

(Published in Part - III Section 4 of the Gazette of India, Extraordinary)
TARIFF AUTHORITY FOR MAJOR PORTS

G.No. 627

New Delhi,

30 November 2021

NOTIFICATION

This Authority, in exercise of the powers conferred by Section 49 of the Major Port Trusts Act, 1963 (38 of 1963), had disposed of the proposal received from Mumbai Port Trust (MBPT) for fixation of Schedule of Rates (SOR) for erection of temporary silos and allotment of 10 plots for use as warehouses on 25 October 2021. However, considering the time involved for notifying the (Speaking Order) along with the Rent Schedule prescribing Reserve price in terms of Lease rentals in respect of land parcels at Rail Cotton Depot (RCD) and Paardiwada for erection of temporary silos for bulk commodities such as Cement, Fly Ash, etc. on MbPT land by Private Parties and for allotment of 10 plots of MbPT for use as warehouses to intending bidders on license basis and on "as is where" is basis, approved by this Authority, this Authority decided to notify only the Rent Schedule for MBPT prescribing Reserve price in terms of Lease rentals in respect of land parcels at Rail Cotton Depot (RCD) and Paardiwada for erection of temporary silos for bulk commodities such as Cement, Fly Ash, etc. on MbPT land by Private Parties and for allotment of 10 plots of MbPT for use as warehouses to intending bidders on license basis and on "as is where" is basis, approved by this Authority on 25 October 2021 which was notified in the Gazette of India on 01 November 2021 vide Gazette no.534. It was stated in the said Notification that this Authority will notify the Speaking Order, in due course of time. Accordingly, this Authority hereby notifies the Speaking order connected with disposal of the proposal of MBPT for fixation of Schedule of Rates (SOR) for erection of temporary silos and allotment of 10 plots for use as warehouses, as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/47/2021-MBPT

Mumbai Port Trust

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Applicant

QUORUM

- (i). Shri. T.S. Balasubramanian, Member (Finance)
- (ii). Shri. Sunil Kumar Singh, Member (Economic)

ORDER

(Passed on this 25th day of October 2021)

This case relates to a proposal received from Mumbai Port Trust (MBPT) vide its letter No.FA/OEA-L/34(21)/DT/201 dated 26 August 2021 seeking approval for fixation of Schedule of Rates (SOR) for erection of temporary silos and allotment of 10 plots for use as warehouse.

2.1. The submissions made by MBPT in its proposal dated 26 August 2021 are as follows:

- (i). Government has issued Policy Guidelines on Land Management for all major ports vide letter No. PD-13017/2/2014/-PD.IV dated 17.07.2015. By Clarification Circular No. 1 of 2018 dated 14.05.2018 and Clarification Circular No.1 of 2019-20 dated 29.04.2019, the Ministry has extended the applicability of the PGLM 2015 to the non-home occupation / commercial areas of the township areas of Mumbai, Kolkata and Kandla Port. Clause 13 (c) of PGLM of 2015 requires the port to refix the SOR once in five years and obtain TAMP's approval thereto.
- (ii). As provided in Clause 13 of PGLM, Land Allotment Committee (LAC) has recommended rates for various Ready Reckoner Zones. Same have been approved by MBPT Board.
- (iii). In this backdrop, the MBPT has come up with the subject proposal for fixation of SOR for erection of temporary silos and allotment of 10 plots for use as warehouse is submitted for approval to the SOR in terms of Clause 13 (c) of PGLM 2015.

2.2. The other main points made by the MBPT in its proposal dated 26 August 2021 are summarized below:

- (i). Lot of land and sheds are lying vacant in Mumbai Port for a long period. Some parcels of land fall in the jurisdiction of Traffic Department and others fall in the jurisdiction of Estate Division. The proposed development of Eastern Waterfront may take 4 to 5 years and in the interim period, some of the lands and sheds can be utilized for generating cargo for the port as also for commercial purpose/city cargo needs.
- (ii). Accordingly, two proposals have been framed for inviting competitive bids from intending bidders for short term of five terms of 11 months for first proposal and three terms of 11 months for second proposal on license basis and on "as is where is basis". The two proposals are as under:
 - (A). **Erection of temporary silos for bulk commodities such as Cement, Fly Ash, etc. on MbPT land by Private Parties.**

The project is listed under Ten Year Action Plan of Maritime India Vision 2030 as Key Activity No. 2.3. Accordingly, it was decided to issue EOI to assess the market interest. The below mentioned two plots were identified. The details of plot and their respective rates under Section 3.3 (A) (II) of Scale of Rates revised w.e.f. 01.05.2021 are as under:

Sr. No.	Plot Name and Location	Area	Rate under SOR
1	1 Plot at Rail Cotton Depot (RCD)	1.5 Acre	120 per Sq. Mtr. Per Month
2	2 Plots at Paardiwada	5000 Sq. Mtr. each	

B). Allotment of 10 plots of MbPT for use as warehouses to intending bidders on license basis and on “as is where is basis”.

i). Managing Director, Sagarmala Development Company Ltd. (SDCL) and its other officials visited Mumbai Port on 9th & 10th February 2021 and requested MbPT Officials to identify and earmark the plots which can be allotted to the prospective bidders for development of warehouses for storage of cargoes. In this regard vide chairman’s approval dated 14.04.2021, a Committee comprising of Dy. HODs from Traffic, Finance, Civil Engineering Departments and Estate, Legal and Planning Divisions was constituted to examine the proposal in term of PGLM 2015, availability of land for storage and rates to be levied. The Committee vide its report dated 30.04.2021 recommended to consider below mentioned 10 plots for allotment as warehouses to intending bidders on License basis and on as is where is basis.

