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TARIFF AUTHORITY FOR MAJOR PORTS

G.No. 348

New Delhi,

11 September 2017

NOTIFICATION

In exercise of the powers conferred under Sections 49 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby approves the proposal of the Mormugao Port Trust (MOPT) for revision of license fee in respect of Foreshore Area approved by the Authority vide Order dated 8 August 2012, as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No.TAMP/23/2017-MOPT

Mormugao Port Trust

- - -

Applicant

QUORUM

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

ORDER

(Passed on this 21st day of July 2017)

This case relates to the proposal dated 03 March 2017 received from Mormugao Port Trust (MOPT) for revision of license fee in respect of Foreshore Area approved earlier by this Authority vide Order No.TAMP8/2012-MOPT dated 8 August 2012.

2. This Authority vide its Order no. TAMP/8/2012-MOPT dated 2 May 2012 had approved the proposal received from the Mormugao Port Trust (MOPT) for revision in Estate Rentals of Port land. The Order was notified in the Gazette of India on 18 May 2012 vide Gazette No.130. The Order stated that the revised lease rent shall come into effect after expiry of 30 days from the date of notification of the Order in the Gazette i.e. from 17 June 2012. The validity of revised SOR was prescribed for 5 years till 16 June 2017. The SOR prescribed an automatic escalation of 2% per annum.

3.1. The Mormugao Port Trust (MOPT) filed a Review Application on 28 May 2012 seeking review of the Order dated 2 May 2012 passed by this Authority.

3.2. This Authority passed an Order dated 8 August 2012 disposing of the Review Application filed by the MOPT which was notified in the Gazette of India on 1 October 2012 vide Gazette No.215. In the said tariff Order, two different set of rentals within the Mormugao Harbour/ Vasco Da Gama-Bay and Head Land Sada respectively were approved based on the two different valuation of lands as proposed by MOPT. The two different set of rentals are for (i) Land surveyed under Chalta No.3 of P.T. Sheet No.7 and (ii) the Land other than (i) above. While disposing of the review application filed by the MOPT, this Authority prescribed the applicability of revised rates with effect from the effective date of implementation of the original Order dated 2 May 2012 with validity period of five years.

3.3. The relevant extract of Charges for occupation of Foreshore Land as approved by this Authority in the Order dated 8 August 2012 relating to review application filed by MOPT are given below:

(ii). **Charges for occupation of Foreshore Land:**

Sr. No.	Description	Rate (in ₹)	Unit
1.	For the purpose of carrying out launch / barge repairs workshop or any other industry including Commercial/ Non-Commercial purpose at Vasco Da Gama bay. (i). Land surveyed under Chalta No. 3 of P.T. Sheet No.7. (ii). Land other than at (i). above.	300.00 500.00	Per 10 sqm. or part thereof per calendar month or part thereof.
2.	For the purpose of carrying out launch/ barge repairs workshop or any other industry including Commercial/ Non-Commercial purpose beyond Vasco Da Gama bay upto the port limits (Dabolim/ Chicalim/ Sancoale/ North of Zuari River/ Betul Foreshore).	350.00	- do -

4.1. Now, the MOPT has, vide its email dated 4 March 2017, filed its proposal for revision (reduction) in Estate Rentals in respect of Foreshore Area approved by this Authority in the Order dated 8 August 2012 with a request to approve it with retrospective effect from June 2012.

4.2. The main points made by the MOPT in the subject proposal are summarized below:

- (i). TAMP notified estate rentals of Mormugao Port Trust vide notification No.130 dated 18 May 2012 for a period of 5 years. The lease rent for foreshore area at Vasco Bay was fixed at ₹350/- per 10 m². The rent was proposed based on the valuation of land by the port appointed land valuer.

[The MOPT has subsequently, while responding to information sought by us in view of mismatch in the lease rent referred by MOPT in its proposal, clarified that the proposal is for revision (reduction) in license fee for foreshore area listed at Sl. No.2 i.e., beyond Vasco Da Gama]

- (ii). The Shipyard's Association of Goa (SAG) requested many times to continue with the old rates and not to implement or charge as per revised SOR as the revised rate charged is exorbitant and not affordable.

