

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

G.No. 510

New Delhi,

19 November, 2020

NOTIFICATION

In exercise of the powers conferred under Section 49 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal received from Mumbai Port Trust (MBPT) for approval of License fee for the project of operation and maintenance of Domestic Cruise Terminal (DCT) at Berth No. 15, Victoria Dock at MBPT, as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/16/2020-MBPT

The Mumbai Port Trust

- - -

Applicant

QUORUM

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

ORDER

(Passed on this 28th day of October, 2020)

This case relates to a proposal received from Mumbai Port Trust (MBPT) vide its letter No.FA/OEA-L-18/Gen/1831 dated 20 March 2020 seeking approval of License fee for the project of operation and maintenance of Domestic Cruise Terminal (DCT) at Berth No. 15, Victoria Dock at Mumbai Port Trust (MBPT).

2.1. The main points made by the MBPT in its proposal dated 20 March 2020 are summarized below:

- (i). Vide TR No.124 dated 13.10.2017, MBPT Board, as a part of encouraging Domestic Cruise on West Coast of India initially as well as East Coast in future, has accorded sanction to develop Domestic Cruise Terminal (DCT) at Berth No. 15, Victoria Dock. Vide TR No.227 of 13.03.2018, MBPT Board has approved the repairs to Sr. Dock Master's Building and levelling and Road work in the area.
- (ii). MBPT's following infrastructure is proposed to be engaged for DCT:
 - (a). The domestic cruise site area is approximately 6,856 Sq. Mtrs. land plot with approximately 2,500 Sq. Mtrs. landscaped lawn area for recreational activities with domestic cruise operations and for conducting events/ functions/ commercial operations.
 - (b). Existing Dock Master's P&V office building has been redeveloped into Terminal Building for Domestic Cruise. The building is a RCC structure with ground plus two floors (G + 2 floors) of 220 Sq. Mtrs. each and an additional 220 Sq. Mtrs. of the open terrace.
- (iii). The operations of the Domestic Cruise Terminal has already commenced in October, 2018.
- (iv). With a view to operate the said terminal in a professional manner and to attract more business, Board vide TR No.146 of 06.09.2018, *inter alia* accorded approval to invite tenders for appointing an agency for Operation and Maintenance (O&M) of the said terminal.
- (v). Following infrastructure are proposed to be handed over to the O&M operator for a period of 10 years from the Commercial Operation Date to be entered into between MBPT and the successful bidder. Successful bidder is complying with Condition Precedent.

Infrastructure	Area (in Sq. Mtrs. ₹.)	Rate as per Valuation Report (in ₹.)
Lawn for commercial activities	2,500	62,800
Structure Area	660	16,500

Land under Structure	220	1,57,000
Additional Land	200	1,57,000
Pathway, toilet & baggage blocks	3,936	----

- (vi). Para 13 of the Land Policy outlines the procedure to be adopted by the Land Allotment Committee (LAC) for determining the market value of land. The same is reproduced as under:-

“Market Value of Land and SoR

- (a) *Land Allotment Committee may normally take into account the highest of the factors mentioned herein below to determine the latest market value of Port land. In case the land allotment committee is not choosing the highest factor, the reasons for the same have to be recorded in writing.*

- (i) *State Government’s ready reckoner of land values in the area, if available for similar classification / activities.*
- (ii) *Highest rate of actual relevant transactions registered in last three years in the Port’s vicinity (the vicinity of the Port is to be decided by the respective Port Trust Boards), with an appropriate annual escalation rate to be approved by the Port Trust Board.*
- (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.*
- (v) *Any other relevant factor as may be identified by the Port.*

- (b) *The LAC shall, while recommending the latest Market Value for any land would normally take into account the highest of the factors mentioned in Para 13 above. Reserve Price in terms of the annual lease rent would be latest SoR determined in accordance with Para 13(a) and 13(c) and would in no case be less than 6% of the latest market value recommended by the Port Trust.*

- (c) *The Port Trust would make a proposal as outlined in Para 13(a) to TAMP for fixing the latest SoR of the land. The TAMP would notify the latest SoR of the land after following due process of consultation with stakeholders within 45 days of the receipt of the proposal. The Port Trust Board will fix a rate of annual escalation which would not be less than 2%. SoR would be refixed once in every 5 years by TAMP.*

- (d) Reserve Price for Auction

The reserve price should be the latest SoR with due escalation for all leases within and outside the Custom Bonded Area.

