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TARIFF AUTHORITY FOR MAJOR PORTS

G. No.240 **New Delhi,** **6 June 2016**

NOTIFICATION

In exercise of the powers conferred under Section 49 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal received from the Jawaharlal Nehru Port Trust (JNPT) for notification of Scale of Rates (SoR) for allotment of land admeasuring 277.38 hectares on lease rental basis for 30 years for development of Special Economic Zone (SEZ) near JNPT.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports

Case No. TAMP/19/2016 – JNPT

The Jawaharlal Nehru Port Trust **- - -** **Applicant**

QUORUM

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

ORDER

(Passed on this 06th day of May 2016)

This case relates to a proposal received from the Jawaharlal Nehru Port Trust (JNPT) for notification of Scale of Rates (SoR) for allotment of land admeasuring 277.38 hectares on lease rental basis for 30 years for development of Special Economic Zone (SEZ) near JNPT.

2.1. The submissions made by the JNPT in its proposal are summarised below:

(i). JNPT has undertaken the development of a port based Multi-Product SEZ across an area 277.38 hectares in the land owned by the port trust. The said project is a major infrastructure development initiative by the port which would boost the region's economic development and generate employment opportunities.

(ii). Since the idea of the SEZ is to complement the port operations and generate employment in the region, the lease rates for the same has not been worked out based on the market value of the land. The lease rates have been worked out only to recover the costs incurred on the acquisition of the said land and for the development of infrastructure facilities.

(iii). The approach and the lease rates were discussed and deliberated with the Standing Finance Committee meeting on 29 September 2015 at Ministry of Shipping, New Delhi. Therein, the Committee had approved the rate of ₹4000/- per sq. mt. as Upfront Payment for 30 years Lease Period. The approved rates are meant for consideration of land allotment in the SEZ area only.

(iv). The on-ground activities for development of basic infrastructure have started and the port intends to start the tendering processing for allotment of Free Trade Warehousing Zone to be developed as a part of the SEZ area preferably by March/ April 2016.

(v). In view of the same, TAMP is requested to kindly approve the rates and issue the required notification at the earliest.

2.2. The other main points made by the JNPT in its proposal dated 22 February 2016 are summarised below:

(i). JN Port has been allocated an aggregate area of approximately 2,584 hectares of land by the Government of India. JNPT plans to utilize its undeveloped land for further expansion of its port operations, including development of additional berthing and cargo handling facilities both at the waterfront and in the back-up areas. In order to utilize available waterfront and land area, JNPT also intends to develop and sub-lease land to third parties, including those interested in establishing facilities that utilize JNPT infrastructure and related services.

(ii). Keeping in view the objective of the port, a Special Economic Zone (SEZ) project was conceptualized by the Port Authorities and incorporated in the Land Use Plan of the port. The proposed Special Economic Zone at the Port to be developed at a cost of around INR 524 crore is the first-of-its-kind at a major port complex in the country, and would be developed on 277.38 hectares of land along the Panvel-Uran road connecting the cargo terminals to state highways.

(iii). The site is around 15 km from Navi Mumbai and around 40 km from Mumbai city. There are three villages and one township within the catchment area; the JNPT Township, Belpada village near the approach road from Panvel, the Jashkar Village and Karal, Sonari , Sawarkar village near the area where the NH 4B and SH 54 meet. Another road linking the port to Panvel is being constructed.

There is an oil tank farm area opposite to the SEZ site and a petroleum pipeline running parallel to the railway line; this pipeline is link to the liquid cargo terminals.

(iv). The Total land area i.e. 277.38 hectares is proposed to have the following breakup:

Sr. No.	Land Use	% Share	Area IN Ha
1.	Processing Zone	72.19%	200.25
2.	Non-Processing Zone	27.81%	77.13
Total		**100%**	**277.38**

(v). The Break Up of Processing Zone is as follows:

Sr. No	Land use Activity	Area in Ha	% to PA
1.	Total Industrial Land	**129.83**	64.8
a.	Engineering	43.03	21.5
b.	Apparel and Textile	11.00	5.5
c.	Non-conventional	10.43	5.2
d.	Electronics and Hardware	12.91	6.4
e.	Free Trade Warehousing Zone	30.76	5.4
f.	Multi Services	21.70	10.8
2.	Infrastructure utilities – water, wastewater, solid waste, power, fire station	**8.41**	4.2
3.	Commercial	**5.22**	2.6
4.	Parking, security, truck parking	**6.32**	3.2
5.	Roads	**25.92**	13
6.	Green areas/ Green belt	**24.54**	12.2
TOTAL - PROCESSING AREA		**200.25**	**100**
Total Saleable Area (Industrial) (1a+1b+1c+1d+1e+1f+3)		**127.97**	

[There appears to be an error in arriving at the figure of 127.97 Ha. If Industrial land and commercial land are considered, the total saleable area works out to 135.05 Ha]

(vi). The Break Up of Non-Processing Zone is as follows:

Sr. No.	Land Use	Area in Hectares	% Share
1.	Housing	28.73	50.23%
2.	Recreational		
	Green Belt	12.21	13.31%
	Parks & Open Spaces	2.50	6.28%
3.	Civic Amenities	8.00	3.19%
4.	Commercial	7.52	3.14%
5.	Utility Infrastructure	1.67	3.77%
6.	Transport & Communication		
	Roads	16.08	17.58%
	Parking	0.45	2.51%
	Total	**77.13**	**100%**
	Total Saleable Area (1+3+4)	**66.50**	

[There appears to be an error in calculation of the figure of 66.50 Ha.]

(vii). The Summary of total Development cost is as given below:

Sr. No	Item	Development Cost (₹ In Crores)
1	Road Works	
	Pavement – Rigid	89.92
	Drainage	29.06
	Pipe Culverts	3.67
	Road Furniture and Appurtances	7.95
2	Earth Works including Ground Improvement using PVD	155.95
3	Water Supply and Distribution System	13.58
4	Sewage Collection and Treatment System	29.26
5	Solid Waste Management System	3.50

6	Power Supply and Distribution System	62.09
7	Landscaping and Buildings	16.62
	Total Internal Infrastructure Development Cost	**411.60**
8	Dedicated Entry/ Exit Interchange	31.02
9	Electrical Substation	20.45
10	Bulk Water Line from MJP	5.69
	Total External Infrastructure Development Cost	**57.16**
11	Variation Limit due to increase in Fuel Cost, Labor Cost etc. @3% of Civil Construction Cost	14.06
12	Project Monitoring Consultant Expenses @2% of Total Civil Construction Cost	9.38
13	Boundary Wall Construction	32.00
14	Earth Filling Work for Area B	9.35
15	Earth Filling for Area-A	12.28
16	Land filling for identified area (FY 2009-10)	50.00
17	Provision for other Expenses related to Insurance/ Contingency and Marketing and Advertisement Cost @ 3% Total Civil Construction Cost	37.78
	Total Civil Construction Cost	**468.76**
	Total Development Cost including variation and other provisions	**667.41**

Note: 1). Cost towards the development Internal Infrastructure Development and External Infrastructure Development are taken based on the DPR prepared by the Technical Consultant M/s. L&T Infrastructure Engineering Ltd.

