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

Tariff Authority for Major Ports

G No. 215 **New Delhi, 1 October 2012**

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 application filed by the Mormugao Port Trust for review of the rentals prescribed for Mormugao Harbour and Headland Sada vide Order dated 2 May 2012 as in the Order appended hereto.

(T. S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports

Case No. TAMP/8/2012-MOPT

Mormugao Port Trust - - - **Applicant**

ORDER

(Passed on this 8th day of August 2012)

This Authority had passed an Order on 2 May 2012 disposing the proposal received from the Mormugao Port Trust (MOPT) for revision of its estate rentals. This Order was notified in the Gazette of India on 18 May 2012 vide Gazette No.130.

2.1. In this context, the MOPT vide its letter dated 28 May 2012 has made the following submissions:

(i). The Authority has revised the licence fees, way leave charges, charges for occupation of foreshore land based on the market value as assessed by the Land Valuer appointed by the port.

(ii). The existing licence fees of ₹404/- and ₹321/- for the year 2012-13 for the land at Mormugao Harbour/ Vasco-da-Gama-Bay and Headland Sada respectively has been revised to ₹300/- and ₹250/- for the respective land.

The charges for occupation of foreshore land for the purpose of carrying out launch/ barge repairs at workshop or any other industry including commercial/ non-commercial purpose at Vasco-da-Gama bay has been revised to ₹300/- as against the existing charge of ₹346.49 for the year 2012-13.

The existing way leave charges of ₹300/- at Mormugao Harbour/ Vasco-da-Game Bay for the year 2012-13 has been revised to ₹415/-.

(iii). The Authority has introduced conditionality stating that the licence fee on Port land for office building and other structures and charges for occupation at Mormugao Harbour/ Vasco-da-Gama bay would be revised to ₹500/- per 10 square metre per calendar month immediately upon the MOPT reclaiming the rear seaside at Mormugao Harbour.

(iv). Similarly, the Authority has also introduced conditionality stating that the licence fees on port land for office building and other structures and way leave charges at Headland Sada and Bogda would stand revised to ₹400/- per 10 square metre per calendar month immediately upon shifting the garbage plant from Headland Sada/ Vasco City.

(v). In this regard, it is brought out that the Land Valuation was taken up for small area of land admeasuring 226 sq. mtrs. at Old A.O. Building, Mormugao Harbour. The condition mentioned by the land valuer about reclaiming of land applies only to that piece of land and not for the entire area in the same locality.

The Valuer in his Valuation Report has stated that the said plot is small as there is no much scope for development of plot and it was valued at ₹6,000/- per sq. mtrs. However, the value of the said plot would be ₹10,000/- per sq. mtrs. in case the plot is made larger by reclaiming or otherwise. The said plot exists at the end point on the west of Mormugao Harbour. The main operational area is now at Berth No.10 and 11 which is about 5 kms away from the said plot. The reclamation at the rear seaside of Mormugao Harbour does not affect the operational area. Therefore, rate of representative small plot away from the main operational area cannot be made applicable to the whole area.

(vi). As regards valuation of plot at Headland Sada, the Valuer has valued the said plot at ₹5000/- per square mtr. as the site of garbage plant gives unsighty and unhygienic appearance which is depreciating the value of the plot. In case the garbage plant is shifted away from this property, the market value would be ₹8,000/- per square mtr. In this regard, it is brought out that the area coming under this zone is approximately 196.72 acres. The port hospital exists on the said plot considered for valuation. The operational area is far away i.e. about 5 to 6 kms. from the said garbage site and hence garbage does not affect this operational area. Hence the condition of garbage mentioned by the land valuer does not apply to the entire area in that zone.

(vii). The Port Administration is consistently making efforts with the Goa Government to shift the garbage plant from the Sada locality. However, all efforts are futile. With regard to reclaiming on the rear side at Mormugao Harbour, the Port has not yet planned as the said area is falling outside the break water and reclaiming is not feasible unless one more break water is constructed at west of break water. Therefore, applying the same condition to the entire area of Mormugao Harbour and Headland Sada may not be in order.

(viii). The Authority has reduced the existing licence fees at Mormugao Harbour by 25% and at Headland Sada by 22%. The principal activity "Estate Rental" is in deficit at 35% as per the estimates furnished to the Authority for the years 2012-13 to 2014-15. The said deficit will further increase.

2.2. In view of the above submissions, the port has requested to review the Order dated 2 May 2012 on revision of estate rentals as proposed by the port considering the deficit at 35% worked out as per the tariff fixation guidelines.

