

(Published in Part - III Section 4 of the Gazette of India, Extraordinary)

Tariff Authority for Major Ports

G.No.622

New Delhi,

30 November 2021

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 Mormugao Port Trust (MOPT) for fixation of License fee for the project relating to development of International and Domestic Cruise Terminal, Ro-Pax, Ferry and other allied activities at MOPT. Considering the time involved for notifying (Speaking) Order along with the Scale of Rates, approved by this Authority, this Authority decided to notify only the License fee for the project relating to development of International and Domestic Cruise Terminal, Ro-Pax, Ferry and other allied activities at MOPT immediately. Accordingly, the License fee for the project of MOPT approved by this Authority on 25 October 2021 was notified in the Gazette of India on 01 November 2021 vide Gazette No.533. It was stated in the said Notification that this Authority will notify the Speaking Order, in due course of time. Accordingly, this Authority hereby notifies the Speaking Order connected with disposal of the proposal of the MOPT for fixation of License fee for the project relating to development of International and Domestic Cruise Terminal, Ro-Pax, Ferry and other allied activities at MOPT as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
No. TAMP/45/2021-MOPT

Mormugao Port Trust

- - -

Applicant

QUORUM:

- (i). Shri. T.S. Balasubramanian, Member (Finance)
- (ii). Shri. Sunil Kumar Singh, Member (Economic)

O R D E R

(Passed on this 25th day of October 2021)

This case relates to the proposal received from Mormugao Port Trust (MOPT) for fixation of License fee for the project relating to development of International and Domestic Cruise Terminal, Ro-Pax, Ferry and other allied activities at MOPT.

2. The main submissions made by the MOPT in its proposal are as follows:

- (i). The Government of India had envisaged for the Development of Cruise Tourism as a strategic step to boost tourism in the country. Accordingly, they identified five Major Ports to be developed as Cruise Ports in the country, of which Mormugao Port is one amongst them. Hence to fulfill this, Mormugao Port Trust has conceived a project covering an area of 13.4 acres which is adjacent to the existing cruise berth and which was lying vacant and unutilized after being vacated by WISL. The project involves the development of world class International and Domestic Cruise Terminal which would act as a gate way to Goa and also have a facility for Ro-Pax and Ferry Services which will enable the cruise passengers to crossover to North Goa and other tourist destinations.
- (ii). The estimated cost of the project is ₹101.72 crores (all-inclusive cost including GST, PMC and contingency) and the project will be completed within a period of 18 months. The project would be equally funded by Ministry of Ports, Shipping and Waterways under "Sagarmala Programme" and Ministry of Tourism (MOT) under "Assistance to Central agencies for Tourism Infrastructure Development" to the extent of ₹50 crores each and balance funding will be done by the Port.
- (iii). **DETAILS OF THE PROPOSAL:-**
 - (a). As per Policy Guidelines for Land Management, 2014 (PGLM guidelines), the operator shall be required to pay license fee on the commercial built up area on the basis of the applicable Scale of Rates (SOR).
 - (b). The Cruise Terminal building is divided into operational and commercial areas – PGLM license fees is applicable on commercial areas only. The operator has to pay license fee on the commercial built up area on the basis of the applicable SOR as required by PGLM, 2014. The applicable License Fee for the existing Cruise Terminal building at Harbour, Mormugao Port, as per the current SOR (as per Gazette No.483 dated 21.12.2017) in INR 225/- per sqm per month (Copy enclosed as Annexure-I). However, Port has proposed a license fee of

₹350/- per sqm per month (in first year of project i.e. FY 2022), which is at 25%-30% premium license fee prescribed in the current current SOR viz ₹.273/- sqm per month (₹225/ sqm per month, escalated @5% for 4 years). Further, as per the current SOR, the year-on-year escalation on License Fee has been taken at 5%. The Annual License Fee per annum works out to ₹2.51 Cr. P.a. + 5% escalation – for 5982 sqm of Commercial Built up Areas.

- (c). Similarly, the license fees would be applicable on the commercial land. As per the current SOR (as per Gazette No.483 dated 21.12.2017) is ₹59/- sqm per month. However, Port has proposed a license fees of ₹70/- per sqm per month (in first year of project i.e. FY 2022), which is at 8%-10% premium to license fees prescribed in the current SOR viz ₹64/- sqm per month (₹59/- sqm per month, escalated @2% for 4 years). Further, as per the current SOR, the year-on-year escalation on License Fee has been taken at 2%. The Annual License Fee per annum works out to ₹0.79 Cr p.a. + 2% escalation – for 9441 sqm of Commercial Built up Areas.
- (d). However, any upward revision in the License Fee rates may adversely impact viability of the Project for the PPP-OMT Operator. The Port has partially adopted Mumbai Port Trust's proposal for Cruise Terminal wherein, they have derived a methodology of Leave and License, instead of leasing of land, and maximum period of Leave and License is 5 years only. In Mumbai Port Trust the charge is only for commercial area utilization and not for operational area utilization.
- (e). The proposal for fixation of the license fees for Development of International and Domestic Cruise Terminal, Ro-Pax, Ferry and other allied activities at Mormugao Port was put up before the Board for approval and the Board has approved the same vide board resolution no.124 dated 16 July 2021.