2). Contingency cost, cost towards PMC services, marketing expenses and other expenses as indicated in the table above has been worked out by JNPT in line with the market practice and the same was discussed by the SFC meeting.

(viii). **Land Allocation outside the Port's Custom Area**

As per Clause 16 of the Land Policy for Major Ports, 2014, the Land outside custom bond area of the Port shall be given on lease basis only. However, in specific cases, the land can be given on license basis for the port related activities, for reasons to be recorded in writing. The area identified for the Special Economic Zone falls outside the Custom Bound Area of JN Port. The area shall be allotted to the selected SEZ Units/ Co-Developer on Lease basis only.

(ix). **Tenure for Land Allocation**

As per Clause 16.2 of the Land Policy for Major Ports, 2014, land can be leased up to a maximum cumulative period of 30 years with the approval of the Board. For capital intensive project, the Port may decide to fix the tenure of lease for more than 30 years. Such proposals are to be submitted with the recommendations of the Board to the Empowered Committee for its approval. The Port in its land-use plan should identify land which can be allotted on long-term lease basis, i.e. for tenure of 30 years and beyond. In this regard, the tenure for allotment of land is fixed to 30 years and the necessary approval from the Ministry of Shipping and the Board has been obtained.

The relevant extract from the minutes of Standing Finance Committee (SFC) meeting held on 29 September 2015 under the Chairmanship of Secretary (Shipping) as furnished by the JNPT (**Page no. 93-97/c**), is reproduced below:

"3. The SFC advised that the base rate is kept at INR 4000 per sq.m for the first phase of bidding of SEZ, keeping in view the rates prevailing in the non port SEZs in the vicinity.

7. After these deliberations, the SFC recommended the proposal of the JNPT to develop the basic infrastructure for Phase I of the SFC at a cost of ₹468.62 crores and …………**"**

(x). **Land Allotment Committee**

As per Clause 16.2 (e) of the Land Policy for Major Ports, 2014, a Land Allotment Committee is to be constituted by the Port Trust Board consisting of Deputy Chairman of the Port, and Heads of Departments of Finance, Estate and Traffic, to finalize the Reserve Price. Accordingly, a Land Allotment Committee consisting of the Deputy Chairman, Chief Manager (Finance), Chief Manager (Admn) & Secy and Chief Manager (Traffic) has been constituted by the port. A Copy of the constitution of the Land Allotment Committee is furnished by the JNPT (**Page no. 112-113/c**).

(xi). **Summary of estimation of the Land Lease Rate and View of the Land Allotment Committee**

As per the clause 11 and clause 13 of the Land Policy for Major Ports, 2014, the parameters mentioned for determining the lease rates for land have been considered by the Land Allotment Committee. The various factors that have been discussed and analyzed by the committee are as follows:

(a). **State Government's ready reckoner of land values**

The Land use for the processing area has been classified as “Industrial Activities”. The area identified for the proposed Special Economic Zone is located within the Port owned land. As specified in the notification of the SEZ issued by the Ministry of Commerce and Industry, Department of Commerce (SEZ Section) vide ref. no. F.1/4/2010-SEZ dated 11th August 2014, the notified area encompasses the following villages/ taluka:

(i). Village Sawarkhar, Taluka Uran
(ii). Village Karal, Taluka Uran
(iii). Village Sonari, Taluka Uran
(iv). Village Jaskhar, Taluka Uran

The Website of Department of Registration & Stamps, Government of Maharashtra maintains and displays the data related to the Ready Reckoner values of the land and properties in various districts of Maharashtra. The website has been used as a reference source for the ready reckoner values of the land in the villages identified above. The data gathered from the website is summarized below:

Ready Reckoner Rates (₹ per sq. mt.) for 2016				
Sl. No.	**Village**	**Non-Agricultural Land (₹ Per sq.mt.)**	**Office (₹ Per sq.mt.)**	**Shops (₹ Per sq.mt.)**
1.	Sawarkhar, Tal-Uran (SEZ)	2430	37800	41400
2.	Karal, Tal-Uran (SEZ)	2430	37800	41400
3.	Sonari, Tal-Uran	1570	26000	33300

Source: Website of Department of Registration and Stamps, Government of Maharashtra

Considering the above rates and the Land use classified for the SEZ as “Non-Agricultural Land”, the average rates for Non-Agricultural Land in the aforementioned villages has been factored for the valuation of the SEZ Land i.e ₹2000 per sq.mt or ₹0.81 crore per acre.

It was observed by the Committee that allotment of land parcels at the ready reckoner rates will not recoup the investments of JNPT in developing the land parcels and building the infrastructure for the SEZ. Hence, the committee opined that the ready reckoner rates may not be relevant for land allotment purpose.

(b). **Highest rate of relevant transactions registered in last three years in the Port's vicinity with an appropriate annual escalation rate to be approved by the Port Trust Board.**

As per the Committee, the vicinity of the port may be referenced to be the region covering the villages of Sonari, Jaskhar, Sheva and Sawarkhar, Jasai, Chirle, Chirner etc. The rate of escalation adopted by JNPT as per the Land Policy for similar projects and transactions is 2% per annum. Some transactions have been recorded in the vicinity of the port. However, owing to the small size of the land parcels in above stated transactions, the same may not be compared directly to the land allotment in the SEZ wherein the average transaction size is expected to be around 20-30 acres. Hence, the factor has not been considered for land allotment purpose.

(c). **Highest accepted tender-cum-auction rate of Port land:**

As per the policy, 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 needs to be considered. However, the port has not floated any such tender for auction-cum-tender for the land in port area. Hence, such rates are not available for consideration.

(d). **Rate arrived at by approved valuer appointed for the propose by the Port.**

Earlier, M/s Knight Frank India Private Limited was engaged to evaluate the rental value of a land for the purpose of leasing out to Tank Farm Operators. The rental rate thus evaluated by the consultant was ₹1809 per sq. mt. per annum.

Accounting for the escalation @2% per annum, the current rate is ₹1882 per sq. mt. per annum. For the designated land area for the Special Economic Zone, no separate Valuer has been appointed.

However, it was observed by the committee that the Lease rentals prescribed by the valuer are on the higher side and the reason for the same was that the land was inside the port area and was allocated for a different use. Also, the land parcel was much smaller. While such high rentals would ensure revenue to the port, but the same will attract fewer investors and also dilute the objective of the port to generate employment opportunities. Hence, it was decided that this transaction of tank farm is not relevant. Any other report of any valuer hired by the port was not available for reference.

