

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

G.No. 379

New Delhi,

30 October 2019

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 proposal received from the V.O. Chidambaranar Port Trust for fixation of lease rent for land under Coastal Employment Unit (CEU) at VOCPT as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No.TAMP/29/2019-VOCPT

V. O. Chidambaranar Port Trust

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Applicant

QUORUM

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

ORDER

(Passed on this 10th day of October 2019)

This case relates to a proposal dated 13 June 2019 received from the V.O. Chidambaranar Port Trust (VOCPT) for fixation of lease rent for land under Coastal Employment Unit (CEU) at VOCPT.

2.1. Since the proposal of VOCPT was not complete in all respects, the VOCPT was requested vide letter dated 25 June 2019 to furnish the list of users/ user organisations and prospective lessees alongwith a complete mailing address, e-mail, phone number and fax number etc. by 26 June 2019. The VOCPT was also requested to furnish Draft Schedule of Rent along with the Statement of Conditions to govern the Schedule of Rent. This was followed by reminder letter dated 04 July 2019.

2.2. In response, the VOCPT vide its email dated 04 July 2019 has made following submissions:

- (i). The proposal of the port for fixation of lease rent for lands under "CEU" at VOCPT is to amend the existing schedule for lease rentals by including a new category viz., "CEU" category. Hence, the prevailing conditions applicable for lease rentals will be applicable for lease rental for CEU category also and hence, no separate statement of conditionalities in the schedule of rent is required.
- (ii). The list of lessees/ users/ user organisations consulted in the proposal of the port for revision of lease rentals in June 2017 may be considered for consultation in the current proposal as well. Further, a list containing the prospective lessees is furnished for consultation along with the users/ user organisations.

3. Subsequently, in continuation to its email dated 04 July 2019, VOCPT vide its e-mail dated 09 July 2019 has furnished Draft Schedule of Rent along with the Statement of Conditions to govern the Schedule of Rent.

4.1. The submissions of the VOCPT in its proposal dated 13 June 2019 and subsequent email dated 09 July 2019 are summarized below:

- (i). Ministry of Shipping (MOS) has vide its letter dated 05 October 2017 directed the VOCPT to establish CEU with a view to develop the following:
 - (a). Growth in port traffic through cargo generation from the CEU industrialization.
 - (b). Creation of employment through industrial development and
 - (c). Growth in contribution to the overall economy of the region.

[The MOS letter dated 05 October 2017 is attached at Page No.327 of report of PWC forwarded by the VOCPT with its proposal. In the said letter, MOS has requested VOCPT to initiate action to expedite development of South Tamilnadu CEU.]

- (ii). Accordingly, VOCPT with the approval of the Board of Trustees vide resolution No.20 against agenda item 20 dated 31 May 2018 has appointed M/s.PWC as a consultant for development of CEU duly following the tender procedure.
- (iii). The consultant after conducting the study has submitted the following reports:
 - (a). A copy of Master Plan Report on development of CEU .

- (b). A copy of report on recommendation of land lease rental for land under CEU.

4.2. The valuation of land and lease rentals at 6% of the market value of land as per the five methods prescribed in the Land Policy Guidelines, 2014 arrived by the consultant is summarised below as available page 46-54 of the report:

- (i). **Method 1: State Government's ready reckoner of land values in the area, if available, for similar classification/ activities:**

State Government's Ready Reckoner of land value has been referred for similar classification. The definition therein does not represent the existing pattern of activity of port land and those proposed under CEU. CEU is a new development and similar development category does not exist in the present land use classification. However; an assessment under this method referring the State Government Ready Reckoner is presented in the table below:

Market value of land as per ready reckoner

Sr. No.	Category	Area	Land Value ₹ /sq.m. as per State Government Ready Reckoner	Estimated Lease Rental (₹ /sq.m./ annum) @ 6% of the land value	Estimated Lease Rental (₹ Lakh /Acre/ annum) [converted from ₹/ sq.m./annum to ₹/ acre applying multiplying factor of 4046.86]
(1)	(2)	(3)	(4)	(5)	(6)
1	Service/ Residential	Zone A	2785	167.1	6.76
2	Industrial		500	30.00	1.21
3	Commercial		6030	361.8	14.64

Land lease rental under industrial category as per Land Policy Guidelines is estimated at ₹1.21 Lakh/ acre/ annum which is considered here since the proposed CEU is aimed at industrialization. It is recommended to prescribe separate land lease rate for CEU category.

- (ii). **Method 2: 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:**

The assessment considers three (3) recent transactions in vicinity in the last 3 years. One out of these transactions is by private user (industrial user) while two other transactions are by SIPCOT (Tuticorin Industrial Park including Phase-1 and Phase-2). The land is identified as industrial land.

Of the three recent transactions, land value and lease rent based on the highest value of procurement of land by private user of Tuticorin Alkali Chemicals and Fertilizers Ltd. (TACFL) is at ₹47.10 lakhs / acres in August 2018 escalated to present value. Accordingly, land value and lease rent under this method are as follows:

Estimate land lease rental under Method-II

Rate of land in 2018 (₹ in Lakhs per acre)	47.10
Lease rental as per LPG 2014 (₹ in lakh/ acre/ annum) (6% of the market value of 47.10)	2.826

- (iii). **Method 3: 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:**

Upon assessment of tender cum auction based allotment it is observed that there have been five allotments over last three years on 'Tender-cum-auction'

conducted by VOCPT. The highest tender cum auction price is identified as ₹15.31 lakh/ acre/ annum (under commercial category of use). Allotments have been made under 'Commercial' category. No allotments were made under industrial category. Considering the fact that allotment of only 17.67 acre was concluded in the last three 'Tender-cum-auction', it may not be a suitable representative of demand for port land and for the land proposed under the CEU.

(iv). **Method 4: Rate arrived at by an approved valuer appointed for the purpose by the Port:**

VOCPT had conducted land valuation study through an approved valuer (M/s. KITCO) in 2017 to determine the market value of port land. Market value of land and lease rental recommended by the approved valuer for revision of Port land during the study done in the year 2017 is tabulated below:

Sr. No.	Category	Area	Land Value (₹/ sq.m.)	Land Lease (₹/ sq.m./ annum)	Effective lease/ acre (₹ in Lakh / annum)
1	Service/ Residential	Zone A	2130.52	127.83	5.17
2	Industrial		4260.86	255.65	10.35
3	Commercial		6455.91	387.35	15.68

The tariff recommended by the valuer (M/s. KITCO during 2017) was with 6.98% increase over the then applicable lease rent under this valuation method. This was then not adopted by VOCPT for revision of lease rent for port land during the 2017 revision. The VOCPT had then based on the approval of the Board proposed the lease rent by applying 2% escalation in the then prevailing rate in accordance with the Land Policy Guidelines 2014 and the proposed rates were notified by TAMP vide Order No.TAMP/52/2017-VOCPT dated 14 November 2017.

The maximum land lease rental recommended by the valuer for commercial category was ₹15.68 lakh/ acre/ annum in the year 2017. Further, when seen in the light of existing poor demand of Port land, this land lease rental may not be recommended for adoption of CEU. Moreover, this land lease rental is for Commercial category of allotment of port land; which is not at par with the intended objective of the CEU. In case the Industrial category of market value of land was to be considered, the land lease rental works out at ₹10.35 lakhs/ acre/ annum. Despite of similar land lease rental applicable under existing land lease rental structure, there are no takers for port land on lease basis for setting up of industrial activity. In light of the above fact(s), land lease rental of this nature may not be able to suitable for generating demand for the CEU lands.

(v). **Method 5: Any other relevant factor as may be identified by the Port:**

SIPCOT Industrial Area Tuticorin (Phase-1) is the closest similar industrial area developed in the vicinity which is now further expanding the Phase-2. Land acquisition for Phase-1 was completed in 1999 which is nearly 20 years ago.