3. On initial scrutiny of the proposal, few gaps were observed in the proposal and the MOPT vide our letter dated 26 August 2021 was requested to furnish additional information / clarification on a few important points alongwith proposal complete in all respects following the Land Policy Guidelines, 2015. Subsequently, at our request, the MOPT vide its email dated 24 September 2021 under cover of its letter No.FA/COST/125/2021/78 dated 23 September 2021 has furnished its response. A summary of the information/ clarification sought by us and reply furnished by MOPT is tabulated below:

Sl. No.	Information/ clarification sought by us	Reply furnished by MOPT
(i).	The Authority vide Order No. TAMP/38/2017-MOPT dated 14 November 2017 has approved revised lease rent for Estate Rentals of MOPT land following the amended Land Policy Guidelines for Major Ports, 2014. Schedule V in Annex-III to the said Order prescribes lease rent for Cruise Terminal Building at Harbour, MOPT at Vasco, Goa. The lease rent prescribed for Cruise terminal building in the said Order is with effect from 17 June 2017 and is valid for five years i.e. till 16 June 2022 subject to 5% annual escalation. It is understood that the lease rent proposed by the MOPT in the current proposal for commercial operation is with reference to	It is confirmed that the lease rent proposed in the current proposal for commercial operations is with reference to a separate building to be developed by the port for International and Domestic Cruise Terminal.

	separate building to be developed by the port for International and Domestic Cruise Terminal. The MOPT to confirm our understanding is correct in this regard.	
(ii).	Further, the port has also proposed license fee of ₹70/- per sqm per month on the commercial land by applying 8%-10% premium to the license fee prescribed at ₹590 per 10 sq mtr/ per month (i.e. ₹59 per sq mtr per month) for Port land at Mormugao Harbour at sr. no.1 under Schedule I in Annex – II attached to the Order dated 14 November 2017 after applying escalation @2% p.a. for the four years from 2018 to 2021. It is not clear from the proposal with reference to which land of the port the proposed license fee pertains to. The port may clarify the same. It is relevant here to state that the validity of the license fee for land prescribed in Schedule I in the said Order is valid till 16 June 2022. Section 49 of the MPT Act, 1963 empowers the Major Port Trusts to lease any land or shed belonging to the Board or in its possession or occupation at a rate higher than that the rate notified by the Authority. In the light of the above observation, the port to furnish reasons for the seeking approval of the license fee for land when valid license fee for port land at Mormugao Harbour & Vasco Bay, Baina, Vasco, Dabolim, Headland Sada and Bogda are in place.	The project for development of International and Domestic Cruise Terminal is proposed on the land initially occupied by WISL which is located at Mormugao Harbour and hence the basic land rate of ₹590/- per 10 sq. mtr. Per month (₹59/- per sq. mtr. Per month) notified vide order dated 14.11.2017 has been adopted after escalation @ 2% per year for 4 years. It is agreed that the rates notified by the TAMP vide order dated 14.11.2020 is valid till 16.06.2022 and the port has already initiated the process for revision of the land rates of the port as per the Land Policy Guidelines, 2014. However, due to unavailability of the revised rates the port has adopted the rate of ₹70/- per sq mtr per month on the assumption that there would be nominal increase in the license fees from 17.06.2022, which is permissible as per section 49 of the MPT Act, 1963. The license fee rate of ₹350/- per sq. mtr. Per month for Commercial built up area of the Cruise Terminal Building and ₹70/- per sq. mtr. Per month for Commercial land at Mormugao Harbour has been adopted for evaluating the future cash inflows of the project, for analyzing the viability of the project.
(iii).	The port has proposed license fee of ₹350/- per sq mtr per month on the commercial built up area by applying 25%-30% premium to prevailing license fee for the existing Cruise Terminal Building at Harbour and has proposed license fee of ₹70/- per sqm per month on the commercial land by applying 8%-10% premium to the prevailing license fee prescribed for Port land at Mormugao Harbour. As port is well aware, both the MOPT and the Authority are mandated to follow the Land Policy Guidelines, 2015 issued by the Government for the purpose of determining lease rentals / license fee for the lands/ structures belonging to the Port Trusts. The salient point of the said Guidelines as regards determination of lease rent / license fee for port land are as follows:	
(a).	As per clause 13 (a) read with clause 11.2 (e) of the Land Policy Guidelines 2014, a Land Allotment Committee (LAC) constituted by the Port Trust Board consisting of Deputy Chairman of the Port, and Heads of Departments of Finance, Estate and Traffic shall determine the market value of land as per the methodology prescribed in clause 13 (a).	The copy of the Land Allotment Committee (LAC) Report with their recommendation proposing the license fees rate of ₹350/- per sq. mtr. Per month for Commercial built up area of the Cruise Terminal Building and ₹70/- per sq. mtr. Per month for Commercial Land area is furnished as Annexure-A.