(e). **Any other relevant factor considered by the Port:**

The land allocation committee had worked out a land pricing considering the following criteria:

(i). Historical cost of land acquisition for the land identified for the SEZ

(ii). Cost of development of the infrastructure facilities

Land Pricing		
Parameter	**Amount**	**Unit**
Land Acquisition Cost per Acre (1984)	30000.00	INR
Total Land Area	685.13	Acre
Total Saleable Area (Processing Zone Only includes Industrial plots)	316.09	Acre
Total Saleable Area (Processing Zone plus Non-Processing Zone)	480.42	Acre
Acquisition Cost (SEZ Area)	2.06	INR Crore
Loss of Interest @9%	9%	per annum
Number of years for Loss of Interest	32	Years
NPV of Acquisition Cost	32.40	INR Crore
Project Development Cost	667.41	INR Crore
NPV of Investment from JNPT	**699.81**	**INR Crore**
Rates for Valuation		
Historical Land Acquisition rate (in Current Prices)	116.85	INR per sqm
Project Development Cost per Unit area spread across Saleable Area Only	3432.76	INR per sqm
Adjustment factor (premium) considered on Price per Unit of Land due to location, logistics etc.	**15.00%**	
Market Value of Land (for Lease Rentals as per Land Policy)	4082.05	INR per sqm
Lease Period	30	Years
Lease Rental Value@6% of Market Value	244.92	INR per sqm per annum (Capitalization rate of 6% used as per Land Policy)
Escalation every	1	Year
Lease Rental Escalation	2%	As per Land Allotment Guidelines adopted by JNPT
Discount Rate	**7.83%**	10 Year G-Sec Yield rate as per RBI Bulletin February 2016
Amount Recouped through Upfront Payments and Nominal lease Rentals	715.03	INR Crore
Nominal Lease Rentals	1	INR per sqm per annum as per Land Policy
NPV of Nominal Lease Rentals	1.20	INR Crore
Net Present Value (Upfront Amount to be Paid)	**3671.54**	**INR per sq.mt.**
Nominal return expectation @ 10%	**367**	**INR**
Minimum Reserve Prices	**4038.69 Say 4000**	**INR per sq.mt.**

Based on the above factors, land price of ₹3700 per sq.mt. was worked out by the land pricing committee. This price was also compared with the prevailing rates in the other similar industrial areas. JNPT presented this pricing in a meeting held with Standing Finance Committee (SFC) and JNPT Authority on 29th September 2015 at Transport Bhavan, New Delhi for securing approval on project cost estimates and for determining the land pricing strategy. The Port had presented a detailed methodology on land price fixation and based on the discussions, it was decided that a nominal return of 10% for JNPT may be built up in the rates recommended above considering administrative charges and other expenses. Thereby, the SFC headed by the Secretary, Ministry of Shipping suggested to keep a price of ₹4000 per sq.mt. as Minimum Reserve Price for land allotment in the first phase of bidding for the SEZ area.

It was also observed by the Ministry during the meeting that as there would be an auction on either upfront or annual lease payments (or other payments), JNPT would realize higher value than the same.

The above rate of ₹4000 per sq. mt as Minimum Reserve Price was thereby approved by the SFC headed by the Secretary (Shipping) and also had the concurrence of JNPT. Hence, the committee is of the opinion that the aforementioned rate should be fixed as the base rate for first phase of bidding of the SEZ. Further, keeping in view the intention of the port to bid out the FTWZ land by end of March/April 2016 admeasuring approx. 79 acres in the first phase of bidding, committee requests TAMP to approve and notify the recommended rates at the earliest. A round table conference was held on 19 February 2016 and the feedback from the industry players on the land rates were taken.

The pricing strategy has been reviewed diligently by the Board of JNPT, the Ministry of Shipping and the Land Allotment Committee and has been found to be appropriate for the first phase of bidding for the SEZ. In view of the same, JNPT decided to adopt the same as the Minimum Reserve Price for Upfront Payment towards the lease of the land to be allotted. The rates mentioned above are for allotment purpose in SEZ area only.

After finalization of the first phase of the tendering process, the highest offer received by the port would be considered as the Minimum Reserve Price for next phase of tendering process for land allotment in SEZ area.

(xii). The relevant extract of the Scale of Rates furnished by the JNPT is reproduced below:

"Allotment of land on lease basis for non-Port related activities
Allotment of land admeasuring a total area of 277.38 hectares for the development of SEZ and FTWZ on the Upfront Lease payment basis as per the rates indicated below.

Sl. No.	Zone	Reserve Price in terms of Upfront Payment for 30 years Lease (₹ Per sq.mt)	Annual Lease Rate - Nominal Lease rentals for 30 years (₹ Per sq.mt per annum)
1	Special Economic Zone including FTWZ	4000	1

3.1. While acknowledging the proposal, the JNPT was requested vide our letter dated 2 March 2016 to furnish a copy of the Report of the Land Allotment Committee. The JNPT was also requested to forward a copy of the Minutes of its Board Meeting, approving the proposal filed to us. Since the JNPT had not furnished the list of users/ user organisations/ major lessees, the JNPT was also requested to simultaneously forward a copy of its entire proposal to the users/ user organisations/ major lessees as found relevant by it, requesting them to furnish their comments to us within 10 days, with a copy endorsed to us giving details of the names of the users/ user organisations/ major lessees along with their contact details.

3.2. The JNPT vide its letter dated 07 March 2016 has forwarded to us the report of the Land Allotment Committee.

3.3. With regard to the approval of its Board of Trustees, the JNPT vide its e-mail dated 04 April 2016 has stated that the Board of Trustees of JNPT in its Meeting held on 29 March 2016 has approved the proposal of the Port. From the Note placed by the Port before the Board of Trustees of JNPT, as forwarded by us to JNPT, it is seen that approval of the Board has been sought to ratify the action taken by the Port in relation to submission of proposal to the Authority and also for approval of the rate finalized by the Land Allotment committee i.e. ₹4000/- per sq.m as one time upfront lease payment for allocation of the first set of land on 30 year lease for development of a Free Trade Warehousing Zone.

3.4. Further, with regard to the request made by us to JNPT to forward a copy of its entire proposal to the users/ user organisations/ major lessees as found relevant by it and furnishing the names of the users/ user organisations/ major lessees so consulted alongwith their contact details, the JNPT vide its e-mail dated 09 March 2016 has furnished the names of the users/ Associations and Terminal Operators consulted by it along with their contact details. The JNPT has also endorsed to us, a copy of the e-mail sent by it to all the users/ Associations and Terminal Operators.

4.1. In accordance with the consultative procedure prescribed, a copy of the JNPT proposal dated 22 February 2016 was forwarded by us at our level to the Bombay Chamber of Commerce and Industry and Indian Merchants Chamber for their comments.

4.2. None of the users/ Associations and Terminal Operators have furnished their comments.

5. Based on a preliminary scrutiny of the proposal, the JNPT was requested vide our letter dated 17 March 2016 to furnish information/ clarification on a few points. The JNPT has responded vide its email dated 23 March 2016. The information/ clarification sought by us and the response of JNPT thereon are tabulated below:

Sl. No.	Information/ clarification sought by us	Reply of JNPT
(i)	The Report of the Land Allotment Committee furnished by JNPT vide its letter dated 09 March 2016 draws reference to the Report of the Project Advisor M/s. Ernst & Young LLP relating to fixation of Minimum Reserve Price for land allotment in SEZ area. The copy of the said Report is not found attached with the Report of the Land Allotment Committee. The JNPT to furnish a copy of the same.	The copy of the report of the project Advisors i.e M/s Ernst & Young LLP is furnished. (The Report was not found attached with the reply furnished by JNPT by e-mail. Subsequently, the JNPT vide its e-mail dated 01 April 2016 has, interalia, furnished the copy of the report of the project Advisors.)
(ii)	Clause 13(a) of the revised Land Policy Guidelines, 2014, requires the Port to take into account the highest of the factors as listed in the said Clause to determine the latest market value of the port land. One of the factors to determine the latest market value of the port land is the rate arrived by an approved valuer appointed for the purpose by the Port. In this connection, the JNPT has drawn reference to the Report of January 2014 of Valuer viz., M/s Knight Frank India Private Limited who was engaged by JNPT to evaluate the rental value of a land for the purpose of leasing out to Tank Farm Operators. In this context, the reason for not appointing an approved Valuer to determine the latest market value of the SEZ area and instead drawing reference to the Report of a Valuer engaged to evaluate the rental value of a land for the purpose of leasing out to Tank Farm Operators, to be explained.	It is understood that the Land Policy guidelines require the port to undertake land valuation through an approved valuer appointed for the purpose. The port has drawn reference to the subject report of M/s Knight Frank India Pvt. Ltd.; since the Tank farm area had certain characteristics similar to the proposed SEZ as indicated below: a. Proposed SEZ area and the Tank farm area both are outside custom bound area of the port b. Both the lands are owned by the Jawaharlal Nehru Port c. There are further similarities in the concerned land parcels w.r.t Property Type, Location Details, Lease Tenure, purpose of Leasing (industrial), transaction type (Lease) etc. However, the committee also observed that the land parcel was much smaller and that the subject land was already used as a Tank Farm and had certain infrastructure already in place. It was further observed by the committee that the SEZ land shall be given to firms belonging to various sectors and the support reserve price for each sector may vary based on the sector dynamics. In view of the same, more focus should be on the potential volume of EXIM cargo from the SEZ units rather than on the premium pricing of the land, which may act as deterrent for allotment of the land to SEZ units. The subject project is a first-of-its-kind for a Major Port and the same may not be comparable to the land pricing followed for the back-up area allocation for any port (wherein the focus is mainly on the better returns from the land pricing). Further, as the land lease prices are to be determined by auction process, it is expected to provide better pricing in terms of the lease amount. As mentioned in the proposal, the approach adopted by JNPT is towards the recovery of the expenditure incurred on the Project Land, with an intention to fix the land price competitively that would attract more firms towards SEZ. This in turn would support the JN Port traffic volumes and would generate higher revenues for JNPT at the port end. Further, the rates are compared with the industrial estate rates in the vicinity area. In view of the overall approach towards the fixation of lease rentals adopted by JNPT, the committee had not appointed a fresh Valuer and has referred to the already available valuation report.
(iii)	Clause 13(c) read with clause 13(b) of the revised Land Policy Guidelines, 2014, requires this Authority to notify the Reserve Price in terms of Annual Lease Rent. However, the proposed Scale of rates furnished by JNPT stipulates prescription of (₹4000/- per sq.m.) Reserve Price in terms of Upfront Payment for 30 years and not the annual lease rental at [₹244.92 per sq.m per annum (6% of market value of ₹4082.05 per sq.m)]. As stipulated in clause 11.2(d) of the Revised Land Policy, 2014, fixation of Reserve Price for leasing out land on upfront basis, which would be the NPV of the sum total of annual lease rentals calculated as per the latest SOR, is in the domain of the Port Trust and not within the ambit of this Authority either under Section	We agree to the observation stated above and herein, we modify the proposal in terms of Annual Lease Rentals. Keeping the upfront amount per sq. mt (₹4000 per sq.mt.) as constant, the Annual lease rentals work out to be ₹266 per sq. mt. per annum to be escalated at 2% per annum for 30 years. The detailed calculation for the above has been furnished. (The JNPT has again furnished the calculation as already furnished by it alongwith its proposal. Subsequently, the JNPT vide its e-mail dated 01 April 2016 has, interalia, furnished the workings to arrive at

	49 of the Major Port Trusts Act, 1963 or under Land Policy, 2014. Therefore, the JNPT to suitably modify the proposed Scale of rates proposing Reserve Price in terms of Annual Lease Rent.	the annual lease rentals of ₹266/- per sq.m. A copy of the workings furnished by JNPT is attached as **Annex - I**)
(iv)	The following points with reference to the proposed Scale of Rates are brought to the notice of JNPT:	
	(a). Clause 13(c) of the revised Land Policy Guidelines, 2014, mandates this Authority to revise Scale of Rates once in every five years. The JNPT has not proposed note for periodicity of review in the proposed Scale of Rates.	As per the provisions of the Policy Guidelines for Land Management, 2014; the following paragraph may be added to the Scale of Rates. "The base rates for lease of land in the SEZ area shall be revised/ reviewed after five years with the approval of Competent Authority in accordance with the Policy Guidelines for Land Management, 2014. The revised lease rentals shall be applicable on fresh leases effective from the date of implementation of the Order passed by the Competent Authority."
	(b). At Section 2, the JNPT has proposed definitions in respect of 'Registration charges', 'Document preparation charges', 'Security Deposit', 'Service Tax' and 'Penalty'. Further, provisions with regard to the said terms have been prescribed at Section 3.2, 3.3, 3.4 and 3.5. In this regard, these terms would have been already defined in the relevant Act which can form part of the individual Lease/ Licence Agreement and need not form part of the Scale of Rates.	We agree with the observations and the mentioned definitions for 'Registration charges', 'Document preparation charges' 'Security Deposit', 'Service Tax' and 'Penalty' along with provisions in Section 3.2, 3.3, 3.4 and 3.5 of the Scale of Rates may be removed. Accordingly, a revised Scale of Rates proposal is furnished.
	(c). The other terms and conditions listed at Section 4.1(due date of payment), Section 4.2 (Mode of payment), Section 4.3 (Interest on delayed payment), Section 4.4 (Counting date of allotment), Section 4.5 (Non-utilisation of allotted land), Section 4.6 (Penalty for breach of licence agreement provisions) and Section 4.7 (Observation of rules and regulations of JNPT by Licensee), can form part of the individual Lease/ Licence Agreement and need not form part of the Scale of Rates. These terms and conditions can be governed by the Land Policy of the Government to the extent they do not contradict the Land Policy.	We agree with the observations and the mentioned sections i.e Section 4. l (due date of payment), Section 4.2 (Mode of payment), Section 4.3 (Interest on delayed payment), Section 4.4 (Counting date of allotment), Section 4. 5 (Non-utilisation of allotted land), Section 4.6 (Penalty for breach of licence agreement provisions) and Section 4. 7 (Observation of rules and regulations of JNPT by Licensee) may be removed from the Scale of Rates notification. Accordingly, a revised Scale of Rates proposal is furnished.
	(d). The applicable annual escalation of 2% has not been indicated in the Scale of Rates. The same to be proposed.	The applicable annual escalation rates have been indicated in the revised Scale of Rates furnished.
	(e). The JNPT to prescribe a general note to the effect that all the other conditions governing the lease rentals shall be in line with the Land Policy Guidelines as issued by the Government.	We have accordingly modified the Scale of Rates proposal as under: "The scale of rates (SoR) for lease of land in the SEZ area shall be revised/ reviewed after five years with the approval of Competent Authority in accordance with the Policy Guidelines for Land Management, 2014. The revised SoR shall be applicable on fresh leases effective from the date of implementation of the Order passed by the Competent Authority"
	(f). The JNPT, if required, to prescribe conditionalities with regard to granting right of way permission for laying pipelines/ conveyors, in line with the stipulations contained at Clause 14 of revised Land Policy Guidelines, 2014.	We have accordingly added the relevant clause in revised Scale of Rates. "The Right of Way permission for laying pipelines/conveyors etc. (if required), from jetties to the tank farms within & outside port area shall be given with approval of the Board. It shall neither be a lease nor a license. There shall not be any allotment of land to a party for giving Right of Way permission. These shall be laid on common user basis and if the same pipeline is required by any other party, it shall be spared, on such terms as agreed between the parties and the Port Trust Board. The parties shall have to abide by the conditions specified by the Port."