Based on discussion with SIPCOT, consultant has observed that last land acquisition for SIPCOT Tuticorin Industrial Area (Phase-1) was done in 1999 at the rate of ₹90,000/ acre. Applying WPI (average of last 5 years) of 4.4% the present value is estimated at ₹2.13 Lakh/ acre (from 2000 to 2019) as given below:

Land lease rental under Method-V

Rate of acquisition in 1999 (₹ Lakhs per acre)	0.90
Escalation factor (5 Year WPI Average) (RBI) [For each of the years from 2000 till the year 2019 i.e. for 20 years]	4.4%
Present value of land acquisition cost (₹ Lakhs per acre)	2.13
Lease rental as per LPG 2014 (₹ Lakh/ acre/ annum)	0.13

4.3. **Summary of valuation under the 5 methods prescribed under Land Policy Guidelines 2014**

Sl.	Method	Market value	Lease rental
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No.		of land (₹ Lakh/acre)	@ 6% of the market value for land (₹ Lakh/ acre/ annum)
1.	State Government's ready reckoner of land values in the area, if available for similar classification / activities	30.00	1.21
2.	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.	47.10	2.826
3.	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.	NA	15.31*
4.	Rate arrived at by an approved valuer appointed for the purpose by the Port	261.27\$	15.68**
5.	Any other relevant factor as may be identified by the Port (The consultant M/s. PwC has referred the last land acquisition by District Collector Tuticorin for SIPCOT Phase – 1 for assessment.	2.17	0.13

* This is the highest land lease rental derived through "Tender-cum-auction" method (FY 2018-19). The allotment referred here is land leased to a private company for edible oil storage. The allotment is under commercial category of land use for a 2.00 acre of land.

** VOCPT conducted valuation study in 2017 and the valuer recommended this rate for allotment of land for commercial category. VOCPT revised lease rental by 2% as prescribed in the LPG 2014. The rate recommended has not been considered for the CEU since this is a new development project as is identified as fourth category for allotment of land under the CEU as a part of Sagarmala Programme.

\$ Land value under commercial category (the highest of the three existing categories of port land).

4.4. The report submitted by M/s. PWC was placed before the Land Allotment Committee (LAC) for its deliberations following the Land Policy Guidelines (LPG), 2014. The LAC headed by the Dy. Chairman, FA&CAO, Chief Engineer and Traffic Manager being members had detailed discussion in the LAC meeting on the report furnished by the Consultant. The LAC has also gone through the five methodologies adopted by the consultant for calculation of lease rent of land under CEU and has recommended to place the matter before the Board of Trustees for its approval and to send to TAMP for notification. A copy of the LAC agenda and LAC minutes is furnished. The rates recommended by the LAC are as follows:

Description	With Minimum Guarantee Throughput (MGT)		Without MGT	
	Rate/Acre/annum	Rate/Sqm/annum	Rate/Acre/annum	Rate/Sqm/annum
CEU Category	₹2,82,600	₹69.83	₹6,42,602	₹158.78
MGT in MT p.a.	6000 MT		NIL	
Escalation	5% compoundable on both lease rental and MGT.			

4.5. The LAC has considered the recommendations of the consultant and highlights of the minutes of LAC meeting held on 3 June 2019 are summarized below:

I. LAC has gone through the agenda submitted and the observation of LAC are summarised as follows:

(i). The lease rents notified by the TAMP vide order dated 29.12.2017 with 2% compoundable escalation are as follows:

Sl. No.	Category	Rate in ₹ per Sqm. / annum (in ₹) (as on June, 2019)
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1	Service	124.55
2	Industrial	249.09
3	Commercial	377.43

- (ii). Total land area of VOCPT is around 4426 acres. Out of this, 1386.96 acres of land has been allotted on lease basis (Outside Custom Notified area).
- (iii). Port has invited NIT for allotment of vacant land three times; however, the response of the tender was very negligible and mostly single bidders, and area of land allotted was also small.
- (iv). It has been proposed to develop CEU over an area of 940 acres with a potential leasable area of 702 acres in Zone-A.
- (v). The report has stated that the present lease rent rate notified by TAMP is very high when compared with the rate to the nearby location (i.e.) SIPCOT land rate. Hence, the consultant has proposed a separate rate for CEU, apart from the existing lease rent for the three categories.
- (vi). The LAC has observed that the consultant has worked out five methods for fixation of reserve price for the land under CEU for rent fixation by following LPG, 2014 for allotment of lands for CEU Scheme:

Sr. No.	Method	Market value of land (₹ lakh / acre)	Lease rental @ 6% of the market value for land (₹ in lakhs / acre / annum)
1.	State Government's ready reckoner of land values in the area, if available for similar classification / activities	30.00	1.210
2.	Highest rate of actual relevant transactions registered in last three years in the Ports vicinity (the vicinity of the Port is to be decide by the respective Port Trust Boards) with an appropriate annual escalation rate to be approved by the Port Trust Board.	47.10	2.826
3.	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 (*)	NA	15.31*
4.	Rate arrive at by an approved valuer appointed of the purpose by the Port	NA	15.68**
5.	Any other relevant factor as may be identified by the Port (The consultant M/s. PwC has referred the last land acquisition by District Collector Tuticorin for SIPCOT Phase -1 for assessment)	2.17	0.13

Notes:

*- This is the highest land lease rental derived through "Tender cum auction" method (FY 2018-19). The land allotment referred here is land leased to KOG-KTV Pvt. Ltd., for edible oil storage. The allotment is under commercial category of land use for a 2.00 acre of land and does not fall under similar transaction.

** - VOCPT conducted valuation study in 2017, by an approved valuer and the valuer recommended rate for allotment of land (commercial category). The rate recommended by valuer has not been considered for the CEU since this is a new development project and is identified as the fourth category for allotment of land under the "CEU" development as a part of Sagarmala Program and also VOCPT did not adopt this rate while revision in June 2017. VOCPT revised the land lease rental by 2% of minimum escalation as prescribed in the LPG 2014.

- II. LAC has also noted the following for fixation of separate rate for CEU as recommended by the consultant:

Consultant has proposed a separate category for CEU and the lease rental recommended thereof considers the following:

- (i). The LAC has noted the direction of the MOS vide letter dated 05 October 2017 for establishment of CEU at VOCPT.
- (ii). Also, the then JS (Ports) vide letter dated 08 July 2015 made a remark that “it is not mandatory that the Land Allotment Committee has to necessarily take the highest of the 5 factors given in the Land Policy Guidelines and can choose another factor with proper justification.”
- (iii). Further, it was noticed that the consultant M/s.PwC has recommended for allotment of land earmarked for CEU under two categories (i.e.) (i) with MGT and (ii) without MGT stating that this will aid the EXIM trade.
- (iv). As per the report, the consultant M/s. PWC has recommended lease rent of ₹2,82,600 per acre per annum (6% of the market value of ₹47,10,000) and MGT of 6000 MT per acre per annum with 5% compoundable escalation for both lease rental and MGT. With regard to without MGT clause, the consultant M/s. PWC has recommended lease rent of ₹6,42,602/- per acre per annum (6% of market value) with 5% compoundable escalation in the rates. The proposed rate for the category without MGT is higher than the lease rent with MGT. This is to compensate for the MGT revenue.
- (v). LPG 2014 vide clause No.12 (H) provides that “The Port would have the option to prescribe Minimum Guaranteed Traffic/ Minimum Guaranteed Revenue as conditions for fresh lease, if deemed fit”. LAC recommends for prescribing MGT to ensure optimum utilization of the facility for the intended user.
- (vi). Other major ports under the Sagarmala Program have adopted single rate for land lease rental for similar developments (Smart industrial Port city Kandla, Smart Industrial Port City Paradip). Therefore, CEU will be considered as a fourth category.
- (vii). Existing VOCPT land lease on upfront basis is over ₹2.1 crore/ acre for commercial category and over ₹1.4 crore/ acre for industrial category for 30 years lease period when calculated as per the notified rates of TAMP (rate per acre per annum at present is ₹15,27,459 for commercial category and ₹10,07,703 in respect of industrial category) whereas one time upfront land rate at SIPCOT/ Tamilnadu Industrial Development Corporation Ltd (TIDCO) is only ₹14 lakh/ acre for a 99 years lease. The existing one time upfront lease rentals notified by TAMP when compared with the nearby industrial areas are nearby 10 times higher. This is obviously dissuading industries from setting up industries on port lands.
- (viii). The prevailing rates in and around the surrounding area of VOCPT which provides tough competition to port both in terms of pricing and tenure is tabulated below:

Sr. No.	Name of Industrial Area	Rate (₹ Lakh / Acre)	Duration of Lease (Years)	Vacant Land (Acre)	Remark
1	Gangaikondan Industrial Growth Center (SIPCOT)	16	99	523	Lease rate includes land deposit charges and development cost.
2	Tuticorin Industrial Complex (SIPCOT)	14 Rates for Phase-2 yet to be determined	99 Tenure yet to be determined	0 Acre in Phase-1 Land allotment for Phase-2 yet to commence (1600 Acre)	Lease rate includes land deposit charges and development cost. Pricing study for Phase-2 under way. For Environmental Clearance for Phase-2 at MoEF, Gol.
3	AMRL SEZ, Nanguneri (SPV of TIDCO and SREI)	35	85	1600 Acre	Presently operated by SREI and ATTIVO. Rate includes land and development cost. This

					rate is negotiable as advised by the SEZ team during site visit conducted in – Dec 2018.
4	Transport Engineering SEZ, Gangaikondan	16	99	116	Lease rate includes land deposit charges and development cost.