- (vii). MBPT assigned the work of valuation of the said property of MBPT to M/s. Mahesh Shetty, Consultants and Valuers. The Valuer vide e-mail dated 10.07.2018 has furnished the valuation. The valuation as carried out by the valuer is as follows:

Sl. No.	Method of valuation	Valuation of land in ₹. in crores	Valuation of terminal bldg. in ₹.in crores	Total valuation in ₹. in crores	Returns @ 6% p.a. in ₹. in crores
1	Fair value as per State Government RR	18.83	1.86	20.69	1.2414
2	Highest rate of actual relevant transaction	Not Available			
3	Highest accepted tender cum auction rate of port land for similar transaction	Not Available			
4	Value considering existing infrastructure facilities	52.40	1.86	54.26	3.2556

(viii). Revenue stream to O&M Operator for the project are as follows:

- (a). The commercial operations in Terminal Bldg. (1st, 2nd floors and terrace) area.
- (b). Commercial operations in the open/ garden area.
- (c). Advertisement

(ix). The O & M Operator will not get any revenues either from MBPT or from Cruise operator. Other charges as stated in Para (viii) above will be collected by O & M Operator and will share the same with MBPT by offering premium over base price specified by MBPT in the document. Thus, the operator is required to pay the fixed annual fee to MBPT plus accepted premium.

(x). After taking into consideration the valuation report of M/s. Mahesh Shetty, and CRISIL's (the Transaction Advisor) Project Financial Report, the Land Allotment Committee of the Port has recommended for adoption of base lease rent (Concession fee) of ₹ 0.90 Crore and to hand over the infrastructure for a period of 10 years.

(xi). MBPT Board vide its TR No.197 of 20.11.2018 has approved the Land Allotment Committee's recommendations, CRISIL's (the Transaction Advisor) Project Financial Report, RFQ cum RFP document and Draft Agreement.

2.2. The MBPT has furnished the proposed Scale of rates for Land and Structures for DCT project, as given below:

“ **Schedule of Rates for Land and Structures for DCT Project at MBPT**

Sl. No.	Location	Lease Rentals per Sq. Mt. p. a. (in ₹)
1.	Lawn area for commercial purpose	1,884
2.	Structures area	990
3.	Land – Under structures	9,420
4.	Open Land	9,420

Notes :

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

”

3. In accordance with the consultative procedure prescribed, a copy of the MBPT proposal dated 20 March 2020 was forwarded to the concerned users/ user organizations/ bidder vide our e-mail dated 23 June 2020 seeking their comments. We have not received any comments from any of the users / user organisations/ bidder, till the case was finalized.

4. On an initial scrutiny of the proposal of MBPT, it was seen that some information/ clarification are required from MBPT. Accordingly, the following information/ clarification was sought from MBPT vide e-mail dated 10 August 2020. The MBPT vide its letter No. FA/OEA-L-18(18)/Gen/47 dated 26 August 2020 has responded. The requisite information/ clarification sought and the response of MBPT thereon are tabulated below:

Sl. No.	Information/ clarification sought by TAMP	Response of MBPT
(i)	<p>A lease rent of ₹ 1884/- per sq. m per annum has been proposed by the MBPT in respect of Lawn area for commercial purpose. The said lease rent is seen to have been determined by the port by considering two discounting factors i.e. 60% discounting based on the Ready Reckoner 2018 as the area is being in the 'No Development Zone' and 50% discounting on account of assumed 50% occupancy. In this regard, the MBPT to clarify/ furnish the following:</p> <p>(a). The relevant extract from the Ready Reckoner 2018 indicating an application of discounting factor of 60% discounting for the areas in the 'No Development Zone' to be furnished.</p>	<p>[MBPT has furnished the relevant extract of Ready Reckoner 2018 indicating that while valuing No Development Zone (NDZ), if independent valuation zone of NDZ is not given then 40% of the rate applicable for developed land rate for that zone is to be taken].</p>