(ii). The details of plot and their respective rates under Section 3.3 (A) (II) of Scale of Rates revised w.e.f. 01.05.2021 are as under:

Sr. No.	Plot Name	Location of Plot	Approx. size/area of Plot (In Sq. Mtrs.)			Rates for FSI 1 (per sqm) to be levied as per PGLM 2015 as on 01.10.2021 Based on Estate Dept. comments	Rate as per SOR	Rate as per MbPT General Bye-law	Rate of open land per sq. mtr. FSI as per RR 2017-18 (In ₹.)
			Open Area	Covered Area	Total Area				
1	2	3	4	5	6	7	8	9	10
1	Old Sewree Warehouse	Sewree Estate	0	2,027	2,027	152081.61 <u>760.41 per month</u>	159 per sq.mtr .per month	---	26,200
2	TW-1	Cotton Depot	0	15,849.96	15,849.96	208758.92 <u>1043.79 Per month</u>		---	39,200
3	B Plot	Cotton Depot	7,539	0	7,539	208758.92 <u>1043.79 Per month</u>	120 per sq.mtr .per month	---	39,200
4	K Shed	Coal and Grain Depot	0	5,040	5,040	197067.35 <u>985.34 per month</u>	159 per sq. mtr. per month	2.00 Per	31,300
5	L Shed	Coal and Grain Depot	0	4,900	4,900	197067.35 <u>985.34 per month</u>			31,300
6	N Shed	Coal and Grain Depot	0	9,800	9,800	197067.35 <u>985.34 per month</u>			31,300

7	F Shed	Coal and Grain Depot	7,420	0	7,420	197067.35 985.34 per month	120 per sq.mtr. permonth	sq.mtr. Per day	31,300
8	G Shed	Coal and Grain Depot	0	4,900	4,900	197067.35 985.34 per month	159 per sq. mtr. per month		31,300
9	H Shed	Coal and Grain Depot	0	4,900	4,900	197067.35 985.34 per month			31,300
10	TW-2	Cotton Depot	0	12,199	12,199	208758.92 1043.79 Per month	39,200		

- (iii). The high rentals of land in Mumbai have been deterring the proponent commercial prices, and consequently these land remains unutilized. On the contrary for want of special storage facilities as silos, the cargo traffic remains low and the berth etc. remains idle.
- (iv). Thus, there is two-pronged loss for MBPT. There is however a tariff for storage of cargo in Port in the Clause No. 3.3 A (ii) of Scale of Rates approved by TAMP. In case this rate is considered as base rate, there is high probability that market through competitive bidding will quote the maximum rate that can be borne by such trade. Admittedly the availability of most of our land is only for short tenure till they are developed as Township areas. To monetize these land parcels and to increase cargo traffic in Port (thereby increasing revenue), it was submitted before Land Allotment Committee to consider SOR rates as base rates to view this aspect.
- (v). Meeting of Land Allotment Committee (LAC) was held on 15.05.2021 & 19.06.2021. During the meeting it was clarified to the LAC members as under.
- (a). Primarily storage is allowed for cargoes handled in MbPT in the outlying areas in Docks under Section 3.3 (A) (ii) of Scale of Rates i.e. ₹.120/- per sq. mtr. per month for open area and ₹.159/- per sq. mtr. per month for covered areas. However, due to the limited space in the docks and necessity for the long term storage of cargo arriving in MbPT, the vacant/idle/ plots, warehouses, etc. are to be used as the extended docks areas for applicability of rates as in SOR as base rate for competitive bidding.
- (b). Tender for warehousing of 10 plots are to be called in two phases. In the first phase, the tender shall be called for Type-I usage only i.e. for the plots to be used for storage of cargo handled by ships/railways in MbPT.
- (c). After the receipt of bids for Type-I cargo, the remaining plots may be offered for allotment by inviting a separate tender for commercial warehousing, service centre, and such uses as permitted in BMC and MbPT areas.
- (vi). On considering the above facts, the LAC was of the opinion that the rates arrived as per highest factor of valuation of land will not be sustainable by the trade. Hence, subject to approval of the Board, the LAC recommended as under:
- (a). In respect of plots/sheds warehouses to be used exclusively for Type-I cargo, i.e. storage of cargo handled by the ships/railways in Mumbai Port, the base rate may be considered as per rates specified under Section 3.3 (A) (ii) of the Scale of Rates revised w.e.f. 01.05.2021.

- (b). For other plots/sheds/warehouses to be used for Type-II cargo (not used exclusively for cargoes handled by the ships/railways in Mumbai Port), the rates as suggested by the approved Valuer may be considered as base rate.
- (vii). The Board vide TR 90 dated 30.06.2021 accorded approval to the following recommendations of the Land Allotment Committee's Report :
- (a). Consider the base rate of ₹ 120 per sq. mtr. per month as per rates specified under Section 3.3 (A) (ii) of SOR for 3 plots, i.e. one plot at RCD, Cotton Depot admeasuring 1.5 acres and two plots at Paardiwada, Reay Road, admeasuring 5000 Sq. Mtrs. each, to be used for erection of temporary silos for storage of cement, fly ash etc.;
- (b). Consider the base rate of ₹ 120 per sq. mtr. per month for open area and ₹ 159 per Sq. Mtr. per month for covered areas as per rates specified under Section 3.3 (A) (ii) of SOR for 10 plots/sheds/ warehouses to be used exclusively for Type-I cargo (i.e. storage of cargoes handled by ships/ railways in Mumbai Port); and
- (c). Consider the rates suggested by the approved Valuer as base rate (i.e. as per column 7 of table shown at para 1.1 above) for plots/ sheds/ warehouses to be used for Type II cargo (i.e. not used exclusively for cargoes handled by the ships/ railways in Mumbai Port).

