

No. 47

New Delhi, the 27th February, 2001

**Tariff Authority for Major Ports**

**No.TAMP/123/2000 -TPT**

**NOTIFICATION**

In exercise of the powers conferred by Section 49 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the representations submitted by the Tuticorin Port Land Welfare Association (Zone-B) and the Tuticorin Port Mariners' and General Staff Union, as in the Order appended hereto.

( S. Sathyam )

Chairman

**Case No.TAMP/123/2000-TPT**

**Tuticorin Port Land Users Welfare Association (Zone-B)**

*and*

**Applicants**

**The Tuticorin Port Mariners' and General Staff Union**

**Vs**

**The Tuticorin Port Trust**

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**Respondent**

**ORDER**

(Passed on this 14th day of February 2001)

This case relates to representations submitted by the Tuticorin Port Land Users Welfare Association (Zone-B) and the Tuticorin Port Mariners' and General Staff Union, requesting for modification of the Order of this Authority dated 13 August 99 revising the land lease rate for the land at Zone-B area of the TPT.

2.1. This Authority had passed an Order in 1 July 1997 prescribing rates applicable for land in Zone 'A' and 'B' at the Tuticorin Port Trust (TPT). In the Order, one single rate was prescribed for allotment of Zone-B land on short-term lease for commercial purpose. The rate for commercial purpose was fixed at Rs.142/- per sq. mtr. per annum. However, in Zone 'A' area three different rates were prescribed for service and residential, industrial and commercial purposes with the rates varying from Rs.14/- to Rs.42/- per sq. mtr.

2.2. Considering a subsequent proposal made by the TPT, this Authority prescribed a separate rate of Rs.14/- per sq. mtr. per annum for service and residential purpose and Rs.26/- per sq. mtr. per annum for industrial purpose in the Zone 'B' area vide its Order dated 13 August

1999. The rate for allotment of land on short term lease basis for commercial purposes has been retained as Rs.142/- per sq. mtr. per annum.

3. In its representation, the Tuticorin Port Land Users Welfare Association (Zone-B) has given following points:

- (i). In the notification dated 13 August 99, two more categories i.e. Service & Residential purpose and Industrial purpose were added. However, about 50% licensees in Zone-B are running small stall such as marine parts stall, Coir Shop, Tea Stall, Betal Nut stall, Petty shop, Cycle Repair shop, Battery Workshop, Stock Yard for Ice, etc., and such units are being treated as 'short terms lease commercial purpose category'. They are poor workers depending mainly on the seasonal industries like fishing and sailing vessel. For them, Rs. 142 per sq. mtr. per annum as licence fee has been fixed by the TPT. These poor workers cannot bear the acute increase of Licence fees from Rs.15 per sq. mtr. area per annum to Rs.142 per sq. mtr. area per annum, which is about 1000%.
- (ii). If the Port management is unwilling to lease the land at Zone – B for running small units (commercial purpose) at the rates fixed for service and residential purpose (Rs.14/-) and industrial purpose (Rs.26/-), it may atleast fix the same rate as prescribed for commercial purposes at Zone – A i.e. Rs.42 per sq. mtr. per annum.

4. In his representation, Shri. M. Ravindran, President, the Tuticorin Port Mariners' and General Staff Union has given following points:

- (i). Allotment of land on short-term lease for commercial purpose remains at Rs.142.00 per sq. mtr. in Zone – B area. However, the allotment of land for commercial purpose at Zone – A is Rs.42 per sq. mtr. only.
- (ii). The shops allotted at Zone – B area are on long term and not on short-term basis for commercial purposes. For example, Teashop, Ice plant for fish, Cycle repair shop, Saloon, etc., are functioning for more than 30 years and are engaged in providing services to the workers employed in the trade of sailing vessel construction and allied Industrial Institutes.
- (iii). The TAMP may prescribe a rate of Rs.42 per sq. mtr. for lands allotted on commercial purposes in Zone – B area as per the existing rate for similar category lands in Zone – A.