	(b).The basis for assuming 50% occupancy may also be furnished.	It is a general market trend that all the venues for function and marriages etc. have occupancy rate of 50%.																																													
(ii)	<p>The proposal of MBPT seeks approval for prescription of the following lease rent for the land and the structures for the Domestic Cruise Terminal (DCT) project:</p> <table border="1"> <thead> <tr> <th>Sl. No.</th> <th>Location</th> <th>Lease Rentals per Sq. Mt. p. a. (in ₹)</th> </tr> </thead> <tbody> <tr> <td>1.</td> <td>Lawn area for commercial purpose</td> <td>1,884</td> </tr> <tr> <td>2.</td> <td>Structures area</td> <td>990</td> </tr> <tr> <td>3.</td> <td>Land – Under structures</td> <td>9,420</td> </tr> <tr> <td>4.</td> <td>Open Land</td> <td>9,420</td> </tr> </tbody> </table> <p>Considering the proposed rentals and the area envisaged to be utilised for the project, the total consolidated rental works out to ₹ 1.97 crores, as shown herein below:</p> <table border="1"> <thead> <tr> <th>Sl. No.</th> <th>Location</th> <th>Proposed Lease Rentals per Sq. Mt. p. a. (in ₹)</th> <th>Area proposed to be allotted (in sq.m)</th> <th>Total Lease Rent p. a. (in ₹)</th> </tr> </thead> <tbody> <tr> <td>1.</td> <td>Lawn area for commercial purpose</td> <td>1,884</td> <td>2500</td> <td>47,10,000</td> </tr> <tr> <td>2.</td> <td>Structures area</td> <td>990</td> <td>660</td> <td>6,53,400</td> </tr> <tr> <td>3.</td> <td>Land – Under structures</td> <td>9,420</td> <td>660</td> <td>62,17,200</td> </tr> <tr> <td>4.</td> <td>Open Land</td> <td>9,420</td> <td>860</td> <td>81,01,200</td> </tr> <tr> <td colspan="4" style="text-align: center;">TOTAL</td> <td>1,96,81,800</td> </tr> </tbody> </table> <p>However, as per the LAC Report, the LAC has recommended to fix the consolidated base price of ₹0.90 cr per annum for the above mentioned areas. In this connection, the LAC has recommended to fix the consolidated base price of ₹0.90 cr per annum for the land and the structures for the DCT project. The total rentals per annum as proposed by the MBPT and the recommendation of LAC to fix the base rental per annum for the DCT project of ₹.0.90 crore do not match. The MBPT to clarify the mismatch and propose suitable and correct Scale of Rates.</p>	Sl. No.	Location	Lease Rentals per Sq. Mt. p. a. (in ₹)	1.	Lawn area for commercial purpose	1,884	2.	Structures area	990	3.	Land – Under structures	9,420	4.	Open Land	9,420	Sl. No.	Location	Proposed Lease Rentals per Sq. Mt. p. a. (in ₹)	Area proposed to be allotted (in sq.m)	Total Lease Rent p. a. (in ₹)	1.	Lawn area for commercial purpose	1,884	2500	47,10,000	2.	Structures area	990	660	6,53,400	3.	Land – Under structures	9,420	660	62,17,200	4.	Open Land	9,420	860	81,01,200	TOTAL				1,96,81,800	<p>The Table showing the calculation for Total lease rent p.a. given by the TAMP includes land under structure is 660 Sq.mts. Further there is additional open land 200 sq.mt. as requested by the bidders and agreed by MbPT (as per TR No.197 of 20.11.2018). Whereas in Sr.No.4 of the said table, the total areas considered is 860 Sq.mts. which includes the area of 660 Sq.mts under construction also.</p> <p>This is to further draw attention to para 6 (e) of the LAC Report wherein it is clearly mentioned to deduct ₹.46 lakhs as expenditure likely to be incurred by the O&M operator for opening and maintaining the Cruise related infrastructure of DCT (as estimated by CRISIL). After deduction of 0.4 crores the base price works out to be ₹.0.89 crores or say ₹.90 lakh. Hence no correction is needed.</p>
Sl. No.	Location	Lease Rentals per Sq. Mt. p. a. (in ₹)																																													
1.	Lawn area for commercial purpose	1,884																																													
2.	Structures area	990																																													
3.	Land – Under structures	9,420																																													
4.	Open Land	9,420																																													
Sl. No.	Location	Proposed Lease Rentals per Sq. Mt. p. a. (in ₹)	Area proposed to be allotted (in sq.m)	Total Lease Rent p. a. (in ₹)																																											
1.	Lawn area for commercial purpose	1,884	2500	47,10,000																																											
2.	Structures area	990	660	6,53,400																																											
3.	Land – Under structures	9,420	660	62,17,200																																											
4.	Open Land	9,420	860	81,01,200																																											
TOTAL				1,96,81,800																																											
(iii)	The approval of the Board of Trustees as furnished by MBPT along with its proposal is not seen to be in connection with the proposed proposal. TR No. 197 dated 20.11.2018 drawn reference to TR No. 146 dated 06.09.2018 and states that the Board had accorded approval to adopt the base price of ₹.75 lakhs per annum whereas the LAC has decided the base price at ₹.90 lakh per annum. The relevant Board approval to be furnished for the proposal of the Port.	Kindly refer the para 7 of the TR No.197 of 20.11.2018 wherein the LAC report with a valuation of ₹.90 lakhs have been submitted to the Board.																																													