2.3. Thus, MBPT has sought TAMP's approval to the SOR for (i) erection of temporary silos and (ii) allotment of 10 plots for use as warehouse approved by the Board vide its resolutions No. 90 dated 30.06.2021, as given below:

(i). **Schedule of Rate for erection of temporary silos for bulk commodities such as Cement, Fly Ash, etc. on MbPT land by Private Parties**

The details of plot and their respective rates under Section 3.3 (A) (II) of Scale of Rates revised w.e.f. 01.05.2021 are as under:

Sr. No.	Plot Name and Location	Area	Rate under SOR
1	1 Plot at Rail Cotton Depot (RCD)	1.5 Acres	₹ 120 per Sq. Mtr. Per Month
2	2 Plots at Paardiwada	5000 Sq. Mtrs. each	

Notes:

- Rates mentioned above are per sq. mtr. per month.
- Above rates are exclusive of all Taxes (GST, Municipal Taxes, etc.), Service Charges, Penalties, and Interest etc. Same are separately payable by lessees/ tenants/licensees, as may be applicable at the prevailing rates.
- The bidder has to quote premium amount over the base rate which will decide further allotment based on highest premium offered.
- Interest would be chargeable beyond permissible period as per Board's policy from time to time.
- Whether demanded or not, rent/ compensation/ license fee for a month would have to be paid by the tenants/ lessees/ licensees/ occupants within due date.
- The rate shall be increased by 4% every October and so on.

7. Further to above rates wherever structure is available, depreciated cost of structure need to be taken into consideration.

(ii). **Schedule of Rate for allotment of 10 plots of MbPT for use as warehouses to intending bidders on license basis and on "as is where" is basis.**

The details of plot and their respective rates under Section 3.3 (A) (II) of Scale of Rates revised w.e.f. 01.05.2021 are as under:

Sr. No.	Plot Name	Location of Plot	Approx. size/area of Plot (In Sq. Mtrs.)			Rates for FSI 1 (per sq. mtr.) to be levied as per PGLM 2015 as on 01.10.2021 Based on Estate Dept. comments License Fees @ 6% Return per month	Rate as per SOR	Rate as per MbPT General Bye-law	Rate of open land per sq. mtr. FSI as per RR 2017-18 (In ₹.)
			Open Area	Covered Area	Total Area				
1	2	3	4	5	6	7	8	9	10
1	Old Sewree Warehouse	Sewree Estate	0	2,027	2,027	152081.61 760.41 per month	159 per sq. mtr. per month	---	26,200
2	TW-1	Cotton Depot	0	15,849.96	15,849.96	208758.92 1043.79 Per month	---	---	39,200
3	B Plot	Cotton Depot	7,539	0	7,539	208758.92 1043.79 Per month	120 per sq. mtr. per month	---	39,200
4	K Shed	Coal and Grain Depot	0	5,040	5,040	197067.35 985.34 per month	159 per sq. mtr. per month	2.00 Per sq. mtr. per day	31,300
5	L Shed	Coal and Grain Depot	0	4,900	4,900	197067.35 985.34 per month			31,300
6	N Shed	Coal and Grain Depot	0	9,800	9,800	197067.35 985.34 per month			31,300
7	F Shed	Coal and Grain Depot	7,420	0	7,420	197067.35 985.34 per month			120 per sq. mtr. per month
8	G Shed	Coal and Grain Depot	0	4,900	4,900	197067.35 985.34 per month	159 per sq. mtr. per month	---	31,300

9	H Shed	Coal and Grain Depot	0	4,900	4,900	197067.35		31,300
						985.34 per month		
10	TW-2	Cotton Depot	0	12,199	12,199	208758.92		39,200
						1043.79 Per month		

Notes:

1. Rates mentioned above are per Sq. Mtr. per month.
2. Above rates are exclusive of all Taxes (GST, Municipal Taxes, etc.), Service Charges, Penalties, and Interest etc. Same are separately payable by lessees/ tenants/licensees, as may be applicable at the prevailing rates.
3. The bidder has to quote premium amount over the base rate which will decide further allotment based on highest premium offered.
4. Interest would be chargeable beyond permissible period as per Board's policy from time to time.
5. Whether demanded or not, rent/ compensation/ license fee for a month would have to be paid by the tenants/ lessees/ licensees/ occupants within due date.
6. The rate shall be increased by 4% every October and so on.
7. Further to above rates wherever structure is available, depreciated cost of structure need to be taken into consideration.

2.4. The MBPT has also stated that the proposal is formulated in terms of the Land Policy Guidelines for Land Management 2015. In terms of para 13(c) of PGLM, TAMP's approval is requested to the SORs – (i) for silos; and (ii) for open & covered areas.

2.5. The MBPT has enclosed the Copy of the Land Allotment Committee (LAC) Reports alongwith its proposal dated 26 August 2021. Subsequently, the MBPT vide its e-mail dated 7 September 2021 has forwarded a copy of its Board approval as well as list of users / prospective bidders who need to be consulted in the case in reference.

3. In accordance with the consultative procedure prescribed, a copy of the MBPT proposal dated 26 August 2021 was forwarded to the concerned users/ user organizations vide our letter dated 09 September 2021 seeking their comments by 23 September 2021. However, we have not received any comments from any of the users / user organisations / prospective bidders till the case was taken up for finalization.

4. On initial scrutiny of the proposal of MBPT, it was seen that some information/ clarification are required from MBPT. Accordingly, MBPT was requested vide letter dated 04 October 2021 to furnish some information/ clarification. The MBPT vide its letter dated 11 October 2021 has responded. The information sought and the response of MBPT thereon is tabulated below :

Sr.No	information/ clarification sought	Response Of MBPT
(i)	Considering that the existing general Scale of rates of MBPT notified in the year 2019 at Section 3.3 A (I) already prescribes charges for allotment of open area/ covered area for storage/ cargo operation with/ without installation of facilities/ cargo handling equipment for a period of 11 months, the reason for coming up with the subject proposal for prescription of rates for plots for erection of temporary silos and for use as warehouses, based on the	Section 3.3 (A) (I) provides for the fees for storage / cargo operation with or without installation of facilities, cargo handling equipment by the users for offshore activities. However, in first phase, these plots are to be leased for a period of 11 months extendable for 3/5 terms for storage of cargo handled by ships/railways in Mumbai Port and in second phase these plots will be explored for commercial activities. TAMP approval is sought in terms para 13(C) of the PGLM 2015.