- (iii). A proposal to review reduction in SOR in respect of foreshore area was put up in the Board meeting of MOPT held on 29 July 2016. The Board vide Resolution No. 49 dated 29 July 2016 agreed to review the SOR in respect of foreshore area valuation based on "use based valuation" concept with effect from June 2012. The Board appointed Government approved valuer Shri Mahendra S. Kakule.

- (iv). The Government approved valuer has submitted his Valuation Report. Copy of the Valuation report is attached to the proposal. The main points made by the Government approved valuer in the land valuation report for foreshore area are given below:

- (v). **Market Review:**

Foreshore facilities of MOPT are mostly being used for barge repair operations which in turn are dependent on iron ore mining activity in Goa.

The mining activity in Goa had come to a standstill due to Government dictate from 2012 till 2015 and this had severe adverse impact on the barge repairs industry.

Though mining has recommenced in Goa since 2015 the industry is passing through very challenging times as the quantum of iron ore exports has come down drastically by more than 50% from its peak in the year 2011-12 and also due to weakening of iron ore prices in the international commodities market.

- (vi). **Methodology of Valuation:**

- (a). Ideally such a valuation should be based on market observations regarding market values and market rentals of similar offshore facilities. However, the peculiar scene of this micro market is such that there is total absence of any sales/ rentals of foreshore facilities in this area which fit the criteria for market value and market rent as defined by International Valuation Standards Council (IVSC).

Due to the said constraint in obtaining any comparable market data which can be relied upon for estimation of market value, and market rent for the subject property, the other option available is to estimate the value of the business carried out in such foreshore facilities on the assumption that it is run by a reasonably efficient operator and that the business has already stabilized. The total value of the business is then apportioned to various components which make up the said business (including foreshore facility). The data relied upon is of a company called Composite Materials Industries Pvt. Limited which is into barge repairs (both dry barge and wet barge repairs) and having operations in MOPT foreshore facilities in Mormugao

Taluka. The data has been made available by Shipyard Association of Goa (SAG) with the knowledge of MOPT. It is also clarified that there was no other data available to reply upon.

- (b). The Capitalization Method based on the data of one of the barge industry operating in Goa has been considered to arrive at land valuation and yearly rent per sq. mtrs. for foreshore facility. Accordingly, the yearly rent per square meter is ₹2,74,000/2641m² = ₹103.74 per m² per year or ₹8.645 per m² per month. *[An arithmetical error was noticed in the calculation of lease rental per annum by the approved valuer.]* The MOPT has furnished revised cash flow information forming part of the Valuation Report rectifying the arithmetical error. However, the MOPT has not furnished corrected license fee of the approval valuer.
[If the arithmetical error is rectified, the corrected lease rental works out to ₹7.18 per sq. mtr per annum.]
- (c). The land component based on the above model of valuation most likely may workout lower than the value estimation based on market comparables of sale of similar of land parcels in the vicinity.
- (d). The rent being charged by Captain of Ports for Government Reverine Land is ₹10/- per m² per month.
- (vii). Taking cognizance of the above factors, the market rent for the foreshore facilities within MOPT jurisdiction, the approved valuer has recommended license fee at ₹10/- per m² per month i.e. ₹120/- per m² per year which works out to a valuation of foreshore facilities at ₹2,400/- per m².
[6% on the market value of ₹2400/- per sq. mtr = ₹144 per sq. mtr. per annum i.e., ₹12 per sq. mtr per month as against ₹10 per sq. mtr./ month recommended by the valuer.]
- (viii). The MOPT constituted Land Allotment Committee (LAC) under the Chairmanship of Deputy Chairman (MOPT) and other members viz., FA & CAO, Traffic Manager and Chief Engineer were members of the LAC. The matter was placed before the LAC.
- (a). The LAC held a meeting on 12 December 2016 to consider revision of Scale of Rates in respect of foreshore area. After deliberations, the Land Allotment Committee considering the market value of land as recommended by the approved valuer at ₹2400/- per sq. mtr and stating as per the Land Policy Guidelines, the annual lease rent shall be less than 6% of the market value, recommends to revise the Lease Rentals of foreshore area as ₹120/- per 10 m² per month excluding service tax with retrospective effect from June 2012 with annual escalation of 2%. *[₹2400/- * 6% = ₹144 per annum / 12 months = ₹12 per sq. mtr/ month]*
- (b). The proposal was placed before the MOPT Board for revision of charges for foreshore area. The Board Trustees of MOPT in its meeting held on 13 February 2017 approved the proposal to revise the rates to ₹120/- per 10 m² per month excluding Service Tax for the foreshore area with retrospective effect from 01 June 2012 with 2% annual escalation of the lease rentals / rates.