5. In view of the outbreak of COVID – 19 and in pursuance of the Ministry of Shipping (MOS) letter No. 11053/30/2020-Coord. dated 16 April 2020, a joint hearing on the case in reference was held on 26 August 2020 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.

6. The proceedings relating to consultation in this case are available on records at the office of this Authority. An excerpt of an 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), with a view to encourage Domestic Cruise on the West Coast of India has envisaged developing a Domestic Cruise Terminal (DCT) at MBPT. As part of this initiative, the MBPT has earmarked development of land area of 6,856 Sq. mtrs. and re-development of some existing buildings. Further, the MBPT has appointed an agency (through Open Tender) for Operation and Maintenance (O & M) of the said terminal for a period on 10 years. In this connection, the MBPT has handed over an area of 6,856 Sq. mtrs. and structure area (Terminal Building) admeasuring 660 sq. mtrs, to the O & M operator. In this backdrop, the MBPT has come up with a proposal for fixation of licence fee for allotment of the land and structure for the project of operation and maintenance of Domestic Cruise Terminal (DCT), based on the provisions of the amended Land Policy Guidelines, 2014.
- (ii). The MBPT has filed its proposal in March 2020. It has furnished the additional information/clarification sought by us in August 2020. The proposal of MBPT along with the information/ clarification furnished by the MBPT during the processing of the case in reference, is considered in this analysis.
- (iii). With regard to the proposal of the port, it is relevant to mention here that the MBPT has sought the approval for fixation of a consolidated base lease rent for land and structures at ₹.0.90 Crores with 4 % annual escalation. However, the Land Policy guidelines, 2014, do not have any provision to fix the consolidated base price for the land to be allotted by the MBPT for the DCT project. Hence, the proposal is taken up only to the extent of fixing the lease rental for land and structures for each of the location of DCT project individually.
- (iv). This Authority is mandated to follow the Land Policy Guidelines issued by the Government from time to time for the purpose of determining lease rentals for the lands belonging to the Port Trusts. The Ministry of Shipping in the Government of India has announced Land Policy Guidelines for Major Ports, 2014 in January 2014 which has come into effect from 2 January 2014. Subsequently, the Ministry of Shipping has issued amended Land Policy Guidelines, 2014 under Section 111 of the MPT Act, 1963 for implementation with effect from 17 July 2015. The MBPT has, come up with a proposal for fixing Scale of Rates (SOR) for fixation of License fee for allotment of land and building for the project of operation and maintenance of Domestic Cruise Terminal (DCT) at Beth No. 15, Victoria Dock at MBPT, based on the provisions of the Land Policy Guidelines for Major Port Trusts, 2014, as amended in July 2015. The proposal of MBPT has the approval of its Board of Trustees.
- (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). It is seen from the Land Allotment Committee (LAC) furnished by MBPT that a 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, have been constituted.