5.1. The representations submitted by the two parties as detailed above were forwarded to the TPT for comments. Comments received from the TPT are summarised below:

- (i). While the lease rates for service and residential purposes and Industrial purposes are common for both Zone A and B land, the rates are different for the Zones in respect of lands for commercial purposes due to the reason that the land value is higher for Zone 'B' area (nearer to Tuticorin Town) as compare to Zone 'A' lands where the value is lower (nearer to Panchayat areas).
- (ii) It may be very difficult to revise the rates for the lands at Zone 'B' under commercial category at this stage. Further, a comparison has also been made with the licence fee the Port is collecting in case of allotment of lands at Zone 'A' for similar purposes viz, petty shops, betal nut shops, etc., on tender basis. The comparative analysis reveals that the licensees are paying lease rents ranging from Rs.1,608.00/sq.mtr./annum to Rs.4,342.00/sq.mtr./annum for allotment of land for similar purposes at Zone 'A' eventhough the scheduled rate is Rs.42.00/sq. mtr./annum only.

- (iii) The rate of Rs.142/- sq. mtr./annum for the lands allotted for Commercial purposes at Zone 'B' is justifiable and not exorbitant as alleged by the Tuticorin Port Land Users' Welfare Association since the Port is not demanding any open market tender rates as in case of Zone 'A'. Also, whether the lands are allotted on short term licence basis or long term lease basis, the rate for Zone 'B' lands allotted for commercial purpose is the same i.e. Rs.142.00/Sq.M./annum as notified in the Gazette.

5.2. A copy of the comments received from the TPT was sent to the Tuticorin Port Land Users Welfare Association (Zone-B) and the Tuticorin Port Mariners' and General Staff Union, as feedback as per the procedure adopted by this Authority.

6.1. A joint hearing in this case was held at the TPT premises on 23 January 2001. At the joint hearing, following submissions were made:

#### **The Tuticorin Port Mariners' and General Staff Union**

- (i). We agree that all lands can not be equal.
- (ii). Zone 'B' is a low-lying area. No developmental expenditure was incurred by the TPT at all.
- (iii). Zone 'A' is well developed. There is tremendous commercial competition. Whereas, Zone 'B' is limited to use only by fishermen and poor persons and, therefore, Zone 'B' requires liberal consideration.
- (iv). We have been in Zone 'B' for many years. Originally, for 15-20 years it was free. Thereafter, it became 90 paise per sq. mtr.
- (v). Rates have been revised upwards by 8 times. It has now come to Rs.142 per sq. mtr. which is too high. When earlier revisions were made, we never protested. Now we protest because it is too drastic.
- (vi). In Zone 'B' area when tenders have been invited there is one case of Rs.175/- and one case of Rs.310/-. These are due to peculiar local features. Petrol Pump to show 30 mtr. distance from road; or, opening up some useful captive area. Please do not generalise from these cases.
- (vii). We developed the land. The TPT has done nothing.
- (viii). The TAMP gave the Order in 1999. The TPT has not yet given definitions of classification. They have not yet categorised us.

#### **Tuticorin Port Trust (TPT)**

- (i). Same principles have been adopted for Zone 'A' and 'B'. We cannot adopt different systems.
- (ii). For land at the Zone 'B' area, we have not taken into account any developmental cost. We have gone only by value of land.
- (iii). For Zone 'B' land tender has been invited. Rates received are in the range of Rs.175 to 310 per sq. mtr.
- (iv). How can the rate of Rs.1.10 per Sq. ft. per month said to be high? The jump may be high. That may be because the earlier rate was low.

- (v). They have good business. Till late in the night, there is a crowd of customers.
- (vi). Zone 'B' is close to the town and it is a commercial area. Land value is, therefore, high. Revenue Department of the State Government has given the data on land value.
- (vii). Zone 'A' is far away. Only very big parties ask for land in Zone 'A' and that too for a large area. Zone 'B' area attracts demands for small area for commercial purposes only.

6.2. The Tuticorin Port Land Users Welfare Association (Zone-B) has submitted a written submission during the joint hearing reiterating its earlier arguments.