6.1. The joint hearing on the above case was held on 15 March 2016 at the office of this Authority. However, except JNPT, no representatives of user/ Associations/ terminal operators/ prospective applicants were present at the joint hearing. The consultation proceedings will not be complete unless the stake holders are heard.

Therefore, as suggested by JNPT, the joint hearing was again held on 17 March 2016 at the Office of the Authority. At the joint hearing, the Consultant of JNPT i.e., Ernst & Young had made a Power point presentation of the proposal on behalf of the JNPT. At the joint hearing, the JNPT and the concerned users / organization bodies have made their submissions.

6.2. As agreed at the joint hearing, the JNPT was requested vide our letter dated 22 March 2016 to furnish the Standing Finance Committee (SFC) memo presented by it before the SFC. The JNPT vide its email dated 23 March 2016, has interalia, furnished the SFC memo.

7. 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.

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

(i). The Jawaharlal Nehru Port Trust (JNPT) had been allocated an aggregate area of approximately 2,584 hectares of land by the Government of India. Keeping in view the objective of the port to utilize this land for further expansion of its port operations, the JNPT has conceptualized to develop a Special Economic Zone (SEZ) on 277.38 hectares of the said land. The JNPT also envisages to incur an amount of ₹667.41 crores to develop internal infrastructure viz., road works, drainage, culverts, earth works, water supply, power supply, landscaping, buildings, sewage collection/ treatment system, solid waste management system etc., dedicated entry/exit interchange, electrical substation, boundary wall, earth filling, land filling etc. Thus, the proposal of the port is to fix lease rentals for allotment of said land area of 277.38 hectares. Though the proposal of the JNPT is to fix lease rentals for allotment of 277.38 hectares, the Board of Trustees of JNPT has approved ₹4000/- per sq.m as one time upfront lease payment for allocation of the first set of land on 30 year lease for development of a Free Trade Warehousing Zone (FTWZ). In view of this position, this Authority is constrained to take up the proposal for prescribing lease rentals for the FTWZ only. The JNPT can approach this Authority for approval of lease rental for the remaining area of SEZ with the approval of its Board following the applicable Land Policy Guidelines.

(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 JNPT has also stated that the lease rental is to be fixed following the Land Policy Guidelines. Accordingly, the proposal of JNPT has been taken up for fixing lease rentals following the amended Land Policy Guidelines of 2014, issued by the Ministry of Shipping (MOS) to all the Major Port Trusts on 17 July 2015.

(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 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 JNPT has reported to have constituted a Land Allotment Committee consisting of the Deputy Chairman, Chief Manager (Finance), Chief Manager (Admn) & Secretary and Chief Manager (Traffic). The JNPT has furnished a copy of the Report of the LAC.

(c). As per Clause 13(a) of the amended land policy guidelines of 2014, the LAC shall determine the latest market value of land taking into account highest of the five factors like (i) State Government's ready reckoner value if available for similar classification/ activities, (ii) Highest rate of actual relevant transactions registered in last three years in the Port's vicinity (the vicinity of the Port is to be decided by the respective Port Trust Boards), with an appropriate annual escalation rate to be approved by the Port Trust Board (iii) Highest accepted tender-cum-auction rate of Port land for similar transactions, updated on the basis of the annual escalation rate approved by the Port Trust Board., (iv) rate arrived at by an approved valuer appointed for the purpose by the port and (v) any other relevant factor as may be identified by the port.

Further, as per clause 13 (c) read with clause 13(a) and (b) of the amended land policy guidelines of 2014, the port shall file a proposal to this Authority for fixation of latest SOR of the land based on the market value of land recommended by the LAC which will normally take into account the highest of the five factors for latest market value of land stipulated in Para 13 (a) of the land policy guidelines of 2014. In case the LAC is not choosing the highest factor, clause 13(a) requires the LAC to record the reasons for the same in writing.

(d). Of the five factors prescribed in the amended land policy guidelines, 2014 for arriving at the market value of the land, the LAC has not found relevant the Ready Reckoner rates for Non-Agricultural Land in the nearby villages at ₹ 2000 per sq.mt, as it would not recoup the investments of JNPT in developing the land parcels and building the infrastructure for the SEZ. The LAC is also reported to have not taken into account the sale transactions recorded in the vicinity of the port, owing to the small size of the land parcels thereat as compared to the average land allotment in the SEZ envisaged at around 20-30 acres. Further, since the port had not floated any tender for auction of the land in port area, such rates were not available for consideration of the LAC.

One of the factors to determine the latest market value of the port land is the rate arrived by an approved valuer appointed for the purpose by the Port. In this connection, the JNPT has not appointed an approved Valuer to determine the latest market value of the SEZ area. The LAC has reference to the Report of January 2014 of a Valuer engaged by JNPT to evaluate the rental value of the land to be leased out to Tank Farm Operators. In view of the similar characteristics of the Tank farm area and the SEZ area, in the form of both areas being outside custom bound area, both the lands being owned by the JNPT and other similarities in the concerned land parcels. The current rental rate for Tank Farm is reported at ₹1882 per sq.m./per annum. The JNPT is of the view that the lease rental as per the valuer of Tank Farm Land is on the higher side since the land is inside the port area and allocated for a different purpose, apart from the fact that the land parcel is much smaller. While such high rentals would ensure revenue to the port, it will, however, attract fewer investors and dilute the objective of the port to fix the land price competitively that would attract more firms towards SEZ, thereby generating higher revenues for the port, rather than the premium pricing of the land, which may act as deterrent for allotment of the land to SEZ units.

In view of the above position, the LAC has decided to adopt 'any of the factor' as stipulated in the Guidelines. For the purpose, the LAC is seen to have considered the cost recovery approach.

(e). By taking into account the historical acquisition cost along with the estimated development costs, the unit investment cost has been arrived at ₹3549.61 per sq.m. Thereafter, by considering 15% adjustment factor towards premium to recognize location, logistic etc., and 10% Return Expectation (as suggested by the Standing Finance Committee (SFC), as discussed subsequently), the market value of the land has been arrived at ₹4437.01 per sq.m. Lease rental at 6% of the market value of the land works out to ₹266.22 per sq.m per annum. The lease rental so arrived has been rounded off to ₹266/- per sq.m per annum. A statement showing the workings in this regard is attached as **Annex – II**.

(f). Thereafter, considering an annual escalation of 2% per annum on the lease rental of ₹266/- per sq.m per annum for a period of 30 years and applying a discounting factor of 7.83%, the net present value of the upfront amount to be paid by the allottee has been worked out by JNPT at ₹3994.70 per sq.m. This has been rounded off and thus an amount of ₹4000/- per sq.m has been considered as the Reserve Price in terms of one time upfront lease payment for allocation of land on 30 year lease basis. The calculation for one time upfront lease payment is attached as **Annex- I** as furnished by JNPT.