The above factors would significantly impact VOCPT in following ways:

- (a). **Negatively impact the demand and off-take of CEU land:**
The existing inventory of industrial land in vicinity at relatively lower level will constrain the targeted off-take scenarios for CEU. This will affect the potential employment creation, potential growth in port traffic and economic value addition in the region.
- (b). **Potential revenue loss for VOCPT:**
With a scenario of delayed / limited off-take for the saleable land identified under CEU (702 acre), VOCPT would be incurring potential revenue loss as there would be no substitute income from this vacant land.
- (c). **Risk of encroachment:**
Typically it is observed that vacant and unutilized land is vulnerable to encroachment that leads to additional cost to the land owner in form of litigations and resultant time losses.
- (ix). In the last three years of “Tender-cum-auction’ conducted by VOCPT i.e. 2016-2017 and 2018, total extent of land offered for allotment was over 470 acres, but only 17.67 acres of land was taken by bidders on lease.
- (x). In the above said allotments, there was only a single bidder participation during the ‘Tender–cum–auction’ in last three years.
- (xi). The rates offered by such bidders over the reserve price was negligible. (i.e.) from ₹1.0 paisa to ₹1/- over and above the reserve price.
- (xii). It is observed that the rate adopted for fixation of market value during 2014 was based on the highest tender cum auction rate which was for a small extent of land for setting up of weigh bridge and not for common adoption for all port lands and the same was observed by the TAMP also in its speaking order dated 21 May 2014 vide, para no.16 (v) (d) (3) (i).
- (xiii). This sudden spike in tariff during 2014 led to slump in demand for port land and also vacation of Port land by various existing lessees to the tune of nearly 10 acres.
- (xiv). Many of the existing allottees have also not paid the retrospective lease rent arrears and have approached the court and obtained stay against the revision order issued by TAMP dated 21 May 2014 (TAMP/6/2012-VOCPT) which is still sub-judice and also the lease rentals are still being paid at the pre revised rates.
- (xv). Considering the subdued demand, Port had not proposed any revision for lease rentals effective from July 2017 onwards except nominal escalation of 2% as prescribed in LPG 2014, while reviewing the lease rentals due from 01 July 2017. Even the Government approved valuer had recommended the lease rentals with 6.98% increase.
- (xvi). Though the area allotted on annual lease rental basis for commercial, industrial, service and special category is 966.74 acres, the average revenue realization to the port at present is only ₹2.66 Lakh/ acre/ annum as against the average port demanded amount of ₹5.15 Lakh/ acre/ annum.

- (xvii). The State Government has raised a demand of ₹8.15 crores towards vacant land tax and also since the port has not agreed to the said payment the statutory approvals for other existing allotments is not being granted by the State Government.
- (xviii). Also, for maintenance of such vacant lands port has to incur expenditure on clearance of Julifora, encroachment, etc.
- (xix). Most of the cargo handled by the port are captive in nature and the port has witnessed declining trend in traffic by 2 Million each year consecutively i.e. 2016-17 -38 MT, 2017-18 36 MT and 2018-19 34 MT. At present also, Port is witnessing (-) 2% growth as on date, due to less demand for Thermal Power plants sourcing through VOCPT. Hence there is a necessity for generating cargo from Port based industries to have sustainable traffic growth. It is possible to achieve this by promoting port based industrialization in the proposed CEU.

4.6. In this connection, the LAC has also noted that in the previous revision of lease rates approved in the year 2014 for two quinquenniums, there was a hike of 167.34% (during 2007 to 2012) and 88.47% (during 2012 to 2017) in lease rental of commercial, industrial and service category. Based on the recommendations of the valuer and subsequently approved by TAMP, as stated above the revised lease rental has been implemented and most of lessees have disputed the revision and filed number of petitions on port as various legal authorities. Lessees are paying the lease rents at the pre revised rate only. Even some of the lessees have vacated the lands.

4.7. In view of the above, LAC after detailed deliberation recommended to place the proposal before the Board of Trustees of VOCPT for approval and to send the proposal to TAMP for notification of rates as below:

- (i). Lease rent at the rate of ₹2,82,600 per acre per annum (₹69.83/ Sqm/annum) in accordance with the LPG 2014 along with MGT of 6000 MT/ acre/ annum with 5% compoundable escalation in lease rent as well as MGT for each year.
- (ii). Lease rental at ₹6,42,602 per annum (₹158.78/sqm/annum) without MGT (Considering the revenue component) with 5% escalation (compoundable) each year in the rate.
- (iii). To recommend to include the new category as "CEU Category" at the above rate.
- (iv). The development cost, if any, for the same shall be charged and collected separately and do not form part of lease rental rates.

4.8. To summarise, the proposal of the VOCPT is for fixation of lease rent for land for a new category under CEU at VOCPT. The VOCPT has furnished proposed Schedule of Rent along with conditionalities. The rate proposed by the VOCPT and some of the main conditionalities are given below:

Schedule of Rent:

- (i). Schedule of Rent for allotment of land on lease basis in Coastal Employment Unit located outside the custom bond area.

(in lakhs ₹ / acre / year)

Sl. No.	Zone	Land lease rental rate in terms of annual lease rent
1.	Coastal Employment Unit (With Levy of Minimum Guaranteed Throughput)	2.826
2.	Coastal Employment Unit (Without Levy of Minimum Guaranteed Throughput)	6.426

The above rates will be escalated @ 5% per annum.

- (ii). Minimum Guaranteed Throughput:

The amount of MGT shall be 6000 Metric Tons/ annum and shall be escalated by 5% per annum on compoundable basis

- (iii). In case of any inconsistency in the definitions/ conditions/ notes in the Scale of Rates (SOR) vis-à-vis the Policy Guidelines for Land Management, 2014, the provisions contained in the Policy Guidelines for Land Management, 2014, would prevail.
- (iv). Mode of allotment of land in the CEU shall be decided by VOCPT in accordance with the Land Policy Guidelines 2014 and the amendments and clarifications shall be issued thereunder.

Apart from the above, the VOCPT has also proposed other conditionalities and terms and conditions, which are brought out in the Schedule of Rent to be approved.

4.9. The VOCPT has subsequently vide its letter dated 16 August 2019 furnished a copy of the Board Minutes dated 17 July 2019 whereby the Board of Trustees of VOCPT has resolved the following:

- (i). Approved the annual lease rental rates for land to be allotted in the CEU under a separate category and
- (ii). Approved the lease rental rate of ₹2.83 lakh/acre/annum with MGT of 6000 MT/acre/annum with 5% compoundable escalation in annual lease rental as well as MGT for each year and
- (iii). Approved the annual lease rental rate of ₹6.42 lakh/acre/annum without MGT with 5% compoundable escalation in lease rent for each year and
- (iv). Approved the above annual lease rental rates as reserve price for allotment of land in the CEU through 'Tender cum auction' method as prescribed in the LPG 2014 and ratified the letter sent to TAMP for approval for fixation of annual lease rental rent as reserve price for land under CEU and
- (v). Approved for levy of development charges from the lessees with approval of the Chairman from time to time.

5.1. In accordance with the consultation process prescribed, a copy each of the VOCPT proposal dated 13 June 2017 and subsequent email dated 09 July 2019 was circulated to the concerned users/ user organizations/ long term allottees (as suggested by the VOCPT) seeking their comments. The VOCPT has responded on the comments of users/ user associations. The Tamilnadu Maritime Academy (TMA) vide its letter dated 25 July 2019 has furnished its comments which was forwarded to VOCPT. The VOCPT has not responded.

5.2. Thiagarajar Mills (P) Ltd. and VTM Ltd. has stated that their Suit in O.S. No.778/2005 before the Principal District Munsif's Court, Tuticorin (Formerly O.S. No.142/98, Sub-Court, Tuticorin) wherein they have questioned previous demand for enhanced rate made in 1998 is still pending disposal before the said Court. Hence, they have not given its comments.