(b).	Para 13 (a) of the Land policy guidelines of July 2015 prescribes the methodology for determination of market value of the land based on the five factors as prescribed therein. The amended Land Policy guidelines of 2014 also stipulates that in case the LAC is not choosing the highest factor, the reasons for the same have to be recorded.	The comparative statement defining the methodology adopted for determination of the market value of the land based on the five factors as per clause 13(a) of the Land Policy Guidelines is furnished as Annexure-B.												
(c).	Clause 13 (b) of the Land Policy Guidelines stipulates that Reserve Price in terms of annual lease rent would be arrived as a percentage not less than 6% of latest market value of land determined by the port trust.	As per clause 13(b) of the Land Policy Guidelines, the reserve price in terms of annual lease rent has been arrived @ 6% of the latest market value, refer Annexure-B for details.												
(d).	The Port Trust Board will fix a rate of annual escalation which would not be less than 2%.	The Port Trust Board has fixed annual escalation @5% for license fees towards Commercial built up area of the Cruise terminal Building and 2% for license fees towards commercial land area.												
(e).	SOR would be refixed once in every 5 years by TAMP.	As any upward revision of License fee rates would adversely impact the viability of the project for the PPP-OMT Operator, hence the Port Trust Board has not proposed any upwards revision in license fee rates after every completed 5 years. The copy of LAC minutes is furnished as Annexure-A and schedule of proposed rent along with conditionalities are furnished as Annexure-C.												
	The proposal filed by the port does not assess market value of land as per the factors prescribed in the LPG 2015, nor is it accompanied with the minutes of the LAC nor schedule of proposed rent along with conditionalities are accompanied with the proposal of the port. That being so, the proposal cannot be processed in the present form. It is relevant here to state that the schedule of rates for land and structures for Domestic Cruise terminal filed by the Mumbai Port Trust was following the LPG and approved by the Authority vide Order No.TAMP/16/2020-MBPT dated 28 October 2020. The MOPT may, if necessary, refer the said Order of the MBPT. The MOPT is, therefore, requested to file proposal complete in all respects following the LPG 2015.	[The MOPT while responding to information / clarification sought by us has vide its letter dated 24 September 2021 furnished complete proposal with relevant documents.]												
(iv).	The port has stated in its proposal that the Cruise terminal building is proposed to be divided into operational and commercial areas and that the license fee is applicable on commercial areas only. Port to elucidate the position to have better clarity.	The project areas have been segregated into Commercial and Operational use as follows: <table><tr><td>Total Land Area</td><td>13.40 Acres</td></tr><tr><td>Operational Use</td><td>11.07 Acres (44,786 sq.m)</td></tr><tr><td>Commercial Use</td><td>2.33 Acres (9,441 sq.m)</td></tr></table> <table><tr><td>Total Built- Up Area</td><td>13,128 sq.m</td></tr><tr><td>Operational Use</td><td>7,146 sq.m</td></tr><tr><td>Commercial Use</td><td>5,982 sq.m</td></tr></table> Wherein, Commercial Land Area is defined as sum of	Total Land Area	13.40 Acres	Operational Use	11.07 Acres (44,786 sq.m)	Commercial Use	2.33 Acres (9,441 sq.m)	Total Built- Up Area	13,128 sq.m	Operational Use	7,146 sq.m	Commercial Use	5,982 sq.m
Total Land Area	13.40 Acres													
Operational Use	11.07 Acres (44,786 sq.m)													
Commercial Use	2.33 Acres (9,441 sq.m)													
Total Built- Up Area	13,128 sq.m													
Operational Use	7,146 sq.m													
Commercial Use	5,982 sq.m													

		(a). Parking Area - ~5,504 sqm of surface parking (b). Footprint of Ancillary Commercial Building – ~2,203 sqm – since the building is entirely of commercial nature, 100% of its footprint has been considered (c). Cruise Terminal - ~1,684 sqm – 27.6% of building footprint (~6,100 sqm) considered, which is equal to ratio of Commercial and Total BUA of Cruise Terminal building Commercial Built-up Area (BUA) is defined as sum of (a). BUA of Ancillary Commercial Building (b). BUA of revenue generating areas within the terminal buildings, (c). Refer to Annexure –D for layout and details of the above areas and buildings. Rationale for division between Commercial and Operational Areas – <u>Operational areas are those areas in the terminal, necessary for handling cruise passengers and cargo – which do not generate any income for the operator and are required for the functioning of the Cruise Terminal. The operator is dependent on rentals from commercial uses and a share of composite charges to be commercially viable.</u> <u>MOPT shall not charge any License Fees from such operational areas. Therefore, License Fee shall be payable by the Operator only on Commercial Land Area and Commercial Built-up Area.</u> Such division of areas into commercial and operational areas is derived from a similar the precedence in Mumbai Cruise Terminal.
(v).	The MOPT while filing the complete proposal as per the LPG 2015 is also requested to furnish the list of the users/ licensees/ lessees/ stakeholders to be consulted on the proposal to be filed by the port with complete address, contact details and email id.	The list of the users / licensees/ lessees / stakeholders to be consulted with complete address, contact details and email id is furnished as Annexure-E.

4. The Board of Trustees of MOPT has constituted the Land Allotment Committee (LAC) headed by the Dy. Chairman of MOPT and FA&CAO, CE and TM as Members. The gist from the minutes of the meeting of the LAC held on 12 July 2021 is given below:

(i). **Scope of the project -**

The proposed cruise terminal is developed in 13.40 acres behind the existing berths 1 to 4. The terminal will handle domestic and international cruise traffic for which separate terminals have been identified. There will be provision of immigration counters, check in counters, waiting lounge, baggage carousel, parking ,landscaping, separate entry and exit facility, duty free retail, lounges,

food court, entertainment zone, snacks bars, etc. including commercial ancillary building is also part of the project. Also, upgradation of existing RoRo and RoPax facility will be taken up. The terminal and commercial premises will be developed by refurbishing existing abandoned structures. After development of terminal by the Port, O&M Operator will be engaged for managing the Terminal.

(ii). **Project cost –**

The project development cost is ₹101.72 crores from which funds of ₹50.86 crores is from MoPSW and ₹50 crores from Ministry of Tourism (MoT). The balance gap funding will be done by the Port. The Implementation of the project will be as follows:-

- (a). Development of cruise terminal through EPC contract for which Cochin Port Trust is appointed as PMC.
- (b). O&M operator will be appointed for O&M operations of the developed terminal through PPP mode after completion of the development of the cruise terminal project through EPC mode (Expected investment by O&M operator is ₹21 crores)

The details of the estimate showing the premises/cost of construction (value) is furnished as Annexure I of the Minutes of the Meeting of LAC held.