(g). In this connection, the JNPT in its proposal has stated that JNPT had presented this pricing in a meeting held with Standing Finance Committee (SFC) headed by the Secretary, Ministry of Shipping, for securing approval on project cost estimates and for determining the land pricing strategy. The SFC is reported to have suggested to take into account a nominal return expectation of 10% over the upfront payment towards administrative charges and other expenses. The SFC has advised that the base rate be kept at ₹4000/- per sq.m for the first phase of bidding of SEZ, keeping in view the rates prevailing in the non-port SEZs in the vicinity. As there would be an auction on either upfront or annual lease payments (or other payments), the SFC has observed that JNPT would realize higher value than the base rate of ₹4000/-. The JNPT has also stated that after finalization of the first phase of the tendering process, the highest offer received by the port would be considered as the Minimum Reserve Price for next phase of tendering process for land allotment in SEZ area. The pricing strategy is reported to have been reviewed diligently by the Board of JNPT, the Ministry of Shipping and the LAC and found by them to be appropriate for the first phase of bidding for the SEZ.

(iv). The JNPT has initially proposed prescription of ₹4000/- per sq.m. in its proposed Scale of rates. However, Clause 13(c) read with clause 13(b) of the amended Land Policy Guidelines, 2014, requires this Authority to notify the Reserve Price in terms of Annual Lease Rent and not the one time upfront lease payment. Further, as stipulated in clause 11.2(d) of the amended Land Policy, 2014, fixation of Reserve Price for leasing out land on upfront basis, which would be the NPV of the sum total of annual lease rentals calculated as per the latest SOR, is in the domain of the Port Trust and not within the ambit of this Authority either under Section 49 of the Major Port Trusts Act, 1963 or under the amended Land Policy, 2014. Therefore, at our request, the JNPT in its revised Scale of Rates has prescribed the annual Lease Rentals at ₹266 per sq.m. per annum. This lease rental after considering an annual escalation of 2% would result in the one time upfront payment of ₹4000/- per sq.m. as suggested by the SFC as well as recommended by LAC and approved by the Board of Trustees of JNPT. If rental of ₹244.92 per sq.m. shown by JNPT in its calculation to arrive at the Reserve Price of ₹4000/- as brought out at paragraph No. 2.2 (xi)(e) of this order is only approved, it will not result into an one time upfront payment of ₹4000/- per sq.m. because it does not capture the 10% nominal return expectation. It is to be noted that the base price of around ₹3700/- per sq.m. arrived based on the Lease rental of ₹244.92 has been pegged at ₹4000/- per sq.m. on the advice of the SFC.

Given that the LAC headed by Deputy Chairman (JNPT) and comprising of Head of the Departments of the port trust has, after considering the market valuation of land as explained above, arrived at the proposed lease rental and also recognising that the Board of Trustees of JNPT have approved the rate finalized by the LAC, and that the proposal filed by JNPT is in line with the amended Land policy guidelines of 2014, this Authority is inclined to approve the proposed lease rental of ₹266/- per sq.m per annum, based on which rate of ₹4000/- per sq.m., being the Reserve Price in terms of one time upfront lease payment for allocation of land on 30 year lease basis, has been determined by the JNPT.

Given that the Reserve Price in terms of Upfront Payment for 30 years has not been prescribed for the reasons stated above, the prescription of ₹1/- per sq.m, being the nominal annual lease rental to be payable during the period of 30 years, as proposed by the Port, is not relevant for prescription..

(v). The JNPT has proposed definitions for the terms viz., 'Board', 'TAMP', 'Chairman', 'Land', 'Lease', 'License', 'Upfront basis', 'Premium basis', 'Port related activities' and 'Non-Port related activities'.

The definitions for the terms viz., 'Board', 'TAMP', 'Chairman' and 'Land' are seen to be in line with the definitions prescribed for the said terms in the Major Port Trusts Act, 1963, and hence are approved.

The definitions for the terms viz., Lease', 'License', 'Upfront basis', and 'Premium basis', are already stipulated in the Land Policy Guidelines of 2014 and hence are not separately prescribed in the Rent Schedule of JNPT.

The term 'Port related activities' has been defined by JNPT to mean those activities directly related to Cargo handling for enhancement of port business and other activities vital for Harbour operations. Similarly, the term 'Non-Port related activities' has been defined by JNPT to mean those activities related to the Port and the township for smooth functioning, but at the same time indirectly supporting the business of the Port. These definitions are not found relevant to the Rent Schedule of JNPT, which prescribes a single lease rental for allotment of land inside the SEZ. The purpose for which the land is intended to be allotted has no bearing on the rate of lease rentals. In view of this position, the proposed definitions for the terms 'Port related activities' and 'Non-Port related activities', are not prescribed in the Rent Schedule.

(vi). Clause 13(c) of the amended Land Policy Guidelines, 2014, mandates this Authority to refix the Scale of Rates once in every five years. In this connection, the JNPT has proposed a note to the effect that the Scale of Rates for lease of Land in the SEZ area shall be revised/ reviewed after five years with the approval of Competent Authority in accordance with the Policy Guidelines for Land Management, 2014. The revised lease rentals shall be applicable on fresh leases effective from the date of implementation of the Order passed by the Competent Authority.

The reference to the Policy Guidelines for Land Management, 2014, in the said note is replaced with the term 'applicable Land Policy Guidelines'.

(vii). The JNPT has proposed a note to the effect that the prescribed Scale of Rates shall be subject to annual escalation @ 2% per annum on the annual lease rentals unless and otherwise revised by the applicable laws or by the Competent Authority.

Clause 13(c) of the amended Land Policy Guidelines, 2014, stipulates fixing of the rate of annual escalation at not less than 2%. Accordingly, the JNPT is seen to have adopted an annual escalation of 2% per annum for the proposed rentals. In this context, it is relevant to mention here that the Rent Schedule fixed now will be valid for a period of five years. As such, the annual escalation of 2% as proposed by the port now should also remain valid during the tenure of the validity of the Rent Schedule, unless and until a new Land Policy prescribing a different escalation factor comes into effect during the tenure of the validity of the Rent Schedule. Accordingly, the note proposed by the JNPT is slightly modified by deleting the term 'or by the Competent Authority' from the proposed note.

(viii). The JNPT has proposed a note to the effect that the Scale of Rates shall be subject to the conditions and stipulations prescribed in the 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. The proposed note is approved.

(ix). The JNPT has proposed a note to the effect that the Right of Way permission for laying pipelines/conveyors etc. (if required), from jetties to the tank farms within & outside port area shall be given with approval of the Board. It shall neither be a lease nor a license. There shall not be any allotment of land to a party for giving Right of Way permission. These shall be laid on common user basis and if the same pipeline is required by any other party, it shall be spared, on such terms as agreed between the parties and the Port Trust Board. The parties shall have to abide by the conditions specified by the Port. This note is seen to be in line with the Land Policy Guidelines of 2014 and hence, is approved.

9.1. In the result, and for the reasons given above and based on a collective application of mind, this Authority approves the Scale of Rates for allotment of Land at FTWZ area along with the conditionalities which is attached as **Annex – III**.