6.1. A joint hearing in this case was held on 29 July 2019 at the VOCPT premises. The VOCPT made a brief power point presentation of its proposal. At the joint hearing, the VOCPT and users/ user organizations/ long term allottees have made their submissions.

6.2. As decided at the joint hearing, the VOCPT was vide our letter dated 2 August 2019 requested to take action on the following points, followed by reminder dated 13 August 2019.

At the joint hearing, most of the users/ user associations pointed out that the proposed lease rent is high in comparison to the lease rent for land allotted by SIPCOT for 99 years which is in the range of ₹14 lakhs/ acre to ₹25 lakhs per acre under the first-phase and users request the port to moderate the proposed lease rent atleast for the MSME. Some of the users/ user associations requested the Port to propose separate rate and MGT for MSME. Users also objected the proposal of VOCPT for 5% compoundable annual escalation in the lease rent and 5% compoundable escalation in the MGT. As decided in the joint hearing, in view of the objections made by the users/

user associations, the port was requested to relook at its proposal and furnish its response by 05 August 2019. The Port to also furnish the basis for the proposed MGT.

6.3. The VOCPT vide its letter dated 16 August 2019 and subsequent letter dated 16 August 2019 has made the following submissions:

- (i). In respect of the lease rent and the MGT for MSME, the proposal will be separately submitted to TAMP.
- (ii). The escalation in MGT is now revised to 3% per annum compoundable each year and lease rentals escalation is revised to 2% per annum compoundable each year and is further subject to revision once in 5 year for lease rentals on annual basis as per extant Land Policy Guidelines issued by Govt. of India for time to time.
- (iii). No prescribed norms have been stipulated in LPG 2014 as regards MGT except the stipulation that "Port would have the option to prescribe Minimum Guaranteed Traffic/ Minimum Guaranteed Revenue as conditions for fresh leases, if deemed fit".
- (iv). In respect of MGT, the said quantity has been prescribed as per the various stakeholders meetings held by M/s. PWC (Consultant) and also with reference to the MGT applied on existing lessees.

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

- (i). (a). The V.O. Chidambaranar Port Trust (VOCPT) proposes to develop Coastal Employment Unit (CEU) under Sagarmala Program as per direction of Ministry of Shipping (MOS) vide d.o. letter dated 5 October 2017 from Director, MOS to VOCPT. The said d.o. letter of the MOS directs VOCPT to expedite the development of South Tamil Nadu CEU. The VOCPT in pursuance of the direction of the MOS, proposes to develop CEU with the objective of (a). Growth in port traffic through cargo generation from the CEU industrialization (b). Creation of employment through industrial development and (c). Growth in contribution to the overall economy of the region. The port has engaged a Consultant M/s.Price Waterhouse Coopers Private Limited (PWC) who, after conducting the study, has submitted a Report on land lease rental for land under CEU.
 - (b). Two parcels of port land, one at Hare Island and another land near the Port colony are identified for development of CEU to promote increase in cargo throughput and coastal employment opportunities. The port has identified 940 acres of land under CEU of 940 acres, estimated leasable land is 702 acres.
 - (c). The existing lease rent approved by this Authority for the port land vide Order No.TAMP/52/2017-VOCPT dated 14 November 2017 prescribes lease rent for three categories viz. Service / Residential, Industrial and Commercial for each of the Zones A and B. The CEU is a new development project and is identified as the fourth category for allotment of land under the 'CEU' development as a part of Sagarmala Program. The port, therefore, seeks approval of lease rent for a separate category viz. CEU. Even in the Paradip Port Trust (PPT) and Deendayal Port Trust (DPT), separate lease rent has been approved by this Authority for Smart industrial Port city at Kandla for DPT and PPT based on the proposal filed by the concerned major ports.
- (ii). For the purpose of determining lease rentals for the lands belonging to the Port Trusts, this Authority is mandated to follow the land policy guidelines issued by the Government from time to time. The VOCPT has filed the current proposal following the amended Land Policy Guidelines, 2014 issued by the MOS to all the Major Port Trusts.

- (iii). (a). The amended Land Policy Guidelines, 2014 clearly lays down the procedure and the methodology to be adopted for determining the market value and the latest Scale of Rates (SOR) of the port lands.
- (b). As per clause 11.2 (e) of the amended Land Policy Guidelines, 2014, a Land Allotment Committee (LAC) shall be constituted by the Port Trust Board consisting of Deputy Chairman of the Port, and Heads of Departments of Finance, Estate and Traffic. Accordingly, the VOCPT has constituted a Land Allotment Committee headed by the Dy. Chairman and comprising of other members viz. FA&CAO, Chief Engineer and Traffic Manager. The VOCPT has furnished a copy of the Report of the LAC.
- (c). Of the five factors prescribed in the Land Policy Guidelines, 2014 for arriving at the market value of the land, the LAC has considered the market value of land and arrived at lease rental as brought out in the earlier part of this Order.
- (d). A summary of the market value of land and lease rent under the different methods considered by the LAC is given below for ease of reference:

Sr. No.	Method	Market value of land (₹ lakh / acre)	Lease rental @ 6% of the market value for land (₹ in lakhs / acre / annum)
1.	State Government's ready reckoner of land values in the area, if available for similar classification / activities	30.00	1.210**
2.	Highest rate of actual relevant transactions registered in last three years in the Ports vicinity (the vicinity of the Port is to be decide by the respective Port Trust Boards) with an appropriate annual escalation rate to be approved by the Port Trust Board.	47.10	2.826
3.	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 (*)	NA	15.31 *
4.	Rate arrive at by an approved valuer appointed of the purpose by the Port	NA	15.68 *
5.	Any other relevant factor as may be identified by the Port (The consultant M/s. PwC has referred the last land acquisition by District Collector Tuticorin for SIPCOT Phase -1 for assessment)	2.17	0.13

* Lease rent under these two methods have not been considered by the LAC as brought out in para No.4.5 (I)(vi) and hence not reiterated for sake of brevity.

** [₹ 500 x 6% = ₹30 per sq. mtr / annum x 4046.86 / 1,00,000]

- (iv). It can be seen from the above table that the highest lease rent after exclusion of lease rent under the third and fourth method for the reasons stated by the port, is ₹2.826 lakh per acre/ annum under the second method. The LAC has drawn reference to the letter dated 08 July 2015 from the then Joint Secretary (Ports) addressed to all Major Port Trusts that it is not mandatory that the Land Allotment Committee has to necessarily take the highest of the 5 factors given in the Land Policy Guidelines and can choose another factor with proper justification. Citing this letter, the LAC has recommended proposed lease rent based on the lease rent under any other method (which is not the highest) after taking into consideration the following:

- (a). Existing land lease rental at VOCPT on upfront basis works out to over ₹2.1 crore/ acre for commercial category and over ₹1.4 crore/ acre for industrial category for 30 years lease period when calculated as per the lease rent notified by TAMP (rate per acre per annum at present is

₹15,27,459 (₹15.27 lakhs/ Acre per annum) for commercial category and ₹10,07,703 (₹10.08 lakhs per acre per annum in respect of industrial category). Whereas, one time upfront land rate at SIPCOT/ TIDCO is only ₹14 lakh/ acre for a 99 years lease. The existing one time upfront lease rentals when compared with the nearby industrial areas are nearly 10 times higher. This is obviously dissuading industries from setting up industries on port lands.