- (vi). (a). Para 13(a) of the Land policy guidelines of July 2015 prescribes the methodology for determination of market value of the land based on the five factors as prescribed therein. In terms of the said para of the amended Land policy guidelines of 2014, the Land Allotment Committee may normally take into account the highest of the factors mentioned therein, viz. (i). State Government ready reckoner of land values in the area if available for similar classification/ activities, (ii). Highest rate of actual relevant transactions registered in the last three years in the Port's vicinity with an appropriate annual escalation rate to be approved the Port Trust Board, (iii). Highest accepted tender-cum-auction rate of Port land for similar transactions, updated on the basis of the annual escalation rate approved by the Port Trust Board, (iv). Rate arrived at by an approved valuer appointed for the purpose by the Port and (v). Any other relevant factor as is identified by the Port. The amended Land Policy guidelines of 2014 also stipulates that in case the LAC is not choosing the highest factor, the reasons for the same have to be recorded.
- (b). (i). In connection with the Valuation as per various methods as stipulated in the Guidelines, the valuation report of July 2018 as well as the LAC have observed that there are no actual relevant transactions for Dock Land in last 3 years nor any tender cum auction rate available since no such transaction of land in the vicinity has occurred.
- (ii). As regards, the State Government Ready Reckoner of Mumbai for the year 2018-19, the value of the land area of 6656 sqm. (DCT building land area of 1126 sqm + Garden/ lawn area of 5530 sqm) is at ₹18.83 crores and that the value of the terminal buildings of an area of 1126 sqm. is at ₹1.86 crores. This aggregates to the market valuation of ₹ 20.69 crores. The lease rent has been worked out by the LAC at 6% on the said market value of the land, which works out to ₹.2414 crores per annum
- (c). (i). The MBPT has reported that it has appointed a Valuer for undertaking the valuation of the Land and Buildings of MBPT at Domestic Cruise Terminal. The MBPT has furnished the land valuation report of July 2018 furnished by the valuer for the DCT project.
- (ii). The Valuer in his report has provided the value considering the existing infrastructure facilities of the open land area to be used for commercial activities at ₹1,57,000/- per Sq.mtr. and the depreciated cost of construction at ₹16500/- per sq.m. Accordingly, the Valuer has arrived at the market value of the land and the building at ₹54.26 crores, as given below:

No.	Description	Area (in sq.m)	Market Value (₹ per sq.m.)	Total Market Value (₹)
	Land			
1.	DCT building land area	1126	157000	17,67,82,000
2.	Garden/ lawn area	5530	62800 (40% of open land rate)	34,72,84,000
	Structures			
3.	DCT building	1126	16500 (Depreciated cost of Construction)	1,85,79,000
	TOTAL			54,26,45,000

Considering a discounting factor of 60% to determine the market value of the garden/ lawn area, as the area is in the 'No Development Zone', based on the Ready Reckoner of 2018, the market value of Garden (Lawn Area) has been worked out at ₹.62,800 per sq. mtr.

Thus, based on the valuation as furnished by the Valuer, the lease rent has been worked out by the LAC at 6% on the said market value of the land and structures, which works out to ₹.3.2556 crores per annum.

- (d). The LAC is seen to have relied upon the Market value of ₹.157000/- per sq.m in respect of Land – Under structures and Open Land as per the Valuer's Report and the depreciated cost of construction to the tune of ₹.16500/- also, as per the Valuer's Report.
- (e). As regards the Market value of Lawn area for commercial purpose, the LAC is seen to have considered the Market value of ₹.157000/- per sq.m as applicable for Open Land as base and thereafter considered two discounting factors i.e. 60% discounting based on the Ready Reckoner 2018 as the area is being in the 'No Development Zone' and 50% discounting on account of assumed 50% occupancy. Thus, the market value for Lawn area for commercial purpose has been worked out by LAC at ₹.31400/- per sq.m

The MBPT has made available the relevant extract of Ready Reckoner 2018 indicating that "while valuing 'No Development Zone (NDZ)', if independent valuation zone of NDZ is not given, then 40% of the rate applicable for developed land rate for that zone is to be taken".

As regards 50% discounting on account of occupancy, it is reported to be based on the general market trend that all the venues for function and marriages etc. have an occupancy rate of 50%. The proposal of the MBPT has the recommendations of LAC and approval of the Board of Trustees. Hence, the judgment of the port in this regard is relied upon.