4.3. Accordingly, the MOPT has requested to consider revision of lease rental in respect of Foreshore area to ₹120/- per 10 m² per month with retrospective effect from June, 2012 with annual escalation of 2%.

5.1. In accordance with the consultative procedure prescribed, a copy the proposal of MOPT dated 03 March 2017 was forwarded vide our letter dated 14 March 2017 to the concerned users/ user organisations including Shipyard Association of Goa (SAG) seeking their comments. Since the SAG reported that it did not receive the proposal, a copy of the proposal was again forwarded to the SAG under cover of our letter dated 12 June 2017. The comments received from Goa Mineral Ore Exports Association (GMOEA) and Indian Molasses Company (IMC) on the subject

proposal has been forwarded to MOPT as feedback information. We have not received comments from any other users/ users association.

5.2. The points made by SAG in the said email of 31 May 2017 which are relevant to this case are given below:

- (i). We have submitted our plea to Ministry of Shipping and MOPT for reconsidering and rolling back the sudden increase in tariff (INR 35 per Square Meter) for Shipyards and revise the rates to a maximum of INR 10 per Square Meter.
- (ii). With the Mining ban and Barge/ Shipping Industry in shambles in the state of Goa, the survival of Shipyards is bleak.

5.3. The said email dated 31 May 2017 was also forwarded to MOPT vide our letter dated 12 June 2017 as feedback information. No comments are received from MOPT thereon.

6. A joint hearing in this case was held on 30 May 2017 at the MOPT premises. At the joint hearing, the MOPT has made its submissions.

7. Based on the preliminary scrutiny of the proposal dated 3 March 2017, the MOPT was requested to furnish information / clarification on a few points vide our letter dated 12 June 2017. The MOPT vide its letter dated 3 July 2017 has responded to the information/ clarifications sought by us. A summary of the information/ clarifications sought by us and the response of MOPT is tabulated below:

Sl. No.	Information/ Clarifications sought by us	Response from MOPT
(i).	The Valuation Report with regard to revision of lease rentals in respect of Foreshore area is stated to contain 3 Annexures indicated in page no. 8 which form part of the valuation report. However, the valuation report forwarded by the MOPT along with its proposal does not contain those annexures. The MOPT is, therefore, requested to forward the relevant annexures II and III to Valuation Report submitted by the Govt. Approved valuer based on which the final lease rent is proposed.	Copies of Annexure – II & III to Valuation Report submitted by the Government Approved Valuer are enclosed at Annexure – A. [Annexure-II relates to the details of area rented out to the Composite Material Industries Pvt. Ltd., Annexure-III relates to the rent being charged by Captain of Ports for Govt. Reverine Land at ₹10 per sq. mtr. per month from 11.11.2010]
(ii).	The MOPT has, in its proposal dated 3 March 2017, proposed to reduce the lease rentals in respect of foreshore area from ₹350 per 10 sq. mtr per month or part thereof which was fixed based on the proposal of the port following the applicable Land Policy guidelines to ₹120/- per 10 sq. mtr per month or part thereof w.e.f 1 June 2012. It is seen that the proposed lease rent is based on recommendation by the Land Allotment Committee (LAC) and approved by the Board of Trustees of MOPT. In this regard, the MOPT to note that the MOPT has proposed a significant reduction in the lease rentals for foreshore area by 65%.	The licence fee @ ₹350/- per 10 sq. mtr. per month was proposed by Port considering the market value of land abutting foreshore area in 2012. The rent for similar land for adjacent foreshore area / waterfront under capt. of Ports, Government of Goa is ₹10/- per sq. mtr. per month. The grievances raised by Shipyard's Association of Goa (SAG) were placed before the Board and the Board after deliberations had recommended to value the foreshore area on Use Based Valuation Concept. Accordingly, a Government approved Valuer was appointed and the Valuer has submitted the report which was furnished alongwith the proposal to TAMP vide letter no.FA/COST/125/2017/297 dated 03.03.2017. The valuation report submitted by Valuer has recommended the market value and market rent of foreshore facilities as ₹2400/- per m ² . As per Land Policy Guidelines, the annual lease rent shall not be less than 6% of the market