- (b). A comparative position of prevailing rates in and around the VOCPT area as per the Report of the valuer has already been brought out in the earlier paragraphs of this Order and hence not reproduced for the sake of brevity. As per the said comparative statement, the rate is ₹14 lakhs to ₹16 lakhs per acre for 99 years lease in phase I by SIPCOT, ₹16 lakhs per acre for 99 years lease at Transport Engineering SEZ, Gangaikondan and ₹35 lakhs per acre for 85 years lease at AMRL SEZ, Nanguneri. The Report of the valuer states that the above rates in vicinity will have significant impact on the proposed land of VOCPT for CEU in terms of negative impact on demand and take off of CEU lands, delayed/ limited take off of land at CEU which may result in potential revenue loss to port. Further, vacant and unutilised land is vulnerable to encroachment.
- (c). In the last three years of 'Tender-cum-auction' conducted by VOCPT i.e. 2016-2017 and 2018, the total extent of land offered for allotment was over 470 acres, but only 17.67 acres of land was taken by bidders on lease. Further, in the said allotments for the three years period, there was only a single bidder participation during the 'tender-cum-auction' in last three years. Further, the rates offered by such bidders over the reserve price were negligible (i.e.) from ₹1.0 paisa to ₹1/- over and above the reserve price.
- (d). The rate proposed by the port for fixation of market value during the year 2014 was based on the highest tender cum auction rate for a small extent of land allotted for setting up of weigh bridge and not for common adoption for all port lands and the same was observed by the TAMP also in its speaking order dated 21 May 2014.
- (e). The sudden spike in lease rent during 2014 has led to slump in demand for port land and also various existing lessees have vacated land to the tune of nearly 10 acres. Most of lessees have disputed the revision and filed number of writ petitions on the lease rent approved in 2014 and are paying pre-revised lease rent.
- (f). Most of the cargo handled by the port are captive in nature and the port has witnessed declining trend in traffic by 2 Million each year consecutively from 2016-17 to 2018-19 34 MT from 38 MMT to 34 MMT. At present also Port is witnessing 2% decline in the traffic growth as on date, due to less demand for Thermal Power plants sourcing through VOCPT. Hence there is a necessity for generating cargo from Port based industries to have sustainable traffic growth. It is possible to achieve this by promoting port based industrialization in the proposed CEU.
- (v). To summarise, the lease rent proposed by the port based on recommendation of the LAC and the approval of the Board of Trustees of the VOCPT is ₹2,82,600 (₹2.826 lakhs) per acre per annum. The proposed lease rent is linked to Minimum Guarantee Throughput (MGT) of 6,000 MT/ acre/ annum. Relevant clause 12(H) of the amended LPG, 2014 referred by the port is reproduced below for ease of reference:
"The Port would have the option to prescribe Minimum Guaranteed Traffic/ Minimum Guaranteed Revenue as conditions for fresh lease, if deemed fit". LAC recommends for prescribing MGT to ensure optimum utilization of the facility for the intended user."

Thus, the proposal of the port to link the proposed lease rent with the MGT clause is found to be in line with the said clause of the amended LPG, 2014 and hence is considered.

When sought the basis for the proposed MGT, the port has clarified that no prescribed norms have been stipulated in LPG, 2014 as regards MGT. The proposed MGT of 6,000 HT/ acre/ annum proposed by the port is reportedly after the meetings with various stakeholders by the Consultant appointed by the port and is also with reference to the MGT applied on existing lessees.

The port has also proposed separate lease rent without MGT at ₹6,42,602 per acre per annum. The port has clarified that the proposed lease rent without MGT is higher than the rate for MGT, to compensate the MGT revenue.

SEPC Power Private Limited (SPPL) has stated that MGT of 6,000/ acre/ annum may not be achievable for small industries. But for large industries like theirs, the proposed MGT is far lower than the present MGT applicable for us. SPPL has requested port to consider proposing different levels of MGT for MSME and larger industries. Further, the Tuticorin District Tiny and Small Scale Industries Association (THUDITSSIA) has stated that land of SIPCOT located 3 or 4 kms. away from port is available for 15 to 20 lakhs per acre for 99 years. Citing this, they requested to moderate the proposed lease rent at nominal rate so as to encourage, Micro, Small and Medium Enterprises (MSME) port. Most of the other users/ user associations have pointed out that the proposed lease rent is high in comparison to the lease rent for land allotted by SIPCOT for 99 years which is in the range of ₹14 lakhs/ acre to ₹25 lakhs per acre under the first-phase and have requested the port to moderate the proposed lease rent atleast for the MSME or propose separate rate and MGT for MSME. Referring to the objection made by the users/ user association, the port was specifically requested to relook at its proposal. The port has however, not proposed any modification in its original proposal. The port has clarified that in respect of the lease rent and the MGT for MSME, the proposal will be separately submitted by the port to TAMP. In view of the above clarification furnished by the port, this Authority goes with the present proposal of VOCPT for fixation of lease rent for CEU.

In the absence of any prescribed norms for MGT in the LPG, 2014 and based on the clarification furnished by the port for the proposed MGT and recognising that the proposed lease rent with MGT and without MGT and the proposed level of the MGT has been recommended by the LAC and also approved by the Board of Trustees of the port, the proposed lease rent of ₹2,82,600 per acre per annum linked to MGT of 6,000 MT/ acre/ annum and lease rent without MGT at ₹6,42,602 per acre per annum is approved.

- (vi). The lease rent proposed by the port does not include development cost. The port has clarified that infrastructure development cannot be estimated accurately at this stage. Hence, the proposed lease rent does not include development cost. The port has clarified that the development cost for infrastructure development will be recovered separately from the lessee. This will be included in the bid document also. In view of the clarification furnished by the port, this Authority goes with the proposal of the port. In this regard, it is relevant here to state that in the case of the lease rent proposed by DPT for Smart Industrial City, the lease rent approved by this Authority vide Order No.TAMP/66/2017-KPT dated 12 October 2017 is based on "as is where is". In PPT, while seeking lease rent for SIPC at Paradip, PPT had stated that whether the development works will be undertaken by the port or by the users will be decided later by the port and as per final lay out and for the investment to be made on common infrastructure, the cost for common infrastructure facilities will be distributed over the leasable area and the same shall be recovered from the users. The proposal of VOCPT to recover cost of development separately from lessee is found to be similar to the approach proposed to be followed by PPT at SIPC.
- (vii). (a). The THUDITSSIA has requested the port not to put MGT clause from the beginning and that there must be gestation period of 3 years. The port

has clarified that there is already holiday period of 2 years in MGT which is extendable for 1 more year at the discretion of the port. Thus, this addresses the point made by the user association.

- (b). As regard the comments raised by various Temple Committee objecting the proposed lease rent, the VOCPT has already clarified that the areas occupied by the Temples will not come under the category of CEU.
 - (c). As regards the point made by SPPL whether it is possible to surrender the existing land and take land under CEU as it will be benefit them from logistics point of view, the port has clarified that the port has proposed separate rate for CEU which is applicable only for the land identified for development of CEU and the same rate shall not be considered for area other than specified for CEU. If the party wants land they can bid for the land earmarked for CEU, in which case the CEU rates shall be the reserve price for such area.
- (viii). Clause 13 (c) of the revised Land Policy Guidelines, 2014, stipulates that the Board of Trustees of port shall fix rate of annual escalation in the lease rent which shall not be less than 2%. In the original proposal the port has proposed annual escalation of 5% compoundable on lease rent as well on the MGT on the proposed lease rent linked with MGT and an annual escalation of 5% per annum compoundable on lease rent proposed without MGT. The proposed annual escalation has been approved by the Board of Trustees of VOCPT. During the processing of the case, the Edible Oil Industries (EOI) pointed out that the base lease rent is already high, and hence again annual escalation at 5% proposed by the VOCPT is not feasible. The EOI have requested to propose escalation once in five years. Other Users have also objected the proposed annual escalation of 5% by the VOCPT in the lease rent and the MGT. In view of the objection raised by the users/ user association during the processing of the case, the port was requested to re-examine the proposed escalation clause. The port on examining the matter has in the final proposal reduced the annual escalation from 5% to 2% in the proposed lease rent of both with MGT and without MGT. The annual escalation in the MGT is also proposed to be reduced from 5% to 3%. The proposed annual escalation of 2% in the lease rent is as per the amended LPG, 2014 and hence is approved. The proposed note under the schedule 3.1 prescribing 5% annual escalation in lease rent as per the original proposal is, therefore, modified as 2% annual escalation as per the revised proposal of the VOCPT.

As regards MGT, there is no provision for annual escalation in the amended LPG, 2014. In the absence of any specific provision in this regard, and considering that the original proposed annual escalation in MGT is based on the recommendation of the LAC and approved by the Board of Trustees and the reduced annual escalation of 3% on compoundable basis in the revised proposal by VOCPT is based on the objection of the users/ user associations/ prospective lessees, the revised proposed annual escalation in the MGT of 3% on compoundable basis is approved as proposed by the port. The note 3.2 of the proposed note is accordingly modified in line with the revised proposal of VOCPT.