- (vii). The Clause 13(b) of the Land Policy Guidelines also stipulates that Reserve Price in terms of annual lease rent would be arrived as a percentage not less than 6% of latest market value of land determined in accordance with para 13(a) of the Land Policy Guidelines. Thus, the annual lease rental for land and structures for each of the location of DCT project has been worked out by MBPT at 6% of the market value

of the land, which is seen to be in accordance with the provisions of the Land Policy Guidelines, 2014.

- (viii). Though the LAC has determined the lease rent based on the market value of the land and structures, as discussed above, it has gone a step further to prescribe concessional lease rent for the land and structures handed over to the O & M operator of DCT Project. In this regard, the LAC in its Report has highlighted that the location of the DCT is inside the Docks and only after the de-notification of the area, it will be open for the general public. Further, considering the infancy of the Domestic Cruise, the LAC has felt that the footfall at the DCT and the potential for commercial exploitation will be very low in the initial years. Also, the LAC has observed that the O & M operator will not get any revenue from MBPT or Cruise operator, but will earn revenue only from the commercial operations in Terminal Building (1st, 2nd and roof top area) and open/ garden area as well as through advertisement, which the operator will share with MBPT by offering a premium over the base price specified by MBPT. Thus, the LAC has recommended to consider a concessional lease rent to be applied to the O & M operator, as tabulated below based on the (higher) value of ₹54.26 Crores given by the valuer considering existing infrastructure facilities rather than the (lower) market value of ₹20.68 Crores as per State Government Ready Reckoner. Concession relates to only Lawn Area.

Sl. No.	Location	Market Value considered per Sq. Mt. (in ₹)	Proposed Lease Rentals @ 6% of market value per Sq. Mt. p. a. (in ₹)	Area proposed to be allotted (in sq.m)	Total Lease Rent p. a. (in ₹)
1.	Lawn area for commercial purpose	31,400	1,884	2500	47,10,000
2.	Structures area	16,500	990	660	6,53,400
3.	Land – Under structures	1,57,000	9,420	660	62,17,200
4.	Open Land	1,57,000	9,420	200	18,84,000
					1,34,64,600
	Less: Expenditure likely to be incurred by the O & M operator for operating and maintaining the infrastructure of DCT (as per CRISIL Report)				(46,00,000)
				TOTAL	88,64,600
				Rounded off to	90,00,000
	CONCESSIONAL LEASE RENT AS RECOMMENDED BY LAC				90,00,000

The said recommendation of the LAC has the approval of the Board of Trustees of MBPT. It was reported by MBPT in the joint hearing that the successful bidder has quoted a premium of ₹.54 Lakhs.

- (ix). Despite the consolidated lease rent of ₹90 Lakhs, the Scale of Rates forms part of the proposal of MBPT. The SOR is for levy of lease rent for the various location forming part of the DCT project, based on the market value of the land and structure forming part of the DCT project. It is noteworthy that the Land Policy Guidelines, mandates this Authority to prescribe lease rent based on the market value of the land. Thus, this Authority is inclined to approve the itemised lease rent based on the market value of the land instead of the consolidated rate of ₹.90 Lakhs.

- (x). The MBPT is seen to have proposed a note to the effect that that the rates shall automatically be escalated by 4% per annum after expiry of one year. In this regard, it is relevant here to mention that Clause 13(c) of the Land Policy Guidelines of 2014 gives flexibility to the ports to fix annual escalation which would not be less than 2%. Accordingly, the MBPT has proposed 4% annual escalation. Since the annual escalation rate of 4% is as per the provision of the Land Policy Guidelines of 2014, the proposed rate of 4% annual escalation is approved.
- (xi). The MBPT has proposed another note to the effect that any hike on account of/ in respect of levy or levies including increase therein of taxes, duties, cesses etc., payable to the State/ Central Government or any Statutory Authority shall be met and paid by the Licensee/ lessee at actual. In this regard, it is to state that the tariff approved by this Authority is exclusive of any taxes and statutory duties. The taxes and statutory duties are to be levied by the Port at the applicable rates on the tariff so approved by this Authority. In view of this position, the note as proposed by the Port is approved.
- (xii). The annual rates of rent shall come into effect after expiry of 30 days from the date of notification of the Order passed in the Gazette of India. Clause 13 (C) of the amended Land Policy Guidelines, 2014 stipulates that the rates will be revised once in every five years by this Authority. Accordingly, a note is prescribed in the Rent Schedule that the annual lease rentals may remain in force for a period of five years, which is approved.