(iii). **Proposed License Fee:**

- (a). Lease rentals are to be fixed considering the 5 factors as stated under clause 13(a) of the Land Policy Guidelines, 2014
- (b). A comparative Statement of Valuation of International and Domestic Cruise Terminal Building at MOPT under five factors as per PGLM 2015 as considered by LAC attached as Annexure-III to the Minutes of the Meeting is tabulated below:

Sr. No.	Description Of Property	Built up area (Sq. mts)	Market Value of land as per State Govt. Reckoner ₹.Per Sq. Mtr. p.a.	Reserve Price for monthly lease rent @6% on Market Value as per State Govt. Reckoner	Relevant transactions in port's vicinity Mtr. p.m	Highest rate of similar transactions (Lease rent per sqm p.m)	Break up of valuation of Port structures by approved value for the built up area given in col.3			Market Value of Land and Port Structure As Per Approved Valuer ₹ Per Sq. Mtr.p.m	Reserve price for monthly lease rent @6% on valuation of structure by approved valuer.	Any Other Relevant factor (Lease rent per sqm p.m) after 5% escalation	Highest among st 5 factors as per clause 13(a)	Proposed rent per sq. mtr. per month
							Land (Value)	Premises / Cost of Construction (Value)	Composite Value as on 04.11.2014					
1	2	3	4	5= Col 4 /12 *6%	6	7	8	9	10=Col 8 + Col 9	11= Col10/Col 3/12	12=Col11* 6%	13	14	15
1	Cruise Terminal Building (Grd flr+ First Flr) and Ancillary Commercial Building	13,128	3,500	17.50	-	-	183,792,000	732,190,799	915,982,799	5,814.43	348.87	273.00	348.87	350.00
2	Commercial Land Area	54,227	3,500	17.50	-	-	759,178,000	0	759,178,000	1,166.67	70.00	65.20	70.00	70.00

- (c). Hence, the proposed license fees for the Commercial Built up area has been computed as under:

As per the existing SOR for Port's land notified under Gazette No. 483 dated 21.12.2017 (valid till 16.06.2022) rate of ₹59/- per sqm per month has been prescribed for land area at Mormugao Harbour, after applying escalation @ 2% for 4 years the existing rate works out to ₹65.20 per

sqm per month. However, the port has proposed a higher rate of ₹70/- per sqm per month as the said SOR is due for revision and the port presumes that there would be nominal increase in the license fees from 17.06.2022 onwards, which is permissible as per Section 49 of the MPT Act, 1963.

Since, the proposed Cruise Terminal Building at Mormugao Harbour will be a new building to be constructed, the valuation of the same is not available. Composite valuation for the property has been arrived at ₹91,59,82,799/-. The Port has adopted the following methodology to arrive at the estimated valuation of the property.

The breakup is as under:

Particulars	Rate per sq m / p.a.	As per clause 13(b) of PGLM- Lease rent in no case be less than 6% of the latest market value.	Valuation (In ₹)
(1)	(2)	(3)	(4)
Land Value	(70 / sqm / month * 13,128 sqm * 12 months)	Column (2) / 6%	18,37,92,000
Premises / Cost of Construction	Annexure-I of the LAC Minutes estimates cost of Construction		73,21,90,799
Total Cost			91.59.82.799

As per the above table, the valuation for the proposed Cruise Terminal Building works out to ₹91,59,82,799/- i.e. ₹5814.43 per sqm per month. As per clause 13(b) of PGLM- Lease rent in no case be less than 6% of the latest market value, hence the reserve price of the said property is ₹348.87 per sqm per month (₹5814.43*6%), rounded off to ₹350/- per sqm per month.

[Total value of proposed Cruise Terminal Building:

- (a). Total Value ₹91,59,82,799 Lakhs
- (b). Total Built up Area 13128 sqm
- (c). Value per Sq.mtr (a/b) ₹ 69773 / sqmtr
- (d). Lease rent @ 6% ₹348.87/[69773x6%]/12months sqmtr/month
- (e). Proposed lease rent after rounding off: ₹ 350/sqmtr/month]

The license fee rate of ₹350/- per sqm per month for the proposed Cruise Terminal Building is higher by 28.20%, as compared to the rate notified for the existing Cruise Terminal Building of ₹273/- per sqm per month.

(iv). **Modalities for levy of License fees –**

The financial consultant has submitted the modalities as follows:

- (a). Land
 - (i). Total developed Land is 13.40s acres
 - (ii). Operational land area is 11.07 acre
 - (iii). Balance 2.33 acre is considered as Commercial land area
 - (iv). Commercial built up area is 5982 m2
- (b). Annual Concession Fee (ACF)
 - Bid variable and payable every year with annual escalation of 4%.

(c). License Fee

As required in PGLM guidelines, a Licensee Fee is payable on the Commercial Area

- (i). 5982 m2 @350/- per m2 + annual escalation @ 5% p.a. for Cruise Terminal Building.
- (ii). 9441 m2 @70/- per m2 + annual escalation @ 2% p.a. for Commercial Land Area.

(d). Composite charges

Composite Charge from cruises, accrue to and collected by MOPT, which shares nominal composite charge share of 25% share as on bid floating date with the operator subject to annual escalation of 4% annually.

(e). Sub Lease Fee

Derived a methodology of Leave and License, instead of leasing of land, and maximum period of Leave and License is 5 years only.

The details of the Operational and Commercial land area and Operational and Commercial built up area is furnished as Annexure II to the Minutes of the Meeting of LAC.

(v). **Conclusion**

The proposed license fee rate of ₹350/- per sqm per month for the Commercial builtup area of the Cruise Terminal Building and the rate of ₹70/- per sqm per month for Commercial land area is appropriate as same is permissible by the MPT Act,1963.