		<p>value. The annual rent and monthly rent considering 6% of market value works out to ₹144 per m² and ₹12 per m² per month respectively and the same was recommended by Land Allotment Committee (LAC) with annual escalation of 2% with retrospective effect from June, 2012. The rate recommended by LAC was put up to the Board for approval and the Board approved the proposal vide Resolution no.120 dated 13.02.2017. The maximum rent charged for foreshore land prior to June, 2012 before implementation of the revised SOR was ₹71.59 per 10 m² per month. Thus, there is a significant reduction in the lease rentals for foreshore area by 65%. [From the approved license fee of ₹350/10 sq. mtr./ month escalated by 2% per annum to bring it to the current license fee ₹.386.42 per 10 sq. mtrs. per month. (₹.350x2%x2%x2%x2%x2%x2%)] [The recommendation of LAC is to fix the rate at ₹ 120/- per 10 sq. mtr per month which was approved by the Board of MOPT]</p>												
(iii).	<p>At the Joint Hearing, the MOPT has stated that the Shipyard's Association of Goa represented to the Ministry regarding the steep increase in lease rent for foreshore area approved by the Authority vide Order No.TAMP/8/2012-MOPT dated 8 August 2012 based on the proposal of MOPT. The MOPT further stated that the Ministry has advised the port to review the lease rent for foreshore area. In this regard, the MOPT to forward a copy of the said MOS letter to MOPT to review of least rent for foreshore area for our records and reference.</p>	<p>Copy of Ministry letter no.16(11)/2013-PD-VII dated 17.10.2013 and reply by the Port to Ministry is enclosed at Annexure – B. However, it is clarified that Ministry did not advise Port to review the rates. During the Joint hearing, it was informed that SAG has represented to the Ministry.</p>												
(iv)	<p>The existing Lease rent schedule approved vide Order No. TAMP/8/2012-MOPT dated 8 August 2012 at Schedule II – Charges for occupation of Foreshore land is as follows:</p> <table border="1" data-bbox="277 1570 770 2060"> <thead> <tr> <th>SI No</th> <th>Description</th> <th>Rate (in ₹)</th> <th>Unit</th> </tr> </thead> <tbody> <tr> <td>1.</td> <td>For the purpose of carrying out launch/ barge repairs workshop or any other industry including Commercial/ Non-Commercial purpose at Vasco Da Gama bay. (i) Land surveyed under Chalta no. 3 of P.T Sheet no.7 (ii) Land other than at (i) above</td> <td>300 500</td> <td>Per 10 sqm. or part thereof per calendar month or part thereof.</td> </tr> <tr> <td>2.</td> <td>For the purpose of carrying out launch/ barge repairs workshop or any other industry including Commercial/</td> <td>350</td> <td>- do -</td> </tr> </tbody> </table>	SI No	Description	Rate (in ₹)	Unit	1.	For the purpose of carrying out launch/ barge repairs workshop or any other industry including Commercial/ Non-Commercial purpose at Vasco Da Gama bay. (i) Land surveyed under Chalta no. 3 of P.T Sheet no.7 (ii) Land other than at (i) above	300 500	Per 10 sqm. or part thereof per calendar month or part thereof.	2.	For the purpose of carrying out launch/ barge repairs workshop or any other industry including Commercial/	350	- do -	
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	<p>Non-Commercial purpose beyond Vasco Da Gama bay upto the port limits (Dabolim/Chicalim/ Sancoale/ North of Zuari River/ Betul Foreshore).</p>																		
(a).	<p>The MOPT to confirm the current proposal for revision is in respect of Sl. No. (1) or (2), as there appears to be mismatch in the description and lease rental in the proposal of the MOPT.</p>	<p>The current proposal for revision of Scale of Rates in respect of Foreshore Area pertains to Sl. No.(2), the same can be seen from the following table:</p> <p>Charges for occupation of Foreshore Land:</p> <table border="1" data-bbox="794 891 1401 1765"> <thead> <tr> <th>Sr. No</th> <th>Description</th> <th>Notified Rate (in ₹)</th> <th>Proposed Rate (in ₹)</th> <th>Unit</th> </tr> </thead> <tbody> <tr> <td rowspan="2">1.</td> <td rowspan="2">For the purpose of carrying out launch / barge repairs workshop or any other industry including Commercial/ Non-Commercial purpose at Vasco Da Gama bay. (i). Land surveyed under Chalta no.3 of P.T. Sheet No.7. (ii). land other than at (i) above.</td> <td>300</td> <td>300</td> <td rowspan="2">Per 10 sqm. or part thereof per calendar month or part thereof.</td> </tr> <tr> <td>500</td> <td>500</td> </tr> <tr> <td>2.</td> <td>For the purpose of carrying out launch / barge repairs workshop or any other industry including Commercial / Non-Commercial purpose beyond Vasco Da Gama bay upto the port limits (Dabolim/Chicalim /Sancoale/North of Zuari River/Betul Foreshore).</td> <td>350</td> <td>120</td> <td>- do -</td> </tr> </tbody> </table>	Sr. No	Description	Notified Rate (in ₹)	Proposed Rate (in ₹)	Unit	1.	For the purpose of carrying out launch / barge repairs workshop or any other industry including Commercial/ Non-Commercial purpose at Vasco Da Gama bay. (i). Land surveyed under Chalta no.3 of P.T. Sheet No.7. (ii). land other than at (i) above.	300	300	Per 10 sqm. or part thereof per calendar month or part thereof.	500	500	2.	For the purpose of carrying out launch / barge repairs workshop or any other industry including Commercial / Non-Commercial purpose beyond Vasco Da Gama bay upto the port limits (Dabolim/Chicalim /Sancoale/North of Zuari River/Betul Foreshore).	350	120	- do -
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(b).	<p>The lease rent prescribed for occupation of fore shore area both at Sl. No. 1 and 2 are for same use / purpose viz. launch / barge repairs workshop or any other industry including commercial / non-commercial purpose. Whilst proposal of MOPT is to retain existing lease rent for fore shore area at Sl. No. 1 at ₹300 and ₹500 per 10 sq.mtr per calendar month, the reasons for proposing to reduce the</p>	<p>At present there is no ship repair activities taking place at Vasco bay mentioned at sr. no.1 and Vasco bay is used for Commercial purpose. Hence, there will not be any change in rates for Vasco bay.</p>																	