8.1. In the result, and for the reasons given above, and based on a collective application of mind, this Authority accords approval for the Schedule of rates for land and structures for the project of Operation and Maintenance of Domestic Cruise Terminal (DCT) at Beth No. 15, Victoria Dock at MBPT, as attached as **Annex**.

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

(T.S. Balasubramanian)
Member (Finance)

Annex

Schedule of rates for land and structures for the project of operation and maintenance of Domestic Cruise Terminal (DCT) at Beth No. 15, Victoria Dock at Mumbai Port Trust (MBPT)

Sl. No.	Location	Lease Rentals per Sq. Mt. p. a. (in ₹)
1.	Lawn area for commercial purpose	1,884
2.	Structures area	990
3.	Land – Under structures	9,420
4.	Open Land	9,420

Note:

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

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

TAMP/16/2020-MBPT	:	Proposal received from the Mumbai Port Trust (MBPT) for approval of License fee for the project of operation and maintenance of Domestic Cruise Terminal (DCT) at Beth No. 15, Victoria Dock at MBPT.
--------------------------	----------	--

A joint hearing on the case in reference was held on 26 August 2020 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). MBPT has decided to develop a Domestic Cruise Terminal (DCT) at Victoria Dock. The DCT has been developed by repairing the existing Building of Sr. Dock Master office at Victoria Dock and also by undertaking some levelling and repairs.
- (ii). The operation and management of DCT has been handed over to M/s. Sukh Sagar Hospitality, after inviting tenders.
- (iii). Initially, it was proposed to hand over an area of 6656 sqm to the successful tenderer. However, based on the request of the bidders in the pre-bid meeting, an additional area of 200 sq.m. is also envisaged to be handed over to the successful tenderer.
- (iv). Thus, 6856 sqm. of area was awarded to Sukh Sagar Hospitality, which includes 2500 sqm lawn area, Built up areas of G+2 storied building and additional 200 sqm. is permitted to be built up by contractor.
- (v). Ground floor area of 220 sqm. is not chargeable because the operator is not allowed to use it for commercial purpose and no revenue generation is allowed. First floor, Second floor and roof top area each of 220 sqm, and aggregating to an area of 660 sqm. is for commercial exploitation and for revenue generation by the operator.
- (vi). A Valuer was appointed for the valuation.
- (vii). As per the Ready reckoner, the value of open land for commercial activities is ₹.1.57 lakhs per sqm. and built up area is ₹.16,500 per sqm. The rate for open lounge area was arrived by discounting open area rate by 60% because the area is in the non-developed zone. It has been further discounted by 50% and arrived at ₹.31,500 per sqm.
- (viii). Lease rental per annum for the land and structures are arrived at 6% of the respective value of land and structures given for development of Domestic Cruise Terminal.
- (ix). The total lease rental per annum works out to ₹.135.00 lakhs. After deducting the expenditure of ₹.45 lakhs which is likely to be incurred by the operator for the operation and maintenance of cruise terminal, as estimated by CRISIL, the base price works out to ₹.90 lakhs.
- (x). We have replied to the queries raised by TAMP.

Member (Finance), TAMP

- (i). What is the present position of the award of the contract?
[MBPT: Project has been awarded. Bidder is fulfilling the conditions precedent. Due to Covid-19 scenario, he has requested for extension upto 31 October 2020 for fulfilling conditions precedent.]
- (ii). What is premium quoted by the bidder in addition to base price?
[MBPT: The contract was awarded to the Bidder who has quoted the highest premium in addition to the base price. The Bidder has quoted an amount of ₹.54 lakhs]

Sukh Sagar Hospitality

- (i). The project has already been completed upto 80%. Due to Covid-19, there is a delay. We need extension. We have already spent around ₹.6 to ₹.7 crores towards capital expenditure for interiors, central air conditioning, first floor, roof top, lounge, etc.