The Committee agreed to the following proposed License fees and annual escalation:

Sr. No.	Location	License fees per sq mtr per month (in ₹)	Escalation (%)
1.	Cruise Terminal Building (GF+ FF) and Ancillary Commercial Building	350.00	5
2.	Commercial Land Area	70.00	2

- (vi). After detailed deliberations and discussions, LAC members have decided to send the proposal to TAMP for notification of the proposed License fee. The proposed SOR for license fees at above locations is furnished as Annexure IV to the Minutes of the Meeting of LAC.

- (viii). The Board of Trustees of MOPT vide Resolution dated 16 July 2021 has approved the following:

- (a). The proposal for submission to TAMP for fixation of License Fees for the commercial built up area for the project – Development of International and Domestic Cruise Terminal, RO-Pax, Ferry and other allied activities at Mormugao Port.
- (b). Authorise Chairman to make necessary changes, if required.
- (c). The License Fees for the Built up commercial area for the Project shall be escalated by 5% per annum.

5. Subsequently, the MOPT, vide its email dated 13 October 2021, has furnished revised Comparative Statement of valuation of land and building/structures at International and Domestic Cruise Terminal Building at MOPT under five factors as per PGLM 2015.

6. Thus to summarise, Schedule of rates for Commercial Built-up Area of the Cruise Terminal Building and Commercial land area at Mormugao Harbour for the project- Development of International and Domestic Cruise Terminal, Ro-Pax, Ferry and other allied activities at Mormugao Port proposed by MOPT as follows:

Sr. No.	Location	License fees per sq mtr per month (in ₹)	Escalation (%)
1.	Cruise Terminal Building (Grd flr+ First Flr) and Ancillary Commercial Building	350.00	5
2.	Commercial Land Area	70.00	2

Note: The rates provided in the Scale of Rates shall get automatically escalated by 5% per annum for premises at Sr. no.1 and 2% per annum for lease rentals for land at Sr. no. 2, after expiry of each year from the effective date of implementation of the Scale of rates and the escalated rates shall be considered as the prevailing Scheduled Rent for the concerned year. The rate so arrived is rounded off to nearest Rupee.

7. In accordance with the consultation process prescribed, a copy of MOPT proposal dated 23 August 2021 and 24 September 2021 was circulated vide our letter dated 01 October 2021 to the concerned users/ user organisations seeking their comments.

8. A joint hearing in this case was held on 12 October 2021 through Video Conferencing. The MOPT and the concerned users / licensees/ lessees/ stakeholders have made their submissions at the joint hearing.

9. 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>.

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

- (i). As a strategic step to boost tourism in the country, the Government of India has identified five Major Ports to be developed as Cruise Ports in the country, of which Mormugao Port is one amongst them. Hence, Mormugao Port Trust (MOPT) has envisaged a project of development of world class International and Domestic Cruise Terminal having facility for Ro-Pax and Ferry Services covering an area of 13.4 acres which is adjacent to the existing cruise berth.

In this backdrop, the MOPT has come up with a proposal for fixation of licence fee for allotment of the Commercial land area and Cruise Terminal building and ancillary commercial building for the project of operation and maintenance of International and Domestic Cruise Terminal (IDCT), following the provisions of Policy Guidelines for Land Management, 2015(PGLM 2015).

The MOPT proposal dated 23 August 2021 and 23 September 2021 along with the information/ clarification furnished by the MOPT during the processing of the case in reference, is considered in this analysis.

- (ii). The project areas have been segregated into Commercial and Operational use. The port has clarified that operational areas are those areas in the terminal, necessary for handling cruise passengers and cargo which do not generate any income for the operator and are required for the functioning of the Cruise Terminal. The operator is dependent on rentals from commercial use and a share of composite charges collected by MOPT to be commercially viable. The MOPT has stated that it shall not charge License Fees from the operator for such operational areas. Therefore, License Fee shall be payable by the Operator to MOPT only on Commercial Land Area and Commercial Built-up Area for which MOPT has filed the current proposal.
- (iii). (a). Clause 13 of the Policy Guidelines for Land Management, 2015(PGLM 2015) 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). The MOPT has constituted the Land Allotment Committee (LAC) comprising of Dy.Chairman, FA&CAO, Chief Engineer and Traffic Manager complying with the provisions of the PGLM 2015.

The proposal filed by the MOPT which is approved by the LAC constituted by the port recommending the market value of land and license fee and which also has the approval of the MOPT Board is found to be in compliance with the provisions of PGLM 2015 for fixation of scale of rates of port premises and, therefore, relied upon for disposing of this case.

- (iv). (a). Para 13(a) of the PGLM 2015 prescribes the methodology for determination of market value of the land based on the five factors prescribed therein. As per the said para, the LAC may normally take into account the highest of the factors mentioned therein, viz. (i). State Government ready reckoner of land values in the area if available for similar classification/activities, (ii). Highest rate of actual relevant transactions registered in the last three years in the Port's vicinity (the vicinity of the Port is to be decided by the respective Port Trust Boards), updated 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. Clause 13 (a) of PGLM 2015 also stipulate that in case the LAC is not choosing the highest factor, the reasons for the same have to be recorded in writing.
- (b). A comparative statement of Valuation of International and Domestic Cruise Terminal Building at MOPT under five factors as per PGLM 2015 as furnished by MOPT during the processing of the case is tabulated below:

								Any other relevant factor identified by the port							
Sr. No.	Description Of Property	Built up area (Sq. mts)	Market Value of land as per State Govt. Reckoner ₹.Per Sq. Mtr. p.a.	Reserve Price for monthly license fee @6% on Market Value as per	Relevant transactions in port's vicinity Per Sq. Mtr. p.m	Highest rate of similar transactions (License fee per sqm p.m)	Rate arrived by approved valuer (Valuer not appointed)	Break up of valuation of Port structures by Port based on cost estimates for area given in col.3			Market Value of Land and Port Structure prepared by Port as	(a). Reserve price for monthly license fee @6% on valuation of	(b). License fee per sqm p.m (after applying 5% escalation	Highest amongst 5 factors as per clause 13(a)	Proposed license fee per sq. mtr. per month
								Land (Value)	Premises / Cost of Construction (Value)	Composite Value					

				State Govt. Reckoner							per cost estimates Per Sq. Mtr.p.m	structure by Port based on cost estimates.	n on existing SOR rate for 4 years)		
1	2	3	4	5= Col 4 /12 *6%	6	7	8	9	10	11=Col 9 + Col 10	12= Col11/Col3 /12	13=Col12* 6%	14	15	16
1	Cruise Terminal Building (Grd flr+ First Flr) and Ancillary Commercial Building	13,128	3,500	17.50	-	-	-	183,792,000	732,190,799	915,982,799	5,814.43	348.87	273.00	348.87	350.00
2	Commercial Land Area	54,227	3,500	17.50	-	-	-	759,178,000	0	759,178,000	1,166.67	70.00	65.20	70.00	70.00

(c). The valuation of Commercial land area and Cruise Terminal building and ancillary commercial building at IDCT considered by the LAC under the five methods prescribed in the Land Policy Guidelines is briefly explained hereunder:

- (i). State Government ready reckoner rate:
Under the first option, the port has arrived at the State Govt. ready reckoner rate uniformly at ₹ 3500/- per sq. mtr p.a. for Commercial land as well as Cruise Terminal building/structures.
- (ii). Highest actual transaction rate registered in the last three years in the Port's vicinity:
Under this option, the LAC has considered the market value as nil since it is a new Cruse Terminal to be developed for which no rate is available.
- (iii). Highest tender cum auction rate for similar transactions:
Under this option, the port has considered the market value as nil for land as well as building/structures since it is a new Cruise Terminal to be developed for which no rate is available.
- (iv). Rate arrived at by Approved valuer:
It is seen from the proposal forwarded by the port that the port has not appointed any valuer for valuation of land/structures at IDCT.
- (v). Any other relevant factor identified by the port:
Under this option, the port has considered two methods to arrive at the market value and license fee for the proposed Cruise Terminal Building and Commercial land area at IDCT:
 - (a). Under the first method, the Port has arrived at license fee for the commercial land at ₹70 per sqm/month. For this, license fee of ₹59/- per sq. mtr. per month approved by the Authority vide Order No.TAMP/38/2017-MOPT dated 14 November 2017 has been adopted and after applying annual escalation @ 2% per year for 4 years, current license fees works out to ₹65.20 per sqm per month. However, Port has proposed a license fees for commercial land at ₹70/- per sqm per month in first year of project on the ground that the existing license fee is due for revision and the port presumes that there will be nominal increase in license fee.

For the proposed Cruise Terminal Building which is to be newly constructed, the port has arrived at Composite value of the premises at ₹91,59,82,799/-. This is done considering the rent @ ₹70/ sqm/ month for land for 13,128 sqm for 12 months divided by 6% and arrived at ₹18,37,92,000 and construction cost is estimated at ₹73,21,90,799. Applying 6% on composite value of ₹91,59,82,799/- and considering total Built up Area of 13128 sqm, the license fee for the premises is arrived at ₹348.87 per sq. mtr./ month which is rounded off to ₹350/- per sq. mtr. per month.

- (b). Under the second method under any other relevant factor, the port has arrived at the proposed license fee for the land at ₹65.20 per sqm/month considering the license fee of ₹59/- per sqm per month prescribed in the schedule of lease rent for port land area at Mormugao Harbour in the Order No.TAMP/38/2017-MOPT dated 14 November 2017 and after applying annual escalation @ 2% for 4 years.

The license fee for the proposed new Cruise Terminal Building for Commercial use is arrived at ₹273/- per sqm/month considering lease rent of ₹225/- per sqm/month approved by the Authority vide Order No.TAMP/38/2017-MOPT dated 14 November 2017 for Cruise Terminal Building at Harbour, MOPT after applying applicable annual escalation @ 5% for 4 years.

- (v). After detailed discussions and deliberations, the LAC in its meeting dated 12 July 2021 has recommended the highest of the factors as the market value of land for commercial land and Cruise Terminal building at IDCT at MOPT and license fee at 6% of the market value of land and building. Accordingly, the LAC has recommended license fee on land at ₹ 70/- per sq. mtr./ month + annual escalation @ 2% p.a. and for Commercial built up area at ₹ 350/- per sq. mtr./ month + annual escalation @ 5% p.a.

The MOPT Board, vide its resolution dated 16 July 2021, has approved the recommendations of LAC.

Clause 13(b) of the PGLM 2015 stipulates that Reserve Price in terms of annual lease rent would be arrived as a percentage not less than 6% of latest market value of land determined in accordance with para 13(a) of the Land Policy Guidelines. The annual license fee for land and structures for IDCT project has been worked out by MOPT at 6% of the market value of the land, which is seen to be in accordance with the provisions of the PGLM 2015.

Since the proposal of the MOPT is based on the recommendation of the LAC and is approved by the Board of Trustees of the MOPT and complies with the provision of the Policy Guidelines for Land Management, 2015, the Authority approves the monthly license fee as proposed by the MOPT for Commercial land area and Cruise Terminal Building and ancillary commercial building at IDCT at MOPT.