	stipulations contained in the Land Policy Guidelines, to be explained.	
(ii)	In its proposal, the MBPT has indicated the 'Plot name' and 'Location of plot'. However, the Ready Reckoner zone of the said plots have not been indicated in the proposal. Considering that the Valuation Report as furnished by the MBPT indicates the Ready Reckoner Zone and not the Plot names, we are not in a position to correlate the Valuation Report with the various Plots as indicated by MBPT in its proposal. The MBPT to indicate the Ready Reckoner zone against each of the plots, proposed to be used as warehouses or proposed to be used for erecting silos.	In respect of proposal for erection of temporary silos, the details of plots and respective rates under Section 3.3 (A) (II) of SOR are mentioned. Being the cargo related activity, the rates are proposed as per SOR. In respect of proposal for allotment of 10 plots, the respective zones have been mentioned in the plot names in the table of Scale of Rates for these plots
(iii)	Clause 13 (c) read with clause 13 (b) of the Land Policy Guidelines, 2014, requires the Authority to notify the Reserve Price in terms of Annual Lease Rent. The draft SOR as furnished by MBPT, is found to be a reproduction of the table comparing the market value of the various lands under the various methods. Therefore, the MBPT to furnish a SOR incorporating the lease rentals for various plots of land, for which the approval is being sought.	In respect of proposal for erection of temporary silos, since the plots are to be utilised for storage of cargo handled by ships/railways in Mumbai Port, the base rate to be considered as per the rates specified under Section 3.3 (A) (II) of SOR revised w.e.f. 01.05.2021. (a) In respect of proposal for allotment of 10 plots, the rates as suggested by approved Valuer to be considered as base rate. (b) This is in terms of recommendation by the LAC and approved by the Board vide TR No. 92 dated 30.06.2021, the proposal was forwarded. (c) Detailed SOR for both the projects showing Annual Lease Rent calculated in terms of rent as per Valuation Report and as per MbPT Scale of Rates is furnished.
(iv)	In the Valuation Report pertaining to the RR Zone 11/85A, which has been applied in respect of Plots at TW -1, B Plot and TW-2, the Valuation Report indicates the Ready Reckoner Rate at ₹.31,300/- per sq.m. However, in the summary table forming part of the proposal, the Ready Reckoner rate has been indicated at ₹.39,200/- per sq.m. The said discrepancy to be rectified	It is confirmed that the Ready Reckoner Rates for RR Zone 11/85A is ₹. 39,200 per sq. mtr. Which is applicable in respect of Plot Nos. TW-1, B Plot and TW-2
	Similarly, in the Valuation Report pertaining to the RR Zone 11/86, which has been applied in respect at Old Sewee House, the Valuation Report indicates the Ready Reckoner Rate at ₹.27,200/- per sq.m. However, in the summary table forming part of the proposal, the Ready Reckoner rate has been indicated at ₹.26,200/- per sq.m. The said discrepancy to be rectified.	It is confirmed that the Ready Reckoner Rates for RR Zone 11/86 is ₹.27,200 per sq. mtr. which is applicable in respect of Plot Nos. Old Sewree Warehouse.
(v)	In the Valuation Report of December 2019 pertaining to the RR Zone 11/86, which has been applied in respect at Old Sewree House, the Valuer has determined the	It is confirmed that as mentioned in the Valuation Report of 2019 pertaining to RR Zone 11/86, which has been applied in respect of Old Sewree Warehouse, the

	<p>market value of the land at ₹.1,30,000/- per sq.m. Given that the Valuation is of the year 2019-20, the MBPT ought to have applied the 4% escalation factor per annum only twice i.e. for two years, so as to determine the market value of the said land as of the year 2021-22 at ₹.1,40,608/- per sq.m. However, the MBPT is seen to have applied the 4% escalation factor per annum for four years and arrived at the market value of the land at ₹.1,52,081.16 per sq.m. The MBPT to review the market value of the plot and consequently the lease rentals proposed for the said plot.</p>	<p>Valuer has determined the market value of the land at ₹.1,30,000 per sq. mtr. Since the Valuation Report is of the year 2019-2020, after considering 4% escalation factor per annum only twice i.e. for two years, the market value of the said land as of the year 2021-22 comes to ₹.1,40,608/- per sq. mtr.</p>
(vi)	<p>From the LAC Report, it is seen that the LAC has recommended the following:</p> <p>(a). Plots to be used for erection of silos for storage of cement, fly ash at Rail Cotton Depot (RCD) and Paardiwala at ₹.120/- per sq.m per month.</p> <p>(b). Plots/ Shed Warehouses to be used exclusively for Type-I i.e. storage of cargo handled by the ships/ railways in port at ₹. 120/- per sq.m per month for open area and ₹.159/- per sq.m per month for covered areas.</p> <p>(c). Plots/ sheds/ warehouses to be used for Type-II (i.e. not used exclusively for cargo handled by the ships/ railways in port) at the rates suggested by the Valuer.</p> <p>The above recommendation has also been approved by the Board of Trustees of MBPT. However, in this regard, as stated earlier, the draft SOR as furnished by MBPT, is found to be a reproduction of the table comparing the market value of the various lands under the various methods, and does not reflect all the rentals for the various plots and the various purposes for which the approval is being sought. The MBPT to furnish a complete SOR incorporating the lease rentals for various plots of land for the various purposes envisaged alongwith the relevant conditionalities governing the levy of lease rentals.</p>	<p>The detailed SOR is furnished.</p>
(vii)	<p>The MBPT has proposed a note to the effect that further to the rates, wherever structure is available, depreciated cost of structure need to be taken into consideration. In this regard, it may be noted that if the MBPT envisages structure at any of the plots, the lease rental for the structure has to be proposed and incorporated in the Rent Schedule. As such, the lease rental for the structure at any of the plots may be proposed. If any. The lease rentals so proposed, may be</p>	<p>The lease rental at this stage mentioned in the Annexure 1 is the base annual rental rates. Since the bidder has to quote premium amount over the base rate, as mentioned at Note No. 7 of the SOR sent alongwith the proposal, the depreciated cost of structure would be taken into consideration, while awarding tender. However, the MBPT vide its email dated 21 October 2021 has requested to delete the said note, on the ground that it had inadvertently crept in its proposal.</p>

supported with the LAC Report and Board approval.	
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5.1. A joint hearing on the case in reference was held on 13 October 2021 at 3.30 p.m. through Video Conferencing. At the joint hearing, MBPT made a brief power point presentation of its proposal. The MBPT and the users/ user organisations have made their submissions during the joint hearing.