- (ix). The VOCPT has, at clause 4.12, proposed a note to the effect that in case of any inconsistency in the definitions/ conditions/ notes in the SOR vis-à-vis the Land Policy Guidelines, 2014, the provisions of Land Policy Guidelines, 2014 shall prevail. This is slightly modified to add the words “and subsequent amendments (if any) and other applicable laws and regulations communicated by the Government from time to time” before the word “shall prevail”. This prescription is in line with the prescription made in the Rent Schedule of other Major Ports.
- (x). Clause 13(c) of the revised Land Policy Guidelines, 2014, mandates this Authority to revise SOR once in every five years. In this connection, the VOCPT has, at clause 4.11, proposed a note to the effect that the reserve price in terms of annual lease rent prescribed above will be effective after the expiry of 30 days from the

date of notification of the Order in the Gazette of India and will remain in force for a period of five years. The proposed note is approved.

- (xi). The port, at clause 1, under the head short title, commencement and Application at note nos.(c) and (d) proposed that the rate shall apply to the areas located beyond the custom bond area in the CEU reserved and for allotment of land for a period of five years from the date it is effective. It shall apply to any expansion of CEU area planned by VOCPT. The proposed notes are approved.
- (xii). The port has also proposed definition of a few terms, and terms and conditions which are same as have been proposed by PPT and prescribed by this Authority while approving lease rent for Smart Industrial Port City (SIPC) vide Order No.TAMP/36/2017-PPT dated 21 July 2017. Since the notes proposed by VOCPT are found to be same as prescribed for SIPC at the PPT, this Authority approves the same for CEU at VOCPT.

9.1. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves the Schedule of lease rent for allotment of land by VOCPT for CEU attached as **Annex**.

9.2. The lease rent for CEU approved by this Authority shall come into effect after expiry of 30 days from the date of notification of the Order in the Gazette and shall remain in force for a period of five years as proposed by VOCPT. The approval accorded shall automatically lapse thereafter unless specifically extended by this Authority.

(T.S. Balasubramanian)
Member (Finance)

V.O.CHIDAMBARANAR PORT TRUST

Schedule of lease rent for allotment of Port land in the Coastal Employment Unit on lease basis outside the custom bound area

1. SHORT TITLE, COMMENCEMENT AND APPLICATION

- (a). This may be called Scale of Rates (SoR) for allotment of land on lease basis for Coastal Employment Unit outside the custom bonded area.
- (b). The same shall come into force on such date approved by TAMP.
- (c). It applies to the areas located beyond the custom bond area in the Coastal Employment Unit reserved and for allotment of land for a period of five years from the date it is effective.
- (d). It shall apply to any expansion of Coastal Employment Unit area planned by VOC Port Trust.

2. DEFINITION

- (a). “**Board**”, in relation to a port means the board of Trustees constituted under Major Port Trust Act. 1963 for the port.
- (b). “**TAMP**”, means the Tariff Authority of Major Ports constituted under section 47-A of Major Port Trust Act. 1963.
- (c). “**Chairman**”, means the chairman of the board and includes the person appointed to act in his place under section 14 of Major Port Trust Act. 1963.
- (d). “**Land**”, shall have the meaning assigned to it as in Section 2 (k) of Major Port Trust Act. 1963.
- (e). “**Lease**”, Shall have the meaning assigned to it as in the Section 105 of the Transfer or Property Act. 1982 i.e., “transfer of a right to enjoy immovable property, made for certain time, expressly provided for, in consideration of a price paid or promised, or for the money to be rendered periodically or specified occasions to the transferor by the transferee, who accepts the transfer on such terms.”
- (f). “**License**”, shall have the meaning assigned to it as in Section 52 of the Indian Easements Act. 1882 i.e., “a right granted to another person by grantor, to do or continue to do upon immovable property of the grantor, something which would, in the absence of such right, be unlawful, and such right does not amount to an easement or interest in the property.
- (g). “**Upfront basis**”, means allotment of land on lease basis on payment of one time upfront payment for the entire lease period and the nominal lease rent approved by the Board from time to time.

- (h). **“Premium basis”**, means allotment of land on annual lease basis on payment of annual lease rent with escalation approved by the Board from time to time.
- (i). **“Development charges”**, means the onetime payment for the entire lease/license period charged on the leases/licenses by the Board for recovering the investment made by the Board for creation of infrastructure facilities such as road , electricity, water supply etc. but does not include reclamation of allotted premises.
- (j). **“Registration charges”** means the cost of preparing, stamping and registering the lease/license agreement and also the cost of a counterpart or a copy if required.
- (k). **“Document preparation charges”**, means one time charges to be paid by the leasee/licensee to the Board for preparation of lease/ license agreement.
- (l). **“Security Deposit”**, means refundable amount to be kept with the Board by the leasee/ licensee for the entire lease/license period subject to fulfilling all the agreed terms and conditions.
- (m). **“Goods and Service Tax (GST)”**, means is a tax levied by the Government on Service providers on certain service transaction but actually born by the customers. It is categorized under indirect tax and came into existence as Goods and Service Tax Act, 2017.
- (n). **“Penalty”**, means the charges levied by the Board for violation of terms and conditions of allotment and wrongful use and occupation of the allotted premises.
- (o). **“Minimum Guaranteed Throughput (MGT)”**, means the Minimum Guaranteed Cargo commitment that a lessee shall generate by way of export or import from the port facility of VOCPT on annual basis.

3. **SCALE OF RATES (SOR) FOR ALLOTMENT OF THE PORT LAND UNDER COASTAL EMPLOYMENT UNIT OUTSIDE THE CUSTOM BOUND AREA.**

3.1.

(₹ In lakh / acre/ annum)		
Sl. No.	Zone	Lease rental in terms of annual lease rent for land in Coastal Employment Unit
1.	Coastal Employment Unit (With Levy of Minimum Guaranteed Throughput)	2.826
2.	Coastal Employment Unit (Without Levy of Minimum Guaranteed Throughput)	6.426

The above rates will be escalated @2% per annum.

3.2. **Minimum Guaranteed Throughput**

The amount of MGT shall be 6000 Metric Tons/ annum and shall be escalated by 3% per annum on compoundable basis

3.3. Registration fees:

Registration charges to be borne by the lessee/licensee towards the costs of preparing, stamping and registering the lease/license and also the cost of a counterpart or a copy if required.

3.4. Document preparation charges (processing fees):

Document preparation charges to be paid by the lessee/licensee to the Board for preparation of lease/license agreement.

3.5. GST:

GST levied by the Government on service provider on certain service transaction but actually born by the customers. It is categorized under Indirect Tax and come into existence under the GST Act 2017.

3.6. Penalty

The Penalty levied by the Board for violation of the terms and conditions of allotment, wrongful use and occupation of allotted premises.

4. Terms and Conditions

4.1. Due date payment

The charges to be remitted within a period of one month from the date of issue of the demand note.

4.2. Mode of payment

The payment should be made through RTGS/NEFT/DD in favor of F.A. & C.A.O., VOCPT.

4.3. Interest on Delayed payment

Any arrears of rent or other money occurring to or in favor of V O C Port Trust or from the lessee shall be recoverable as a public demand with interest @ 12% per annum without prejudice to any action that may be taken by the Port to recover by a suit in the court having jurisdiction over the area.

4.4. Counting Date of allotment

The allotment will be counted from the date of taking possession of site/premises by signing in the Possession Register.

4.5. Non-Utilization of allotted land

If allotted land is not utilized for the purpose for which it has allotted within a period of 18 (eighteen) months from the date of possession, the allotted land will be cancelled and all the payments made for such allotment will be forfeited.

4.6. Penalty

- (a). If the lessee breaches/ violates any provisions of the lease agreement, the Board would reserve the right to impose the appropriate penalty or cancel the lease depending upon the nature and magnitude of such violation. In case of cancellation, no refund will be made.
- (b). If the lessee/licensee continue unauthoriusedly beyond the approved period, will be liable to pay compensation for wrongful use and occupation at three times of the then Scale of Rates till the vacant possession is obtained.

4.7. Observation of rules and regulations of VOC Port Trust

The lessee/licensee shall observe all provisions of laws, bye-laws, regulations, orders and notification relating to Port issued by Central Government Board, Chairman or any other competent authority from time to time and shall pay the rates approved by the Board from time to time.

4.8. Refund of proportionate value in case of resumption of the allotted premises before expiry of lease in Port Interest

The lessee/licensee is eligible to get refund on prorated basis for the left out period of the lease/license without interest if the land is resumed before expiry of allotment period for Port purpose. In case of rehabilitation in other location at the discretion of the Port, the lessee/licensee has to pay differential amount on prorated basis for the left out period as per the prevailing SoR.