	lease rentals only in respect of Sl. No. (2) to be explained as it is neither mentioned in the LAC report nor in the Board approval.	
(v).	The MOPT to indicate the basis adopted by MOPT for land valuation of foreshore area during the last revision and the changed methodology adopted in the current proposal. The reasons for following different methodology for land valuation of foreshore area in respect of Sl. No. (2) in the current proposal may also be elucidated.	Refer to reply at Sr. no. (ii).
(vi)	As stated earlier, the MOPT has sought revision (i. e. reduction) of lease rentals for foreshore area from ₹350/- to ₹120/- per 10 sqm. per calendar month or part thereof retrospectively from June 2012. The proposal of MOPT may result in refund to be done by the port. In this regard, the MOPT to confirm that it has taken cognizance of this matter.	With the increase in rates for Foreshore Area to ₹350/- per 10 sq. mtr. per month in June 2012, only four parties have paid the lease rent. Refund to these four parties is not substantial and Port has taken cognizance of the matter.
(vii)	An arithmetical error is noticed in the figure of ₹23,80,520/- arrived in the table at page 4 of the Valuation report. The MOPT may look into it.	The revised page 4 of the Valuation Report is enclosed.

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

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

- (i). The present proposal of Mormugao Port Trust (MOPT) is for reduction of license fee/charges for occupation of foreshore land beyond Vasco Da Gama approved by this Authority vide Order No.TAMP/8/2012-MOPT dated 8 August 2012 from ₹350/- per 10 sq. mtr. per month to ₹120/- per 10 sq. mtr. per month w.e.f. June 2012.
- (ii). Now, the present proposal of MOPT is limited to revise the license fee approved by this Authority for Foreshore Land numbered as Sl. No.2 under Schedule II – Charges for Occupation of Foreshore Land under Part III – Estate Rentals in the Order No.TAMP/8/2012-MOPT dated 8 August 2012 w.e.f., June 2012 in view of request made by Shipyards Association of Goa (SAG). Reportedly, the SAG has requested Port many times to continue with the old rates and not to charge as per revised rate stating that the revised license fee is exorbitant and not affordable. The MOPT has put up a proposal to review reduction in license fee in respect of foreshore area to its Board and the Board of Trustees of MOPT vide Resolution dated 29 July 2016 has agreed to review the SOR in respect of foreshore area valuation based on “use based valuation” concept with effect from June 2012. The MOPT Board also appointed Government approved valuer Shri Mahendra S. Kakule for valuation of subject land of foreshore area.
- (iii). The existing SOR prescribed license fee for occupation of Foreshore Land for the purpose of carrying out launch/ barge repairs workshop or any other industry including Commercial/ Non-Commercial purpose at Sl. No. (1) at Vasco Da Gama bay and Sl. No. (2) beyond Vasco Da Gama bay. The MOPT has clarified that the current proposal is for revision of license fee in respect of Foreshore Land beyond

Vasco Da Gama bay upto the port limits. The MOPT has not proposed any modification in license fee for Vasco Bay presumably on the ground that Vasco bay is used for commercial purposes and no ship repair activity in taking place thereat.