5.2. With regard to submission made by the users/ prospective bidders during the Joint Hearing, the MBPT vide its letter dated 18 October 2021 has requested to process the subject proposal of MBPT, as it is submitted, without any changes.

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

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

- (i). The Mumbai Port Trust (MBPT) has proposed development of Eastern Waterfront which is reported to take about 4 to 5 years. In the meanwhile, till the Eastern waterfront project takes place, the MBPT has decided to utilize some of its vacant lands and sheds for generating cargo for the port as also for commercial purpose, in interim period. In this connection, the MBPT has proposed to (i) allot land for erection of temporary silos for bulk commodities such as Cement, Fly Ash, etc. on MbPT land by Private Parties and (ii) use the warehouses on license basis on "as is where is basis" by inviting competitive bids from intending bidders for short term of five terms of 11 months and three terms of 11 months respectively on license basis. Accordingly, the MBPT has come up with a proposal for fixation of schedule of License fee in terms of monthly lease rental for (i) erection of temporary silos and (ii) allotment of 10 plots for use as warehouse, based on the provisions of the amended Land Policy Guidelines, 2014. The proposal of the port has the approval of its Board of Trustees.
- (ii). The MBPT has filed its proposal vide its letter dated 26 August 2021. The said proposal alongwith the information/ clarification furnished by MBPT during the processing of the case, is considered in this analysis.
- (iii). This Authority is mandated to follow the Land Policy Guidelines issued by the Government from time to time for the purpose of determining lease rentals for the lands belonging to the Port Trusts. The Ministry of Shipping in the Government of India has announced Land Policy Guidelines for Major Ports, 2014 in January 2014 which has come into effect from 2 January 2014. Subsequently, the Ministry of Shipping has issued amended Land Policy Guidelines, 2014 under Section 111 of the MPT Act, 1963 for implementation with effect from 17 July 2015. The MBPT has, come up with a proposal for fixing Scale of Rates (SOR) for allotment of various land parcels at based on the provisions of the Land Policy Guidelines for Major Port Trusts, 2014, as amended in July 2015.
- (v). As per clause 13(a) read with clause 11.2(e) of the Land Policy Guidelines 2014, a Land Allotment Committee (LAC) constituted by the Port Trust Board consisting of Deputy Chairman of the Port, and Heads of Departments of Finance, Estate and Traffic shall determine the market value of land as per the methodology prescribed in clause 13(a). Accordingly, the MBPT has reported about constitution of a Land Allotment Committee (LAC) headed by the Dy. Chairman of the Port and Financial Advisor and Chief Accounts Officer, Chief Engineer and Traffic Manager being the other members.
- (vi). Para 13(a) of the Land policy guidelines of July 2015 prescribes the methodology for determination of market value of the land based on the five factors as prescribed

therein. In terms of the said para of the amended Land policy guidelines of 2014, the Land Allotment Committee may normally take into account the highest of the factors mentioned therein, viz. (i). State Government ready reckoner of land values in the area if available for similar classification/ activities, (ii). Highest rate of actual relevant transactions registered in the last three years in the Port's vicinity with an appropriate annual escalation rate to be approved the Port Trust Board, (iii). Highest accepted tender-cum-auction rate of Port land for similar transactions, updated on the basis of the annual escalation rate approved by the Port Trust Board, (iv). Rate arrived at by an approved valuer appointed for the purpose by the Port and (v). Any other relevant factor as may be identified by the Port. The amended Land Policy guidelines of 2014 also stipulates that in case the LAC is not choosing the highest factor, the reasons for the same have to be recorded.

(vii). In the connection, the LAC has categorized the usage of land/ plots/ structures proposed to be allotted viz., allotment of land for erection of temporary silos for bulk commodities such as Cement, Fly Ash, etc., allotment of plots for use as warehouses for storage of cargoes handled by ships/ railways in Mumbai Port (Port Cargo) and allotment of Warehouses to be used for cargoes not exclusively handled by the ships/ railways in Mumbai Port. The analysis in respect of usage of each of the land/ plot/ structures is discussed below:

(a). **Fixation of Reserve price for allotment of land for erection of temporary silos for bulk commodities such as Cement, Fly Ash, etc. comprising plot:**

The MBPT has identified two areas i.e. one plot of land parcel of 1.5 acre at Rail Cotton Depot (RCD) and two plots each of 5000 Sq. mtrts at Paardiwada. In this connection, the LAC has opined that the rates arrived as per highest factor of valuation of land will not be sustainable by the trade and considering that the primary storage is allowed for the cargo handled at MBPT cargo in the outlying areas in Docks under section 3.3 (A) (II) of General Scale of Rates, the LAC has recommended to adopt the same storage charges as prescribed at section 3.3 (A) (II) of General Scale of Rates of MBPT for the cargo being handled at docks. Accordingly, the reserve price in terms of lease rental has been proposed by MBPT at ₹ 120 per sq.m per month for the allotment of land parcels i.e. one plot of land parcel of 1.5 acre at Rail Cotton Depot (RCD) and two plots each of 5000 Sq. mtrts at Paardiwada for erection of temporary silos for bulk commodities such as Cement, Fly Ash, etc. The Board of Trustees of MBPT has approved the recommendation of the LAC.