- 4.9.** All the allotments of the Port land and buildings are governed by VOC Port Trust Immovable Properties (Land and houses) leasing and Licensing Regulations, 1975 and Land Policy Guidelines issued by Ministry of Shipping, Govt. of India from time to time. Any provisions of the above which has not been specifically spelt out in the above terms and conditions deemed to be covered.

- 4.10.** The reserve price in the terms of annual lease rent prescribed above shall bear an escalation factor of 2% every year.

- 4.11.** The reserve price in terms of annual lease rent prescribed above will be effective after the expiry of 30 days from the date of notification of the Order in the Gazette of India and may remain in force for a period of five years.

- 4.12.** In case of any inconsistency in the definitions/ conditions/ notes in the Scale of Rates vis-à-vis the amended Policy Guidelines for Land Management, 2014, the provisions contained in the amended Policy Guidelines for Land Management, 2014 and subsequent amendments (if any) and other applicable laws and regulations communicated by the Government from time to time shall prevail.
- 4.13.** Mode of allotment of land in the CEU shall be decided by VOC Port Trust in accordance with the Land Policy Guidelines 2014 and the amendments and clarifications issued thereunder.

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

F. No.TAMP/29/2019 - VOCPT - Proposal received from the V.O. Chidambaranar Port Trust for fixation of lease rent for land under Coastal Employment Unit (CEU) at VOCPT

A summary of the comments received from them and the comments of VOCPT thereon is given below:

Sl. No.	Gist of the Comments received from the users / user organisations	Reply furnished by VOCPT
1.	Joint written submissions of VTC, SMTC, SVT and MFN	
(i).	These Temples, Churches and Masjid are located in the Port premises for religious purpose only. The land is allotted to these temples as a welfare measure and on other commercial activity is being carried out.	The areas occupied by the Vishnu Temple Committee (VTC), Santhana Mariamman Temple Committee (SMTC), Siddhi Vinayagar Thirukovil (SVT) and Masjid-F-Noor (MFN) do not fall under CEU.
(ii).	We came to know that the proposal is to be placed before the TAMP Authority for commercial/ service rent for the places of worship.	
(iii).	We request to kindly exempt the places of worships (Temples, Masjid, etc.)/ worshipping areas from imposing the commercial rent etc. which they could not be able to survive.	
2.	M/s. SHV Energy Private Limited (SEPL)	
(i).	The land allotment for CEU is fixed at a reserved price of ₹69.83/ Sqm/ Annum with MGT of 6000MT with 5% compoundable escalation. SEPL operating LPG Import Terminal in port leased land of 5.1 acres and also have been allotted on lease has 12.7 acres of land for its Terminal expansion project. Currently, SEPL are paying ₹377.43/ Sqm/ Annum lease rent.	The proposal is for development of CEU under Sagarmala Program as per Ministry directives. Port has proposed for separate rate for CEU which is applicable only for the land identified for development of CEU and the same rate shall not be considered for area other than specified for CEU. If the party wants land, he can bid for the land earmarked for CEU, in which case the CEU rates shall be the reserve price for such area.
(ii).	Also, it is understood from the minutes of meeting by Estate Department of VOCPT, that tariff for CEU lands is proposed at the rate of ₹69.83/ Sqm/ Annum based on the submission of Port consultant M/s. Price waterhouse Coopers Pvt. Ltd. (PwC) as the present lease rental notified by port is very high when compared with the rate to the nearby locations. In this regard, if competitor acquires the land from Port under CEU, there shall not be a level playing field, due to huge difference in lease rentals from commercial zone to CEU.	The rate of ₹69.83/ Sqm/ per annum is factually not correct.
(iii).	Therefore, it is requested to consider the same rate as of CEU for existing land of 5.1 acres and 12.7 acres, leased to SEPL.	No comments furnished by the Port.
3.	Thoothukudi District Tiny and Small Scale Industries Association (TDTSSIA)	
(i).	For the new industries under M.S.M.E. at the newly formed Industrial Estate the rental for 1 Acre should not exceed 15 lakhs (Rupees Fifteen Lakhs) and it would	In respect of the lease rent and the MGT for MSME, the proposal will be separately submitted to TAMP.

	benefit the Micro Small Medium Enterprise Industrialist and 100% E.O.U. units if the license was given as onetime payment for 30 years lease and not as yearly payment. This will also motivate and create situations to form new Micro Small Medium Enterprise Industries.	
(ii).	The basic facilities such as uninterrupted Electricity, Water, Road, Street lights should be provided for the newly formed Micro Small Medium Enterprise without delay and the maintenance charge upto ₹10,000 shall be collected per year.	The common user facilities required shall be provided by the Port and separate development charges levied on the allottees.
(iii).	The rate should be as same as the rate fixed by the upcoming SIPCOT Phase II, Tuticorin and M.T.I.C.	The rate proposed is special rate applicable only for land under CEU.
(iv).	We request for 20% land reservation for Micro Small Medium Enterprise industries if there is a reservation quota.	No such reservation quota is available in Land Policy Guidelines 2014/ 2015 and in land use plan at present.
(v).	We request to consider our demands and seek your best cooperation for further growth of the Micro Small Medium Enterprise industries in Tuticorin district.	No comments furnished by the Port.
4.	Tuticorin Alkali Chemicals and Fertilizers Limited (TACFL)	
(i).	TACFL have installed a Soda Ash and Ammonium Chloride plant at Tuticorin, Tamilnadu, for which, TACFL have leased 32 acres of Port land contiguous to its land. TACFL have been discussing about the possibility of reduction of the lease rent, which was hiked from 40 paise per sq. mtr. in 1979 to ₹25 per sq. mtr. at the moment. TACFL are also providing employment to more than 300 direct employees and about 1000 contractual employees, who are solely dependent on the well-being of this factory. TACFL are slowly turning around now after installation of its own CO2 plant for the first time in the world, separated out of the boiler flue gas.	The proposal is for development of CEU under Sagarmala Program as per Ministry directives. Port has proposed for separate rate for CEU which is applicable only for the land identified for development of CEU and the same rate shall not be considered for area other than specified for CEU. If the party wants land he can bid for the land earmarked for CEU, in which case the CEU rates shall be the reserve price for such area.
(ii).	TACFL net-worth is around rupees minus 300 crores and hence they sought help to waive off some of the principal amount payable and the interest, as it was done by the financial institutions to bail out the company out of BIFR. VOCPT has proposed around ₹2 lakhs per acre of lease rent for the proposed CEU at VOCPT, whereas for TACFL unit, that was set up 30 years ago and providing copious opportunities to employment directly at Tuticorin and indirectly at several other user factories, is made to pay ₹10 lakhs per acre.	
(iii).	Hence, TACFL request to kindly look into the possibility of helping us in line with what are proposing for the new coastal units. The new rate and the existing rate should be in "sync" and cannot be in variance drastically.	

1.2. The Tamilnadu Maritime Academy (TMA) vide its letter dated 25 July 2019 furnished its comments which was forwarded to VOCPT. The VOCPT has not responded. The comments of TMA are given below:

Sl. No.	Comments of the users/ user organisations/ long term allottees
1.	Tamilnadu Maritime Academy (TMA)
(i).	Tamil Nadu Maritime Academy (TNMA) located at Thoothukudi is an autonomous body functioning under the Government of Tamilnadu. It was established at Thoothukudi on 16

	September 1998 and hitherto functioning under Tamil Nadu Maritime Board, Highways and Minor Ports Department, Government of Tamilnadu.
(ii).	TNMA has been approved by the Directorate General of Shipping, Govt. of India, for conducting maritime related courses such as General Purpose Rating (six months residential training course) and Standards for Training, Certification and Keeping courses periodically. The land admeasuring 20,102.82 sqm, wherein the Academy is functioning was allotted by VOCPT on lease rent basis for a period of 29 years from 30 December 2006 to 29 December 2035.
(iii).	TNMA has been paying at present an amount of ₹7.80 lakhs (inclusive of GST) towards the lease rent for the occupation of Port's land annually. Incidentally, TNMA would further like to submit that TNMA is a non-profit making institution started with the sole intention of imparting maritime training to youngsters belonging to the weaker sections, backward sections and fishermen community living along the coast of Tamilnadu, etc., with nominal fee structure. The main source of income is from the fees being collected from the candidates to meet the administrative expenditures to comply with all statutory issues. In fact, TNMA is charging very low course fees in comparison with other similarly placed institutions of Tamilnadu as well as in other States. It is not a denying fact that TNMA being an educational institution is paying a huge amount by way of rental charges every year.
(iv).	In view of the above, TNMA are of the firm view that if the lease rent is revised it would badly affect the functions of TNMA and hence it would be desirable that the exiting status quo towards the payment of lease rent may be continued till the expiry of the validity of the lease period. It may kindly be noted that there is also a proposal for the purchase of Port's land on outright purchase basis to overcome the difficulties which is under the consideration of the Port and the outcome is awaited.