9.2. The Scale of Rates along with conditionalities will become effective after expiry of 30 days from the date of notification of the Order in the Gazette of India and shall be in force for five years. The approval accorded shall automatically lapse thereafter unless specifically extended by this Authority.

(T.S. Balasubramanian)
Member (Finance)

Annex-I

Calculation of Annual Lease Rentals

Land Pricing		
Parameter	**Amount**	**Unit**
Land Acquisition Cost		
Land Acquisition Cost per Acre (1984)	30000.00	INR
Total Land Area	685.13	Acre
Total Acquisition Cost (SEZ Area)	2.06	INR Crore
Loss of Interest @9%	9%	per annum
Number of years for Loss of Interest	32	Years
NPV of Acquisition Cost	32.40	INR Crore
Historical Land Acquisition rate (in Current Prices)	116.85	INR per sqm
Project Development Cost		
Project Development Cost	667.41	INR Crore
Total Saleable Area (Processing Zone includes Industrial plots Only)	316.09	Acre
Total Saleable Area (Processing Zone plus Non-Processing Zone)	480.42	Acre
Project Development Cost per Unit area spread across Saleable Area Only	3432.76	INR per sqm
Total Cost of JNPT for the Project		
Investment from JNPT for the Project	**699.81**	**INR Crore**
Unit Investment cost per Sqm	3549.61	INR per sqm
Adjustments to the estimated costs as detailed in the proposal		
Adjustment factor considered on Price per Unit of Land due to location, logistics , ground infrastructure	**15%**	
Minimum Return Expectations of JNPT on account of administrative and other future expenses	**10%**	
Total Adjustment Factor	**25%**	
Market Value with Adjustments		
Market Value of Land (for Lease Rentals as per Land Policy) (3549.61*1.25)	4437.013	INR per sqm
Annual Lease Rental at 6% of the market value	266.22 (Say 266)	
Lease Period	30	Years
Escalation every	1	Year
Lease Rental Escalation	2%	As per Land Allotment Guidelines adopted by JNPT

Estimation of the Upfront Lease Payment based on the Annual Lease payment of Rs. 266.22 per square meter

	1	2	3	4	5	6	7	8
Year	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23
Escalation factor @2% per annum	1.00	1.02	1.04	1.06	1.08	1.10	1.13	1.15
Annual Lease Rate (Rs. Per sqm)	266.2208	271.545	276.976	282.516	288.166	293.929	299.808	305.804
Discount Factor based on discount rate of 7.83%	1	0.927	0.860	0.798	0.740	0.686	0.636	0.590
Effective Upfront Lease rate (Rs. Per sqm)	266.2208	251.827	238.212	225.332	213.149	201.625	190.724	180.412

	9	10	11	12	13	14	15	16
Year	2023-24	2024-25	2025-26	2026-27	2027-28	2028-29	2029-30	2030-31
Escalation factor @2% per annum	1.17	1.20	1.22	1.24	1.27	1.29	1.32	1.35
Annual Lease Rate (Rs. Per sqm)	311.920	318.158	324.522	331.012	337.632	344.385	351.273	358.298
Discount Factor based on discount rate of 7.83%	0.547	0.507	0.471	0.436	0.405	0.375	0.348	0.323
Effective Upfront Lease rate (Rs. Per sqm)	170.658	161.431	152.703	144.447	136.637	129.250	122.262	115.651

	17	18	19	20	21	22	23	24
Year	2031-32	2032-33	2033-34	2034-35	2035-36	2036-37	2037-38	2038-39
Escalation factor @2% per annum	1.37	1.40	1.43	1.46	1.49	1.52	1.55	1.58
Annual Lease Rate (Rs. Per sqm)	365.464	372.773	380.229	387.833	395.590	403.502	411.572	419.803
Discount Factor based on discount rate of 7.83%	0.299	0.278	0.257	0.239	0.221	0.205	0.190	0.177
Effective Upfront Lease rate (Rs. Per sqm)	109.398	103.484	97.889	92.596	87.590	82.854	78.374	74.137

	25	26	27	28	29	30
Year	2039-40	2040-41	2041-42	2042-43	2043-44	2044-45
Escalation factor @2% per annum	1.61	1.64	1.67	1.71	1.74	1.78
Annual Lease Rate (Rs. Per sqm)	428.199	436.763	445.499	454.409	463.497	472.767
Discount Factor based on discount rate of 7.83%	0.164	0.152	0.141	0.131	0.121	0.112
Effective Upfront Lease rate (Rs. Per sqm)	70.129	66.337	62.750	59.358	56.148	53.113
	25	26	27	28	29	30

Total Effective Upfront Lease Rate = Rs. 3994.7 ~ Rs. 4000 per sqm

Annex - II

WORKINGS TO ARRIVE AT THE LEASE RENTALS FOR THE JNPT FTWZ

1	Historical acquisition cost	30000	Rupees per acre
2	Area acquired	685.13	Acres
3	Total Historical acquisition cost	20553900	Rupees
4	Total Historical acquisition cost	2.06	Rupees in crores

5 **Calculation of Indexed acquisition cost at 9% indexation as at the year 2016**

Year	Year	Historical acquisition cost indexed @ 9% per annum (Rs. In crores)
1984	1	2.06
1985	2	2.25
1986	3	2.45
1987	4	2.67
1988	5	2.91
1989	6	3.17
1990	7	3.45
1991	8	3.77
1992	9	4.10
1993	10	4.47
1994	11	4.88
1995	12	5.32
1996	13	5.79
1997	14	6.32
1998	15	6.88
1999	16	7.50
2000	17	8.18
2001	18	8.91
2002	19	9.72
2003	20	10.59
2004	21	11.55
2005	22	12.58
2006	23	13.72
2007	24	14.95
2008	25	16.30
2009	26	17.76
2010	27	19.36
2011	28	21.10
2012	29	23.00
2013	30	25.07
2014	31	27.33
2015	32	29.79
2016	33	32.47

6 **Calculation of Market value of Land:**

Acquisition cost		Development cost	
32.40	Rupees in crores (rounded off)	667.41	Rupees in crores
324000000	Rupees	6674100000	Rupees
472902.95	Cost per acre (685.13 acres)	13892219.31	Cost per acre of saleable area 480.42 acres
116.86	Cost per sq.m (1 acre = 4046.86 sq.m)	3432.84	Cost per sq.m (1 acre = 4046.86 sq.m)

Total (acquisition cost + development cost)	3549.70	Rs. per sq.m
Adjustment factor of 15%	532.45	Rs. per sq.m
Return Expectation @ 10%	354.97	Rs. per sq.m
Market value of land	**4437.12**	Rs. per sq.m

7 **Calculation of Lease Rental**

Lease Rentals @ 6% of Market value of land	**266.23**	Rs. per sq.m
Rounded off Lease Rentals as proposed by the Port	**266.00**	Rs. per sq.m

Annex- III

SCALE OF RATES (SOR) FOR ALLOTMENT OF JAWAHARLAL NEHRU PORT TRUST LAND IN AREA ALLOCATED FOR FREE TRADE WAREHOUSING ZONE (FTWZ).