Based on the submission made by the MBPT and relying on the judgement made by the port in this regard and given that the Board of Trustees of MBPT has approved the recommendation of the LAC and also since there have been no objections from any of the users, who have been consulted in the case in reference, this Authority prescribes the reserve price in terms of lease Rent for the land parcels i.e. Rail Cotton Depot (RCD) and two plots each of 5000 Sq. mtrts at Paardiwada for erection of temporary silos for bulk commodities such as Cement, Fly Ash, etc. comprising plot as proposed by the port.

(b). **Fixation of reserve price for allotment of plots for use as warehouses for storage of cargoes handled by ships/ railways in Mumbai Port (Port Cargo)**

The MBPT has submitted that the high rentals of land in Mumbai have been deterring the proponent commercial prices, and consequently these land remains unutilized. On the contrary for want of special storage facilities as silos, the cargo traffic remains low and the berth etc. remains idle. Thus, there is two prolonged loss to MBPT. In view of the above, the LAC has recommended to adopt the same storage charges as prescribed at section 3.3 (A) (II) of General Scale of Rates for the cargo being handled at docks

for the warehouses to be allotted for storage of cargoes handled by ships/ railways in Mumbai Port (Port Cargo), justifying that the cargo to be stored in the proposed warehouses/ plots are otherwise eligible for the storage of cargo at docks at the rates prescribed at section 3.3 (A) (II) of General Scale of Rates. Accordingly, the MBPT has proposed the reserve price in terms of lease rentals at ₹ 120 per sq.m per month for the open areas and ₹159 per sq.m per month for covered areas to be allotted for use as warehouses for storage of cargoes handled by ships/ railways in Mumbai Port (Port Cargo). The Board of Trustees of MBPT has approved the recommendation of the LAC.

Based on the justification provided by the MBPT and given that the Board of Trustees of MBPT has approved the recommendation of the LAC, this Authority is inclined to prescribe the reserve price in terms of lease Rent for at ₹120 per sq.m per month for the open areas and ₹ 159 per sq.m per month for covered areas to be allotted for for use as warehouses for storage of cargoes handled by ships/ railways in Mumbai Port (Port Cargo).

(c) **Fixation of reserve price for allotment of Warehouses to be used for cargoes not exclusively handled by the ships/ railways in Mumbai Port (Usage for storage of Non port Cargo/ Commercial purposes)**

- (i). The MBPT has reported that the Valuation as per various methods as stipulated in the Guidelines has been carried out by the Valuer appointed for the purpose.

The valuation report of September 2018 for the land parcels under RR Zone 11/85 has indicated that no tender cum auction of the port land for similar transactions has occurred in the past 3 years. The value of the land as reflected in the Stamp Duty Ready Reckoner 2017-18 is reported by the Valuer at ₹31,300/- per sq.m. The Highest rate amongst relevant instances of actual Market Sale transactions has been indicated by the Valuer in his Report at ₹ 3,43,085/- per sq.m. The Valuer has also determined the market value of the land at ₹1,68,454/- per sq.m., considering alienation, facilities and amenities. Therefore, the LAC in its Report has recommended to consider the market value of land for land parcels at RR zone 11/85 as determined by the Valuer in the Valuation Report at ₹ 1,68,454/- as on 2017-18 per sq.m. To arrive the market value as on 2021-22, the land value as determined by the Valuer has been escalated @ 4% per annum, which works out to ₹.1,97,067.00 (₹.1,68,454.00 X 1.04 x 1.04 x1.04 x1.04)

Clause 13(b) of the guidelines stipulates that Reserve Price in terms of annual lease rent would be arrived, as a percentage of latest market value of land determined based on the five factors in accordance with para 13(a) and that the percentage should not be less than 6% which is to be fixed by the Port Trust Board. Accordingly, the lease rental has been arrived by MBPT at 6% of the market value of the land at ₹1,97,067/- per sq.m which works out to ₹985.35/- per sq.m per month.

- (ii). Similarly, the Valuer has determined the market value of the land for RR zone at 11/85A and 11/86. As per the valuation report, the land value as per Stamp Duty Ready Reckoner 2017-18 is ₹31,300 per sqm and ₹27,200 per sqm respectively. However, as against Stamp Duty Ready Reckoner 2017-18 value indicated in valuation report, the MBPT has considered and confirmed that the value as per RR 2017-18 are ₹39,200 per sqm and ₹26,200 per sqm respectively. The MBPT has not provided the basis/ documentary evidence in this regard. The valuation report for the said zones

indicates that no tender cum auction of the port land for similar transactions has occurred in the past 3 years and no actual relevant Market Sale Instance transactions. The valuer has also determined the market value of the land at ₹ 1,78,448 per sq.m. for RR Zone 11/85A and ₹ 1,30,000 per sqm for RR Zone 11/86 considering alienation, facilities and amenities. The LAC in its Report has recommended to take into account the market value of the land parcels at 11/85A and 11/86, as determined by the Valuer in the Valuation Report. Thus, the LAC has recommended to consider the market value of the land at on 2017-18 at ₹ 1,78,448 per sq.m. for RR Zone 11/85A and ₹1,30,000 per sqm for RR Zone 11/86 per sq.m. To arrive the market value as on 2021-22, the land value as determined by the Valuer for the RR Zones 11/85A and 11/86 has been escalated @ 4% per annum, which works out to ₹2,08,758 per sqm and ₹1,52,081 per sqm. respectively.

Thus, the Reserve Price in terms of annual lease rent as per Clause 13(b) of the guidelines has been proposed by MBPT at 6% of the market value of the land for the respective RR zones of 11/85 A and 11/86, which works out to ₹ 1043.79 per sqm. per month for RR zone 11/85A and ₹760.41 per sqm. per month for RR zone 11/86.