- (iv). The amended LPG, 2014 prescribes five methods for valuation of land. In the current proposal, the port has proposed revision of license fee of fore shore area based on the valuation of the land by the Government approved valuer which is one of the five methods prescribed in the amended LPG, 2014. The last revision of lease rent of port lands approved by this Authority in May 2012 and reviewed in August 2012 based on the proposal of the MOPT and license for approved for foreshore area beyond Vasco da Gama Bay was ₹350/- per 10 sq. mtr. per month reportedly based on commercial valuation of adjacent land assessed by the approved valuer in 2012. The valuation in the current proposal of MOPT is based on the charge being levied by captain of Ports for Government Reverine Land, as discussed in the following paragraphs.
- (v). The Board of MOPT in its resolution dated 29 July 2016 has approved for revision i.e., reduction in license fee of foreshore area on “use based valuation” concept. That is, the ability of the land to help satisfy the needs of the users of the land as against valuation based on physical site attributes of the land. It is seen that the Government approved valuer in its valuation report has arrived at rental for foreshore facilities at ₹8.645 per sq. mtr per month based on the value of the business carried out by a barge industry operating in Goa apportioning the value of 3 components, land and foreshore facilities, plant, equipment and machinery and manpower, domain expertise and knowledge. There was an arithmetical error noticed in the calculation of lease rental per annum by the approved valuer. The license fee after removing the arithmetical error works to is ₹7.18 per sq. mtr. per month. However, this does not have any impact on the final rate to be approved by this Authority. Citing that value of land arrived may work out lower than comparable market value of land of similar / and parcels in the vicinity, the approved valuer has recommended lease rent for foreshore area at ₹10/- per sq. mtr./ month i.e., ₹120/- per sq. mtr. per year being the rent of ₹10/- per sq. mtr. per month charged by Captain of Ports for Government Reverine Land from November 2010.
- (vi). The justification for reduction given by the MOPT is that the foreshore facilities of MOPT are mostly being used for barge repair operations which in turn are dependent on iron ore mining activity in Goa. The mining activity in Goa had come to a standstill due to ban from 2012 to till 2015 and this had severe adverse impact on the barge repairs industry. Though mining has been recommenced in Goa since 2015, the industry is passing through very challenging times as the quantum of iron ore exports has come down drastically by more than 50% from its peak in the year 2011-12 and also due to weakening of iron ore prices in the international commodities market.
- (vii). MOPT has constituted the LAC headed by the Dy. Chairman of MOPT, F.A. & C.A.O, Chief Engineer and Traffic Manager as members of the LAC as required under clause 11.2 (e) of the amended Land Policy Guidelines, 2014.
- (viii). The LAC in its minutes of meeting held on 12.12.2016, has taken note that in the SOR revised with effect from 17 June 2012, license fee in respect of foreshore area was increased from the then license fee of ₹71.59 to ₹350/- per 10 sq. mtrs./ per month. The LAC has also noted that the SAG has requested port multiple times to continue with the old rates and not to implement or charges as per revised SOR. The LAC has also recorded that Board of Trustees of MOPT has approved to review SOR in respect of subject foreshore area based on “use based valuation” concept and resubmit the proposal to this Authority. The LAC based on the recommendation of the Government approved valuer has recommended the market value of land of foreshore area beyond Vasco bay at ₹2400 per sq. mtr.