1. **Short Title, Commencement and Application:**

a) This may be called "The Scale of Rates of Jawaharlal Nehru Port Trust for allotment of Port land outside the custom bond area of JN Port for leasing purpose for Development of Free Trade Warehousing Zone (FTWZ)".
b) The same shall come into force on such date as specified by Tariff Authorities for Major Ports (TAMP).
c) It applies to the areas located beyond the custom bond area of JN Port identified for development of FTWZ for a period of 30 years from the date of approval of the Board.

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 for 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.

3. **Scale of Rates for Allotment of Port Land:**

3.1. Allotment of land for the development of FTWZ as per the rates indicated below:

Sl. No.	Zone	Reserve Price in terms of Annual Lease Rentals for 30 years Lease (₹ Per sq.mt per annum)
1	Land inside the Free Trade Warehousing Zone	266/-

3.2. Annual Escalation:
The prescribed Scale of Rates mentioned in Section 3.1 above shall be subject to annual escalation @ 2% per annum on the annual lease rentals unless and otherwise revised by the applicable laws.

3.3. Revision in Scale of Rates:
The Scale of Rates for lease of Land in the FTWZ area shall be revised/ reviewed after five years with the approval of Competent Authority in accordance with the applicable Land Policy Guidelines. The revised lease rentals shall be applicable on fresh leases effective from the date of implementation of the Order passed by the Competent Authority.

4. **Terms and Conditions:**

4.1. Regulations:
The Scale of Rates shall be subject to the conditions and stipulations prescribed in the 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.

4.2. Right of Way Permission:
The Right of Way permission for laying pipelines/conveyors etc. (if required), from jetties to the tank farms within & outside port area shall be given with approval of the Board. It shall neither be a lease nor a license. There shall not be any allotment of land to a party for giving Right of Way permission. These shall be laid on common user basis and if the same pipeline is required by any other party, it shall be spared, on such terms as agreed between the parties and the Port Trust Board. The parties shall have to abide by the conditions specified by the Port.

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

F. No. TAMP/19/2016- JNPT		**Proposal received from the Jawaharlal Nehru Port Trust (JNPT) for notification of Scale of Rates (SoR) for allotment of land admeasuring 277.38 hectares on lease rental basis for 30 years for development of Special Economic Zone (SEZ) near JNPT.**

The joint hearing in this case was convened on 15 March 2016. However, except JNPT, no representatives of user/ Associations/ terminal operators/ prospective applicants were present at the joint hearing. The consultation proceedings will not be complete unless the user/ Associations/ terminal operators/ prospective applicants are heard. Therefore, as suggested by JNPT, the joint hearing was again scheduled on 17 March 2016 at the Office of the Authority. At the joint hearing, the Consultant of JNPT i.e., Ernst & Young had made a Powerpoint presentation of the proposal on behalf of the JNPT. At the joint hearing, the JNPT and the concerned users/ organization bodies have made the following submissions:

Jawaharlal Nehru Port Trust (JNPT) (Ernst & Young)

(i). The land area under consideration admeasuring 277.38 ha is outside the custom bound area of the port. Out of this area, 200.25 ha is earmarked as Processing Zone (Engineering, Textiles, Electronics, Free Trade Warehousing Zone etc.) and the balance 77.13 ha is earmarked as non-Processing Zone (Housing, Green belts, parks, schools, open spaces, roads, parking etc.)

(ii). The land is envisaged to be given on lease basis for a period of 30 years.

(iii). The JNPT is to incur an amount of ₹ 667.41 cr to develop internal infrastructure viz., road works, drainage, culverts, earth works, water supply, power supply, landscaping , buildings, sewage collection/ treatment system, solid waste management system etc., dedicated entry/exit interchange, electrical substation, boundary wall, earth filling, land filling etc.

(iv). A Land Allotment Committee (LAC) as stipulated in the Land Policy Guidelines was constituted under the chairmanship of Dy. Chairman. As stipulated in the guidelines, the LAC evaluated the market value of lands under the five options listed in the Guidelines.

(v). The Ready Reckoner rates for Non-Agricultural Land in the nearby villages at ₹ 2000 per sq.mt was not found relevant by the LAC as it would not recoup the investments of JNPT in developing the land parcels and building the infrastructure for the SEZ.

(vi). Some transactions recorded in the vicinity of the port was for a small size of the land parcels. Since the average land allotment in the SEZ was expected to be around 20-30 acres, this factor was not considered by the LAC.

(vii). Since the port had not floated any tender for auction-cum-tender for the land in port area, such rates were not available for consideration of the LAC.

(viii). The rental rate evaluated by a consultant earlier, engaged to evaluate the rental value of a land for the purpose of leasing out to Tank Farm Operators, was ₹ 1809 per sq. mt. per annum. However, given that the rentals was high as the said land was inside the port area and was allocated for a different use, the said valuation was not found relevant by the LAC.

(ix). Under ‘any of the factor’ stipulated in the Guidelines, the JNPT has adopted the cost recovery approach with a nominal return of 10% for 1st phase of bidding for the SEZ area.

(x). Accordingly, taking into account the historical acquisition cost along with the estimated development costs, the market value of the land works out to ₹4082.05 per sq.m. Lease rental at 6% of the market value of the land works out to ₹ 244.92 per sq.m per annum.

(xi). Considering an annual escalation of 2% per annum on the lease rental of ₹244.92 per sq.m per annum for a period of 30 years and a discounting factor of 7.83%, the net present value of the upfront amount to be paid works out to ₹ 3671.54 per sq.m. Taking into account a nominal return expectation of 10% over the upfront payment as suggested by the SFC, the Minimum Reserve Price works out to about ₹ 4000/- per sq.m. This rate is found to be comparable to the allotment rate prevailing at other SEZs

(xii). The costing was discussed in the SFC Meeting. The SFC Committee has suggested the price at ₹ 4000/- per sq.m for land allotment in the 1st phase of bidding for the SEZ area. After finalization of the 1st phase of tendering process, the highest offer received by the port would be considered as the Minimum Reserve Price for the next phase of tendering process for land allotment in the SEZ area. JNPT held two Meetings with stakeholders. They are comfortable with the proposed Reserve Price.

Jabel Ali Free Zone Authority (on behalf of DP World)

(i). In addition to the cost of the land, the developer will have to make further investments to set up his facility at the SEZ.

(ii). Having a SEZ near to the Port will attract volumes to the port and lead to more development of the port.

(iii). The rates proposed by JNPT is found to be reasonable. It will discourage non-serious bidders to bid for the area.

Bharat Petroleum Corporation Limited (BPCL)

(i). Planning a SEZ near the Port is a good proposition. The rates proposed by JNPT appear to be okay.

Bharat Mumbai Container Terminals Pvt. Ltd. (BMCTPL)

(i). The rate proposed by the port is bit on the higher side.

JNPT

(i). The proposed levy is only to enable the port to recover the costs incurred by it on acquisition and development of the SEZ land. We do not intend to make any profits.

(ii). When compared to rate of allotment at other places, the rate proposed by JNPT is neither too high nor too low and is very reasonable. Given that the SEZ area is envisaged to be utilized for various purposes, the proposed rate would be comfortable for all.

Agricultural Marketing Board (AMB)

(i). We have no comments to offer. It is requested that some space may be allotted to agricultural produce in SEZ.