- (iii). During the joint hearing, some of the users/ prospective bidders have objected to the prescription of the lease rentals based on the market value of the land as determined by the Valuer, on the ground that the warehouses proposed to be allotted by MBPT 'on as is where basis' are very old and requires huge amount of investment for structural repairs/ reconditioning. As such, the lease rentals as proposed by the port is reported to be very high as compared to rates of new Warehouses available in the market.
- (iv). In light of the discussions during the joint hearing, though the MBPT was given an opportunity to review the proposed lease rentals, the MBPT has conveyed that its proposal may be processed as submitted without any change.
- (v). Considering that the market value of the land as determined by the Valuer has been recommended by the LAC and given that the Board of Trustees of MBPT has approved the recommendation of the LAC, this Authority decides to prescribe the Reserve price in terms of Lease Rental for the land parcels at RR Zone 11/85, 11/85A and 11/86 at ₹.985.34 per sqm. per month, ₹.1043.79 per sqm per month and ₹. 760.41 per sqm. per month respectively for allotment of Warehouses to be used for cargoes not exclusively handled by the ships/ railways in Mumbai Port (Usage for storage of Non port Cargo/ Commercial purposes) as proposed by the port.
- (viii). In addition to the proposed lease rentals, the MBPT has also indicated the plot no/ RR zone wise market value as on 01.10.2021 in its Rent Schedule. In this regard, it is to state that the Major Port Trusts Act, 1963 mandates this Authority to notify Scale of Rates and Statement of conditions for use of port properties. Also, the Land Policy Guidelines, mandates this Authority to prescribe lease rent based on the market value of the land. This Authority may not be in a position to notify market value as on 01.10.2021, Rate as per GBL. This position has been brought to the notice of MBPT. Thus, this Authority notifies only the lease rent as discussed in the preceding paragraph.
- (ix). The MBPT has proposed note to the effect that the rates are exclusive of all Taxes (GST, Municipal Taxes, etc.), Service Charges, Penalties, and Interest etc. and that the same are separately payable by lessees/ tenants/ licensees, as may be

applicable. In this regard, it is to state that the tariff approved by this Authority is exclusive of any taxes and statutory duties. The taxes and statutory duties are to be levied by the Port at the applicable rates on the tariff so approved by this Authority. In view of this position, the note as proposed by the Port is approved.

- (x). Clause 13 (C) of the amended Land Policy Guidelines, 2014 stipulates that the rates will be revised once in every five years by this Authority. Accordingly, a note is prescribed in the Rent Schedule that the annual lease rentals shall remain in force for a period of five years, which is approved.
- (xi). The MBPT has also proposed notes to the effect that interest would be chargeable beyond permissible period as per Board's policy from time to time and that whether demanded or not, rent/ compensation/ license fee for a month would have to be paid by the tenants/ lessees/ licensees/ occupants within due date. Since the proposed notes give clarity and would avoid ambiguity and would instill discipline amongst the tenants/ lessees in the payment of rentals, the proposed notes are approved.
- (xii). The MBPT is seen to have proposed a note to the effect that the lease rent is subject to increase @ 4% p.a. every October and so on. In this regard, it is relevant here to mention that Clause 13(c) of the Land Policy Guidelines of 2014 gives flexibility to the ports to fix annual escalation which would not be less than 2%. Accordingly, the MBPT has proposed 4% annual escalation. Also, since the lease rent approved is made by this Authority after expiry of 30 days from the date of notification of the Schedule of Rates in the Gazette of India on 1 November 2021, the said lease will be subject to its first annual escalation on 01 October 2022, the proposed note is approved with slight modification.
- (xiii). The MBPT has proposed a note that that the bidder has to quote premium amount over the base rate which will decide further allotment based on highest premium offer. The said note is seen to be in line with the PGLM guidelines, 2014 and hence is approved.

8. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves the Rent Schedule for MBPT prescribing Reserve price in terms of Lease rentals in respect of land parcels at Rail Cotton Depot (RCD) and Paardiwada for erection of temporary silos for bulk commodities such as Cement, Fly Ash, etc. on MBPT land by Private Parties and for allotment of 10 plots of MBPT for use as warehouses to intending bidders on license basis and on "as is where is" basis, vide Gazette No 534 dated 1 November 2021 which have been notified separately.

(T.S. Balasubramanian)
Member (Finance)

**SUMMARY OF THE ARGUMENTS MADE IN THIS CASE DURING THE JOINT HEARING BEFORE
THE AUTHORITY BY THE PROSPECTIVE USERS / BIDDERS AND**

TAMP/47/2021-MBPT	:	Proposal received from the Mumbai Port Trust (MBPT) seeking approval for fixation of Schedule of Rates (SOR) for erection of temporary silos and allotment of 10 plots for use as warehouse.
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A joint hearing on the case in reference was held on 14 October 2021 at 3.30 p.m. through Video Conferencing. At the joint hearing, MBPT made a brief power point presentation of its proposal. The MBPT and the users/ user organisations have made the following submissions during the joint hearing:

Mumbai Port Trust (MBPT)