- (vi). M/s.J.M.Baxi Ports and Logistics Limited have suggested to levy the License fee for the built-up area as per the existing notified Scale of Rates at ₹225/sqm/month and at ₹59/sqm/month for the commercial land and also

stated that prescribing higher rates for the project for built-up area and the land is likely to affect the viability of the project. As brought out by MOPT in its proposal the proposed license fee is for development of new cruise terminal and it is not for existing premises. The MOPT has rightly stated that the proposed rates of ₹350/sqm/mo for commercial built-up area of the Cruise Terminal Building and ₹ 70/sqm/month for the Commercial land is for a new building and the rate is arrived based on the PGLM 2015.

- (vii). The MOPT is seen to have proposed a note to the effect that the rates shall automatically be escalated by 5% per annum for Cruise Terminal Building and ancillary commercial building and @2% per annum for Commercial land area after expiry of each year from the effective date of implementation of the SOR and the escalated rates shall be considered as the prevailing scheduled rent for the concerned year.

Clause 13(c) of the PGLM 2015 gives flexibility to the ports to fix annual escalation which would not be less than 2%. Accordingly, the Board of Trustees MOPT has approved annual escalation of 2% for commercial land and 5% for the cruise terminal building for commercial use. The proposed annual escalation rate is as per the provision of the PGLM 2015 and hence it is approved.

- (viii). The effective date of monthly license fee will remain the same as already indicated in the separate Order dated 25 October 2021 notified in the Gazette of India.
- (ix). The Port has not proposed the general note as regards validity of the proposed license fee. The proposal of the port states that the leave and license to the operator shall be for a maximum period of 5 years only. Clause 13(c) of the Policy Guidelines for Land Management 2015 stipulate that the rates will be revised once in every five years. Accordingly, a note is prescribed that the license fee approved by the Authority shall remain in force for a period of five years from the date it comes into effect. Similar note is also prescribed in Order No TAMP/16/2020-MBPT dated 28 October 2020 approving License fee for the project of operation and maintenance of Domestic Cruise Terminal (DCT) at Berth No. 15 of Mumbai Port Trust.
- (x). The existing Schedule of Estate Rentals for 35 premises at MOPT approved by the Authority vide Order No.TAMP/22/2021-MOPT dated 15 September 2021 prescribe a note that all the conditions governing the lease rental shall be as per the Policy Guidelines for Land Management 2015 read with Clarification Circular (Land Management) No.1 of 2019-20 dated 29 April 2019 issued by the Ministry of Shipping, Government of India and as may be amended from time to time. The said note is incorporated in the Schedule of license fee with slight modification to state that all the conditions governing the license fees shall be as per the Policy Guidelines for Land Management 2015 read with Clarification Circular (Land Management) No.1 of 2019-20 dated 29 April 2019 issued by the then Ministry of Shipping, Government of India and as may be amended from time to time by the Ministry of Ports Shipping and Waterways.

11. In the result, and for the reasons given above, and based on collective application of mind, this Authority approved the Schedule of license fee for commercial use of land and International and Domestic Cruise Terminal Building at MOPT which has been notified separately in the Gazette of India on 01 November 2021 vide Gazette No.533. The effective date of Schedule of monthly license fee will remain the same as already indicated in

the said separate Order dated 25 October 2021 notified in the Gazette of India and shall be in force for a period of five years from the date of effect of the said schedule of license fee.

12. An inadvertent error has been observed in Gazette No. 533 dated 01 November 2021 in the first page of the English Version of the Gazette copy in the case number and name of the Port. The case number below the name of the Tariff Authority for Major Ports at first page of the English Version of the gazette copy may therefore, be read as '**TAMP/45/2021-MOPT**' instead of '**TAMP/45/2021-NMPT**' and the name of the Applicant may be read as **Mormugao Port Trust** instead of **New Mangalore Port Trust**.

(T.S. Balasubramanian)
Member (Finance)

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

**TAMP/45/2021-
MOPT** : proposal received from Mormugao Port Trust (MOPT) for fixation of License fee for the project relating to development of International and Domestic Cruise Terminal, Ro-Pax, Ferry and other allied activities at MOPT

A joint hearing in this case was held on 12 October 2021 through Video Conferencing. The MOPT and the concerned users / licensees/ lessees/ stakeholders have made following submissions at the joint hearing:

Mormugao Port Trust (MOPT)

1. MOPT explains the proposal.
2. This is a new Cruise Terminal to be developed for which no rate is available in the schedule of rent of MOPT.
3. Total land area for development of this project is 13.40 acres of which operational land area is 11.07 acres and balance 2.33 acres is considered as commercial land area.
4. Total built up area is 13,128 sq. mtrs. of which operational use is 7,146 sq. mtrs and commercial built up area is 5,982 sq. mtrs.
5. The Cruise Terminal building is divided into operational and commercial areas. The project envisages operator to pay license fee to the port as per the proposed license fee only for the commercial land area and commercial built up area.
6. We have followed Land Policy Guidelines (LPG), 2015 to arrive at the proposed lease rent.
7. For land area, basic land rate of ₹590/- per 10 sq. mtr. per month (₹59/- per sq. mtr. per month) notified vide Order dated 14.11.2017 has been adopted after escalation @ 2% per year for 4 years. Accordingly, current license fees is ₹64/- sqm per month. However, Port has proposed a license fees for land at ₹70/- per sqm per month in first year of project i.e. FY 2022 considering escalation for next year.
8. For the proposed Cruise Terminal Building which is to be newly constructed, Composite valuation for the premises has been arrived at ₹91,59,82,799/-. This is done considering the rent @ ₹70/ sqm/ month for 13,128 sqm for 12 months divided by 6% and arrived at ₹18,37,92,000 and construction cost estimated at ₹73,21,90,799.
9. Applying 6% on ₹91,59,82,799/- and considering total Built up Area of 13125 sqm, the lease rent for the premises is arrived at ₹348.87 per sq. mtr./ month which is rounded off to ₹350/- per sq. mtr. per month.