The LAC has also recorded that the annual license fee / lease rent shall not be less than 6% of the market value. Accordingly, the annual license fee works out to ₹144/- per sq. mtr (i.e. ₹2400 x 6%) and ₹12 per sq. mtr per month. Stating that license fee is prescribed for 10 sq. mtrs, the LAC has after deliberation recommended license fee

foreshore area at ₹120/- per 10 sq. mtrs per month with annual escalation of 2% with retrospective effect from June 2012.

- (ix). The Board of Trustees of MOPT has approved the recommendation of LAC for reduction in license fee for the subject Foreshore Land area at ₹120/- per 10 sq. mtr per month with retrospective effect from 1 June 2012 in its meeting held on 13 February 2017. The Board has also approved 2% annual escalation of the license fee as recommended by the LAC. Even the lease rent revised in May 2012 Order prescribed at 2% annual escalation in lease rent.
- (x). In light of the above and bearing in mind that the LAC headed by Dy. Chairman and comprising of Head of Departments of the port trust has, after considering the valuation as per the amended Land Policy Guidelines, 2014 and also recognizing that the Board of Trustees of MOPT has approved the revised lease rental for Foreshore Land area and that the proposal filed by MOPT for revision of license fee for Foreshore Land area beyond Vasco which complies with the two main pre-requisite of internal approval process by LAC and the Board of Trustees for fixation of lease rent as per the amended Land Policy Guidelines, 2014, this Authority approves the revision of license fee for the subject foreshore area in respect of Sl. No. (2) as proposed by the port.
- (xi). (a). The MOPT has requested that the revision of license fee i.e. charges for occupation of Foreshore Land to be made effective retrospectively from June 2012.

When specifically pointed out to MOPT that the proposal of MOPT for reduction in license fee from ₹350/- per 10 sq. mtr per month to ₹120/- per 10 sq. mtr. per month from June 2012 may result in refund to be done by the port and whether port has taken cognizance of the same, the port has stated that only four parties have paid the revised lease rental and the refund is not substantial. The port has categorically stated that it has taken cognizance of this matter.

- (b). The Board approval is for retrospective revision from 1 June 2012. The proposal of MOPT, however, does not specify the specific date of June 2012 for implementation.

As stated earlier the revised license fee approved by this Authority vide Order dated 2 May 2012 and amended based on review application filed by MOPT vide order dated 8 August 2012 was made effective from 17 June 2012 and validity is for a period of 5 years i.e., till 16 June 2017. Recognizing that the LAC and the Board has also approved for revision (i.e., reduction) in license fee for this item retrospectively from June 2012 and in view of the clarification furnished by MOPT as brought out above, this Authority accepts the proposal of the port for retrospective revision from 17 June 2012 i.e. from the date the Order No.TAMP/8/2012-MOPT dated 2 May 2012 and 8 August 2012 came into effect i.e., 17 June 2012.