- (i). We have two proposals viz. (i). allotment of land for erection of temporary Cement Silos by private parties and (ii) allotment of 10 MbPT plots for use as warehouses on licence basis and on as is where is basis, through the process of inviting competitive bids from intending bidders.
- (ii). Various studies carried out reveals that, if silos are there, the bulk cement traffic can increase especially from Gujarat, which generally comes by Rail/ Road. The proposal 1 is towards harnessing this aspect of the coastal shipping. The Silos preferably is required for long term lease of 20 to 30 years. The MBPT had tried for long lease of 30 years in 2015. However, permission from the BMC for multiple reasons could not be obtained. Moreover CRZ area was also covered. The project is not successful then.
- (iii). Now, we have limited the area away from the CRZ to the extent possible and have identified two areas at Paardiwada and RCD for rail borne cargo for a short period of 55 months. (i.e. 5 terms of 11 months each). The reason for the short period lease is that most of these MBPT areas may be available for 5 years till the eastern development planning takes place.
- (iv). Similarly, we get some cement cargo from various industries in Gujarat viz. Saurashtra cements, Shanghvi cements etc. Due to non availability of Silos at MBPT, this cargo could not be sustained. Now are getting in only Jumbo Bags.
- (v). The second proposal is for allotment of warehouses on license basis. We have lot of warehouses lying vacant over the years. Since these areas will also be used for the eastern waterfront development project, which is expected to come in 3 to 4 years, we have proposed the allotment of warehouses for the short period of 33 months (3 terms of 11 months each), which would be extended by a term of 11 months further based on the availability of the land.
- (vi). We have identified the two different type of users for allotment of warehouses (i). Warehouses to be used exclusively for storage of cargoes handled by ships/ railways in Mumbai Port (Port Cargo) and (ii) Warehouses to be used for cargoes not exclusively handled by the ships/ railways in Mumbai Port.
- (vii). Project 1 (Silos): Although, the LAC has to consider the highest value as per the PGLM, 2014, the LAC has recommended to adopt the rate of ` . 120 per sq. mtr. per month as approved by TAMP for Port cargo to be stored in open plots prescribed at Section 3.3. A (ii) in the General SOR of MBPT considering that the cargo to be generated from Silos is a port cargo, which is otherwise permitted to be stored in Port premises at the rates approved by TAMP in the General SOR.

- (viii). The Intended Bidder to quote premium over and above the reserve price. The tender will be allotted on H1 basis. H1 bidder can choose any plot from 3 plots. For remaining plots, next highest bidder will require to match H1 quote.

M/s. Bharat Freight, Mumbai:

- (i). Any stamp duty or property tax or other dues is to be payable over and above this rate?

[MBPT : We will check and clarify in due course of time.]

MBPT

- (i). Project 2 (Warehouses) : The LAC has considered two types of usage viz. storage of cargoes handled by ships/ railways in Mumbai Port (Port Cargo) and storage of cargoes not exclusively meant for handling by the ships/ railways of Port. For ports cargo, LAC has recommended to adopt the rates as approved by TAMP for Port cargo to be stored in open plots prescribed at Section 3.3. A (ii) in the General SOR considering that the warehouses will be leased for the storage of port cargo as a primary requirement.

Accordingly, a rate of ` .120 per sq. mtr. per month for open area and ` .159 per sq. mtr. for covered areas are proposed for 10 plots/ sheds/ warehouses to be used exclusively for port cargo (i.e. storage of cargoes handled by ships/ railways in Mumbai Port).

- (ii). If any of warehouses are not taken by the users for storage of port cargo and intended to take for storage of any other cargo not related to port or for local consumption, the LAC has considered the five factors as per the PGLM 2014 i.e Ready Reckoner Rates 2017-18, Rates as per General SOR, Valuation Report etc. for each of the zones/ type of the Area (Open or covered) for arriving the market value of land. The monthly lease rental has been arrived considering 6% p.a. on the highest market value of land.

Accordingly, TAMP is requested to approve the monthly lease rental as proposed for the 10 plots/sheds/ warehouses to be used for port cargo and other than port cargo.

- (iii). The recommendation of the LAC has been approved by the Board of Trustees of MBPT.

M/s. Bharat Freight, Mumbai

- (i). Is the proposed rates for proposal 2 as per SOR rates or rate as per Reckoner value?

[MBPT : As far as utility type 1 i.e. storage of port cargo, rates are as per SOR rates. For Type 2 usage, where the facility is open for any commercial activities including storage of all types of cargo even not related to port, the rate will be as per PGLM valuation i.e. highest of five factors.

The allotment will be taken up in two phases, 1st phase is only for type 1 utility users. Failing the 1st phase, we will go for the 2nd phase for type 2 utility users. Our request to TAMP is to approve the rates for both the utilities i.e. Type 1 rates and Type 2 rates]

- (ii). To our understanding, the MBPT proposal seek approval for rates for both the utilities, so that the plot could be used for any of the purposes.

[MBPT : Yes, our request to TAMP is to approve rates for both the utilities. For type 1 usage, Rates as per GSOR. If we don't get the response for utility 1 for a particular plot, then we will invite the bids for utility 2 of the particular plot as per the PGLM rates.

- (iii). Warehouse involves not only storage but also other value added activities like packing, processing, mixing, blending etc. Would there be a permission to carry out value added services for the same commodities?

[MBPT : This point is noted. We will clarify this during the bidding stage when bids are specifically invited]

- (iv). The warehouses are proposed to be given on as is where basis. The MBPT is requested to have a look at the infrastructure available at other warehouses in the market vis-à-vis condition of warehouses of MBPT. The prices mentioned for type-II utility are very high as compared to today's market. Warehouses available in the market are with latest RCC platforms with LED lightings.

The warehouses are very old and requires huge amount of investment for structural repairs/ reconditioning. The rates need to be reviewed]

We suggest that the rates should be less than 30%-40% of the proposed rates.

[MBPT : We will discuss the matter internally and come back to you]

M/s. Shree Krishna Group, Mumbai

- (i). We completely agree with the opinion of Bharat Freight for rates of type 2 cargo. In our opinion, the rates for type 1 cargo are also seen to be higher side. The current rates of GSOR are charged based on utilization of space. So, whenever there is no utilization, no charges are levied. If we go for long term lease, then MBPT is getting a minimum rent even if the cargo comes in or doesn't. Seeing that situation and also seeing the situation of current ships, the rates for type 1 cargo are also higher side.

[MBPT : We will consider this issue and try to reconcile with the concern]

M/s Saurashtra Cements:

- (i). We will study the MBPT proposal and then come back

Member (Fin) TAMP:

- (i). The MBPT may review its proposal taking into account all the comments/ suggestion of the users and work out reasonable rates which trade will take.