10. The LAC has recommended license fee on land at ₹70/- per sq. mtr./ month + annual escalation @ 2% p.a. and for Commercial built up area at ₹350/- per sq. mtr./ month + annual escalation @ 5% p.a.
11. The Board of Trustees of the port has approved the recommendation of the LAC.
12. TAMP is requested to approve the proposal of the port.

J.M. Baxi [M/s. International Cargo Terminals & Infrastructure Pvt. Ltd.]

1. We need 2 days' time to give comments.
2. Proposed lease rent is very high.
3. Whether operator is allowed to rent out commercial areas? What rate is to be charged by operator for renting it out?

[Consultant (MOPT) – Operator can give commercial areas on rent for commercial purposes. Operator will be free to charge rent based on market conditions. The rate proposed in the proposal is license fee payable by the operator to the MOPT. The details are mentioned in RFP.]

4. Escalation of 5% is high. Normally it is 2%.

[MOPT: For land, it is 2%. Only for structures, 5% annual escalation is proposed. It is as per the LPG, 2015.]

M/s. South West Port Ltd.

1. No comments from us.

Mormugao Port Trust (MOPT)

[FA&CAO]

1. Along with lease rent for commercial structure proposed at ₹350/ sq. mtr./ month, lease rent for commercial land is also proposed at ₹70/ sq. mtr./ month considering present lease rent and escalation for the next year.

2. Subsequently, M/s. J M Baxi Ports and Logistics Private Limited (JMBPPL) vide its email dated 14 October 2021 has furnished its comments on the proposal. The said comments were forwarded to MOPT as feedback information. The MOPT vide its emails dated 18 October 2021 has furnished its reply. A summary of the comments received from the users/ licensees/ lessees/ stakeholders and reply furnished by MOPT thereon is tabulated below:

Sl. No.	Comments received from the users/ user organisations	Reply received from the MOPT
1.	M/s. J M Baxi Ports and Logistics limited (JMBPPL)	
(i).	Scale of Rates of Mormugao Port Trust already specify the Licence Fees for Commercial Built-up area and the Commercial Land. In view of this, rationale for prescribing a separate rate in this regard is not clear. Normally, in all port PPP projects, Licence Fees is always prescribed as per the prevailing Scale of Rates and no separate exercise is done to revise the License Fees with reference to a particular project.	The proposed rates ₹ 350/- per sq. mtr. per month for Commercial built-up area of the Cruise Terminal Building and ₹70/- per sq. mtr. per month for Commercial land is for a new building and the rate arrived is based on the Policy Guidelines for Land Management, 2014 (PGLM Guidelines). It is agreed that the rates notified by the TAMP vide order dated 14.11.2020 are valid till 16.06.2022 and the port has already initiated the process for revision of the land rates of the port as per PGLM, 2014.
(ii).	The applicable License Fee for the existing Cruise Terminal building at Harbour, Mormugao Port, as per the current SOR (as per Gazette No.483 dated 21.12.2017) is ₹225/- per sqm per month. However, Port has proposed a license fee of ₹350/- per sqm per month (in first year of project i.e. FY 2022), which is at 25%-30% over the license fee of ₹273/- sqm per month (₹225/ sqm per month, escalated @5% for 4 years).	However, due to the unavailability of the revised rates the port has adopted the rate of ₹70/- per sq mtr per month on the assumption that there would be a nominal increase in the license fees from 17.06.2022, which is permissible as per section 49 of the MPT Act, 1963.
(iii).	Similarly, the license fees that would be applicable on the commercial land as per the current SOR (as per Gazette No.483 dated 21.12.2017) is ₹59/- sqm per month. However, Port has proposed a license fees of ₹70/- per sqm per month (in the first year of project (i.e. FY 2022), which is at 8%-10% premium to license fees prescribed in the current SOR viz. ₹64/- sqm per month (₹59/-sqm per month, escalated @2% for 4 years) Prescribing higher Rates for the Project both for the built up area and the land is likely to affect the viability of the Project. The escalation of 5% every year for the built up area also appears to be on the higher side.	The valuation for the proposed Cruise Terminal Building based on cost estimates works out to ₹91,59,82,799/- i.e. ₹5814.43 per sqm per month. As per clause 13(b) of PGLM, Lease rent in no case be less than 6% of the latest market value, hence the reserve price of the said property is ₹348.87 per sqm per month (₹5814.43*6%), rounded off to ₹350/- per sqm per month. The above details are indicated in the comparative statement enclosed at Annexure B. [The MOPT has furnished comparative statement]
(iv).	It is therefore suggested that the Licence Fees for the Built-up area may be levied as per the notified Scale of Rates at ₹225/sqm/month and at ₹59 per sqm per month for the commercial land. It may also be ensured that there is no periodical revision of the Licence Fees, and the Fees will be applicable for the entire duration of the concession with prescribed annual escalations, as in other port PPP projects.	The license fee rate of ₹ 350/- per sq. mtr. per month for Commercial built-up area of the Cruise Terminal Building and ₹ 70/- per sq. mtr. per month for Commercial land at Mormugao Harbour has been adopted for evaluating the future cash inflows of the project, for analyzing the viability of the project.