2.1. A joint hearing in this case was held on 29 July 2019 at the VOCPT premises. The VOCPT made a brief power point presentation of its proposal (**Page Nos.849-866/c**). At the joint hearing, the VOCPT and users/ user organizations/ long term allottees have made the following submissions:

V.O. Chidambaranar Port Trust (VOCPT)

- (i). Industrialization in and around Tuticorin is necessary for running the port. As a part of this objective we have mooted the proposal.
- (ii). Ministry of Shipping has directed VOCPT vide its letter dated 5 October 2017 to undertake development of CEU.
- (iii). Port has engaged Consultant M/s.Price Waterhouse Coopers Pvt. Ltd. (PWC). The Consultant after study has submitted the two reports viz. (i). Development of CEU – Master Plan Report and (ii). Report on recommendation of land lease rental for land under CEU.
- (iv). The CEU is proposed to be developed with the objective of (a). Growth in port traffic through cargo generation from the CEU industrialization (b). Creation of employment through industrial development and (c). Growth in contribution to the overall economy of the region.
- (v). Presently, lease rent are notified for 3 categories viz. Commercial, Industrial and Service.

- (vi). Two parcels of port land, one at Hare Island and another land near the Port colony is identified for development of CEU to promote increase in cargo throughput and coastal employment opportunities. The port has identified 940 acres of land under CEU. Of 940 acres, estimated leasable land is 702 acres.
- (vii). Consultant has identified 12 priority industries for attracting investment in CEU.
- (viii). Site planning of the land parcels and location of industries is based on various site features and constraints. Port has identified leasable area of land for industrial and warehousing purposes and non-processing areas for green space, amenities, road and utilities. Nonpolluting Industries are proposed at CEU near Port Colony and polluting Industries are proposed at CEU identified at Hare Island.
- (ix). There is around 1070 acres of land in distance of 50 km in vicinity of port which is likely to offer competition to the proposed lease rent for the CEU.
- (x). SIPCOT has allotted land for 99 years in the industrial areas like Gangaikondan Industrial Growth Center at 16 lakhs/ acre, Tuticorin Industrial Complex at ₹14 lakhs/ acre and Transport Engineering SEZ at ₹16 lakhs/ acre. The land allotted by SIPCOT is State Government land for promoting industries in the State.
- (xi). For the current proposal, market land value is considered under the five methods prescribed in the Land Policy Guidelines, 2014. There is no tender cum auction rate for land at CEU. So no market value of land is available for this third method. .
- (xii). Market valuation of land by approved valuer was done during the last revision of lease rent of port land in the year 2017. But, the port had not gone by valuation of land given by the approved valuer for stated reasons. Hence, the valuation of land and lease rent recommended by the approved valuer in the year 2017 is not considered in this exercise as well.
- (xiii). Of the five methods, the market value of land based on the highest rate of actual relevant transaction registered in the last three years at ₹47.10 lakhs/ acre is considered.
- (xiv). As per Land Policy Guidelines, 2014, lease rent to be proposed shall not be less than 6% of the market value of land. Accordingly, the lease rent for the land at CEU works out ₹2,82,600 per acre per annum (₹70/sqm/annum) at 6% of the market value of land in accordance with the Land Policy Guidelines, 2014. This is linked to MGT of 6000 MT/ acre/ annum. Both lease rent and MGT are subject to 5% annual escalation on compoundable basis.

- (xv). Lease rental at ₹6,42,602 per acre per annum (₹159/ sqm/ annum) is proposed without MGT with 5% compoundable escalation each year.
- (xvi). LAC has deliberated the report submitted by the Consultant and has recommended the lease rental rates proposed by the Consultant in accordance with the Land Policy Guidelines, 2014.
- (xvii). VOCPT Board in its meeting held on 17.07.2019 has accorded approval for the lease rental rates under a separate category as CEU which will be as a reserve price for allotment by following tender cum e-auction method and to send to TAMP for its approval and notification.
- (xviii). The development cost for infrastructure development cannot be estimated accurately at this stage. Hence the proposed lease rent does not include development cost. Development cost for infrastructure development will be recovered separately from the lessee. This will be included in the bid document also
- (xix). We request TAMP to approve proposed lease rent with and without MGT for the new category of land i.e. CEU.
- (xx). Lease rent can be paid annually or on upfront basis.

Tuticorin District Tiny and Small Scale Industries Association (Thuditssia)

- (i). For 1 acre, the lease rent proposed is ₹2.86 lakh per annum. This works out to ₹1000/ day.
- (ii). Even if we buy land on our own, we can get 1 acre for 10 lakhs within the radius of port. The lease rent on upfront basis at ₹44 lakh with MGT and ₹1.01 crores without MGT for 30 years is exorbitant.
- (iii). SIPCOT gives land for 14 lakhs/ acre for 99 years.
- (iv). Competitor for VOCPT is SIPCOT. So, lease rent should be comparable to SIPCOT.
- (v). Port may consider to moderate the proposed lease rent rate. Atleast for Micro, Small and Medium Enterprises (MSME), lower lease rent may be proposed as we cannot afford at the rate proposed.

Edible Oil Industries

- (i). The project will be useful to us. But the proposed rate is very high. [Chairman, VOCPT: What should be the rate?]

- (ii). It should be at par with SIPCOT. Price of SIPCOT is in the range of ₹14 lakhs/ acre to ₹25 lakhs/ acre with development cost and for 99 years.
- (iii). Second phase rate for SIPCOT has not been fixed.
- (iv). Import and Export industries should have some preference as port will get revenue from cargo and vessel on account of the industrial development in CEU.
- (v). The proposed lease rent at ₹2.816 lakhs/ acre/ annum without development cost is high.
- (vi). This rate may be affordable for large industries. But, for small and medium industries it is huge cost.
- (vii). Base price is already high. Again escalation per annum at 5% is not feasible. Let there be escalation once in five years.
[VOCPT: As per LPG, 2014, the annual escalation shall not be less than 2% per annum. We shall, however, examine the request.]

Jaya Engineering / Tuticorin Salt Users Association

- (i). Bank will not give loan for land taken on lease for 30 years. They give loan for 99 years lease.
- (ii). After 30 years, we are forced to take away all the infrastructure. We want guarantee for investment.
- (iii). The outright sale price is ₹2 lakhs/ acre.
- (iv). Minimum Guarantee in the beginning is difficult. We need gestation period.

The Vishnu Temple Committee

- (i). The proposed rate is very high.
[Chairman, VOCPT: Temple will not come under the category of CEU.]

Tuticorin District Tiny and Small Scale Industries Association (Thuditssia)

- (i). The upfront amount of 44 lakhs for 30 years is very high. We can buy land and own it at this price.
- (ii). Port should allow land at reasonable lease rent.
- (iii). 3 or 4 kms away from port, land of SIPCOT is available for 15 to 20 lakhs per acre for 99 years.

- (iv). To encourage, MSME port may consider to moderate the proposed lease rent. Please provide it at nominal rate.
- (v). Let the Port think from long term and not make revenue from estate.
- (vi). Proposed lease rent for 2nd phase by SIPCOST is likely to be 35 lakhs/acre for 99 years.
- (vii). Do not put MGT clause from the beginning. There must be gestation period. Let there be holiday period of 3 years.
[VOCPT: There is already holiday period of 2 years in MGT which is extendable for 1 more year at the discretion of the port.]

SEPC Power Private Limited

- (i). Is it possible for us to surrender the existing land and take land under CEU as it will be benefit for us from logistics point of view?
- (ii). MGT of 6000/acre/annum may not be achievable for small industries. But for large industries like us the proposed MGT is far lower than the present MGT applicable for us. Port may think of proposing different levels of MGT for MSME and larger industries.

Chairman, VOCPT

Please give written comments within 2 to 3 days [Users agree].