7. With reference to the totality of information collected during the processing of this case, and taking into account the arguments advanced at the joint hearing, the following position emerges:

- (i). This Authority had passed an Order in July 1997 prescribing rates for Zone 'B' lands of the TPT as proposed by the port. Subsequently, based on another proposal from the port, some amendments were ordered in August 1999. These amendments were made for removing ambiguities, specifying new categories of (land) use, and introducing clarifications.
- (ii). The Petitioners' have represented that prescription of a rate of Rs.142/- per sq. mtr. in the revised order is excessive and needs to be revised downwards.
- (iii). As has been pointed out by the TPT, all the guidelines and instructions of the Government on the subject have been scrupulously observed; same principles have been applied both to Zone 'A' and Zone 'B'; and, the calculations have gone entirely by the value of the lands as certified by the State Revenue Authorities.
- (iv). The Petitioners' observation that the port has not incurred any expenditure on these lands at all cannot be of any consequence in the face of the TPT's categorical statement that in the costing for Zone 'B' lands no developmental expenditure has been taken into account.
- (v). Significantly, the rates in reference for Zone 'B' are seen to be lower than the rates received in response to tender notices for specific lands in the same Zone. The Petitioners have sought to pooh-pooh this contention with the observation that the (two) tenders in reference are governed by peculiar local features which prevent them from being generalised for common application to the Zone as a whole. Even if there are indeed some such peculiar local features, that is not a sufficient ground for discounting the tender process *per se*.

It has to be recognised that the rate in dispute works out to Rs.1.10 per sq. ft. per month which for any commercial purpose cannot be said to be excessive at all. It has also to be recognised in this context that the lands in reference (of Zone 'B') are situated very close to the commercial area of the Tuticorin Town; and, consequentially, enjoy a very high value.

- (vi). The Petitioners have attempted to project their credentials as reasonable bodies by pointing out that they had not objected to the nine earlier increases in rates; they have raised an objection this time only because of the drastic increase ordered. While it is a fact that the jump this time has been much steeper than those on earlier occasions, it has to be appreciated that the earlier rates were not based on land values and were, therefore, low. That the lessees have been paying rentals at much lower rate for very long is no argument for keeping the rates low for ever. The valuation this time has been done in accordance with the Government instructions on

the subject. And, the TPT cannot be faulted for doing the right thing. Also, admittedly, the Petitioners had enjoyed free usage of the lands for almost 20 years originally before the TPT started levying rentals. If the logic of the Petitioners is to be accepted they should be entitled to hold it for ever free of cost. Surely, this cannot be accepted.

- (vii). The Petitioners have sought to bolster its contention by comparing the rates of Zone 'B' with Zone 'A'. This is not an acceptable approach. As has rightly been averred by the TPT, apart from the locational factors, only very big parties ask for lands in Zone 'A' and for large areas at that whereas Zone 'B' attracts demands for small areas for commercial purposes.
- (viii). The Petitioners' observations about their leases being virtually for long term commercial purposes have been countered by the TPT with a denial about there being no such clarification. On a point of fact, the lessees in reference have been holding these leases for nearly three decades or more now. But, they have still been cases of short-term leases repeatedly extended.
- (ix). Exploitation of its estate by a port trust is for promoting its revenue earnings. It has to be recognised that port trusts get no grants in aid from the Government. They are expected to be financially self-reliant. They cannot, therefore, be expected to let considerations of social justice govern their commercial/economic decisions. That being so, the Petitioners' observations about Zone 'B' lessees being fishermen, poor persons, etc., are not relevant.
- (x). There is, however, force in the Petitioners' observations about delay in definitions of classifications and categorisation of the Zone 'B' lessees with reference to their use of the land. The Order of this Authority, as earlier stated, was passed in August 1999. The TPT has had sufficient time to attend to these consequential requirements. This Authority requires the TPT now to complete these formalities within three months.

8. In the result, and for the reasons given above, and based on a collective application of mind, this Authority rejects the representations of the Tuticorin Port Land Users Welfare Association (Zone-B) and the Tuticorin Port Mariners' and General Staff Union.

9. The TPT is directed to complete the definition and categorisation of the Zone 'B' lessees with reference to their use of the land within three months from the date of publication of this Order in the Gazette of India.

( S. Sathyam )

**Chairman**

