the higher lease rent for the salt pan lands. If the lease rent is increased at the justifiable rate, TSMC Ltd., and their workers will not be affected.										

(ix).	The rate fixed by VOCPT is unimaginable and unpracticable. The work of salt production will be completely stopped and the dangerous situation will be raised and thousands of workers will be lost their employment and the basic life itself will be questionable.
(x).	The decision of the VOC Port Trust is not correct and not applicable to day to day life. The reason is, the lands adjacent to Port's land wherein the other firms which are functioning under commercial purpose for which the lease rent already implemented also applicable to Salt Pan.
(xi).	The lands situated nearby the salt pan land wherein the emission of smoke from Power Plan creates pollution which also pollutes Tuticorin city and Ural areas and the same is being stopped by the M/s. TSMC Salt Pan Lands and also by the 2000 acres of lands belonging to Salt Department only.
(xii).	Otherwise, the emission of smoke from the Power Plant at present leads to pollution which is affecting the people who are residing in the States of Delhi & Hariyana and the people of Tuticorin District will also be affected.
(xiii).	Hence, it is requested to withdraw in increase of lease rental charges of Salt Pan lands by considering the future life and day to day life of 1000 families. Not only that, allot land on long term lease basis for 30 years to Salt Pan based on the lease rentals.
(xiv).	Prevailing in Tamil Nadu, Gujarat lease rentals fixed by the Central Govt. for Salt Pan lands.
(xv).	For helping 1000 of workers family, they hope that a good result will be taken by them.
(xvi).	The work of production of salt is hereditarily done by the workers also, it is a small employment which is helping to more labourers. Further, this small work will be collapsed and they hope that, situation of non-employment will not be happened because of their decision.
(xvii).	Further, if the Salt Pan lands would be leased into smaller portions, in future unwanted problems will be raised to VOC Port Trust.

3.2. Reply of VOCPT:

With regard to the remarks on the comments of TDUTS vide its letter dated 9 January 2019 has stated that VOCPT does not have any role in this regard.

4.1. At the joint hearing, M/s.Tuticorin Salt & Marine Chemicals Ltd. (TSMC) has furnished addendum dated 8 November 2018 to its earlier letter dated 11 October 2018. A summary of the addendum furnished by TSMC is tabulated below

SI. No.	Addendum of TSMC						
(i).	M/s.TSMC has furnished the comparative statement of lease rent for Salt land of various salt producing states in India.						
	Particulars	Gujarat	Tamil Nadu	Rajasthan	Andhra Pradesh	Central Govt-Salt Department	VOCPT – Salt Land
	Ground Rent (per acre)	121	5	100	6		1000
	Panchayat Tax (per acre)	60	25	0	0	0	
	Local Fund (per acre)	121	5	0	0	0	
	Royalty (per acre)	440	100	0	55	0	
	Education Cess (per acre)	60	0	0	0	0	
	Total	802	135	100	61	750	1000
	It will be clear from the above statement that they are, even at present, paying the highest rental for Salt land in the Country.						
(ii).	If the guidelines value of a commercial plot is taken as a basis for rental fixation of salt land, the rent will be unreasonable and unpractical for salt, which is of low value. The object of fixing a special rate itself get defeated by adopting the market value of commercial land.						
(iii).	The quinquennial revision of rental for salt land based on market value of nearby commercial land which is bound to appreciate steeply, should not be taken as basis for fixing a rent for salt land, because the price of salt does not increase in proportion to the increase in commercial value of land. The rental should be based on the value of the product produced in the land.						

(iv).	To sum up, since this land is fit only for salt production and further since the land is contemplated to be given for salt purpose, it is only fair that a rent fixed by other lessors for the similar nature of industry and similar purpose may be fixed
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4.2. Reply of VOCPT:

The VOCPT vide its letter dated 9 January 2019 has responded on the comments of TSMC that the guideline value considered by the approved valuer for the assessment of Lease rent to the port salt pan is based on the Land valuation of immediate adjacent dry land as issued by the Sub-Register office, Tuticorin. M/s.KITCO has worked out lease rent for salt pan calculation sheet is furnished following the Land Policy Guidelines.