10.1. In the result, and for the reason stated above, and based on a collective application of mind, this Authority approves to revise the license fee prescribed at Sr. No.2 under Schedule- II – Charges for Occupation of Foreshore Land under Part III – Estate Rentals approved by this Authority vide Order No.TAMP/8/2012-MOPT dated 8 August 2012 as given below:

“ II. CHARGES FOR OCCUPATION OF FORESHORE LAND:

Sr. No.	Description	Rate in ₹	Unit
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2.	For the purpose of carrying out launch/ barge repairs workshop or any other industry including Commercial/ Non-Commercial purpose beyond Vasco Da Gama bay upto the port limits (Dabolim/ Chicalim/ Sancoale/ North of Zuari River/ Betul Foreshore).	120.00	Per 10 sq. mtr. or part thereof per calendar month or part thereof.
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Note: The rate prescribed above shall get automatically escalated by 2% per annum after expiry of one year from the effective date of implementation. “

10.2. The revised license fee shall be deemed to have come into effect from 17 June 2012 with validity till 16 June 2017.

(T.S. Balasubramanian)
Member (Finance)

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

F.No. TAMP/23/2017-MOPT - Proposal received from the Mormugao Port Trust (MOPT) for revision in Scale of Rates (SOR) in respect of Foreshore Area.

A summary of the comments received from Goa Mineral Ore Exporters' Association (GMOEA) dated 11 April 2017 and IMC Limited dated 26 April 2017 which are given below:

- (i). **Goa Mineral Ore Exporters Association (GMOEA):**
GMOEA is not directly involved in the matter. It supports the proposed reduction of rent for foreshore area in Vasco bay that is mostly used by shipyards for barge building/ repairs service since the mining industry, particularly in view of the barge/ repair business being in a slump after the cap on iron ore production which has reduced exports.
- (ii). **Indian Molasses Company (IMC) Limited:**
IMC is not having any activities at Foreshore area and hence, not interested to participate in the Joint Hearing.

2. A joint hearing in this case was held on 30 May 2017 at the MOPT premises. At the joint hearing, the MOPT have made the following submissions:

Mormugao Port Trust (MOPT)
(FA & CAO)

- (i). The lease rent for occupation of fore shore land as per the prevailing May 2012 Order is ₹350/- per 10 sq. mtr. / month for beyond Vasco Da Gama bay.
- (ii). There has been steep increase in the lease rent for fore shore area beyond Vasco in May 2012 Order. In view of steep increase in lease rent, there were multiple representation from Shipyard's Association of Goa not to implement revised lease rent. They also represented the Ministry. The Ministry advised the port to review and hence the current proposal is filed by the port.
- (iii). In the last revision, land valuation for foreshore area was arrived based on commercial valuation of adjacent land. The proposal to review the lease rent in respect of fore shore area was put before the Board. The Board of Trustees of MOPT has decided to undertake use based valuation for this land.
- (iv). The foreshore area is occupied mainly for carrying out launch/ barge repairs. In view of ban on mining activity in Goa, iron ore operations came to a standstill from the years 2012 to 2015. This has adversely impacted barge repairs industry.

- (v). Earlier valuation of fore shore are was done based on land valuation adjacent to foreshore area. The land adjacent to foreshore is a private area. Utility of land adjacent to foreshore and utility of foreshore is not same.
- (vi). Government of Goa rate is ₹10/- per sq. mtr./ month.
- (vii). The proposal is for reduction in lease rent for occupation of fore shore land at Sl. No.(2) beyond Vasco Da Gama from existing ₹350/- per 10 sq. mtr./ month to ₹120/- per 10 sq. mtr./ month.
- (viii). We will have to refund to some parties because of retrospective revision i.e. reduction in lease rent sought by us retrospectively. Many parties are not paying the existing rate. There are only very few parties for refund. Only one or two parties are to be refunded on account of our proposal. We have taken care of this point and we are well aware that we will have to refund. Our debtors will come down.