3. As stipulated in Clause 3.3.1. of the tariff guidelines of 2005, application for review of a tariff Order can be entertained provided such an application is filed within 30 days of the notification in the Gazette of India. The MOPT Order has been notified on 18 May 2012 and the MOPT has filed its application for review of its tariff Order within 30 days.

4.1. As recorded at third sub-para of paragraph no. 8(vi)(b) of the Order dated 2 May 2012, the argument put forth by MOPT for considering a higher market value of land at Mormugao Harbour and Headland Sada/ Vasco city is futuristic and would materialize only if the MOPT carries out the reclamation of the rear seaside at Mormugao Harbour and shifts the garbage plant from Headland Sada/ Vasco city. Therefore, it was not felt appropriate to prescribe lease rentals based on the market values of the said lands which depended upon occurrence of certain contingencies. Hence, the lease rentals were prescribed based on the market value of the land at Mormugao Harbour at ₹6000/- per sq. mtr. and Headland Sada/ Vasco city at ₹5000/- per sq. mtr. However, MOPT was allowed to recover the lease rentals calculated on the revised market value of land at Mormugao Harbour and Headland Sada/ Vasco city as assessed by the valuer at ₹10000/- per sq. mtr. and ₹8000/- per sq. mtr. respectively as and when reclamation of the rear seaside at Mormugao Harbour and shifting the garbage plant from Headland Sada/ Vasco city are completed. An appropriate conditionality in this regard was prescribed in the Scale of Rates, so that the port need not seek the approval of the Authority once again.

4.2. It is with reference to prescription of lower rentals based on the market value of the land at Mormugao Harbour at ₹6000/- per sq. mtr. and Headland Sada/ Vasco city at ₹5000/- per sq. mtr, that the MOPT has now made a representation vide its letter dated 28 May 2012 for review.

4.3. The submissions made by MOPT during the proceedings relating to disposal of the MOPT proposal in reference had led to an impression that the portion of the land based on which the valuer has furnished the market value for the land at Mormugao Harbour and Headland Sada/ Vasco city represented the entire area of Mormugao Harbour and Headland Sada/ Vasco city for which the rentals are to be fixed. The submissions made by MOPT vide its letter dated 28 May 2012 as discussed at para 2.1 (v), (vi) and (vii) were not brought to the notice of this Authority.

4.4. If only a portion of area within the Mormugao Harbour and Headland Sada/ Vasco city will be impacted by the reclamation of the rear seaside and shifting of the garbage plant, as reported by MOPT now, it may be essential to have a correct and precise classification of area within the Mormugao Harbour and Headland Sada/ Vasco city, so as to enable prescription of differential rentals within the Mormugao Harbour and Headland Sada/ Vasco city.

4.5. Accordingly, MOPT was requested vide our letter dated 7 June 2012 to furnish a correct and precise classification of area within Mormugao Harbour and Headland Sada/ Vasco city, so as to enable prescription of differential rentals within the Mormugao Harbour and Headland Sada/ Vasco city.

5. In response, the MOPT vide its letter dated 14 June 2012 has furnished a copy of land use plan of MOPT as approved by the Board. In the Land use plan, the MOPT has marked the plots relating to Mormugao and Headland Sada.

6.1. Further, the MOPT vide its separate letter dated 14 June 2012 has made the following main submissions:

(i). The Valuer had assessed the small pieces of land at Mormugao and Headland Sada and the market value of the respective pieces of land was determined subject to reclamation of area/ shifting of garbage.

(ii). The adjoining land at Headland Sada/ Bogda are not affected due to presence of garbage near plot of land surveyed under Chalta no. 2 of P.T Sheet no. 54 of Vasco City Survey. Similarly, the port operational area at Mormugao Harbour/ Vasco bay is far away from the subject plot of land surveyed under Chalta no. 3 of P.T Sheet no.7.

(iii). As per the Valuation certificate dated 1 June 2012 submitted by the Valuer appointed by the Port, the valuer has certified that the adjoining land is having same potential for development and use and therefore, its value can be taken as the revised value of ₹10000/- per sq.m and ₹8000/- per sq.m in respect of land at Mormugao Harbour/ Vasco bay and Headland Sada/ Bogda respectively.

6.2. The MOPT under cover of its letter dated 14 June 2012 has also furnished copies of the Valuation Certificate dated 1 June 2012 furnished by the approved Valuer. The Valuation Report in respect of the said lands as furnished by MOPT now, are reproduced below:

(i). Regarding Mormugao Harbour:

"*Referring to Addendum to Valuation Report no. RPS/27/2011/960 dated 16/07/2011, the revised value mentioned under para (3) of Part II Valuation is ₹10000/m^2. It is given to understand that the adjoining PORT operation area upto Gate no. 9 is in continuity to the subject plot of land surveyed under Chalta no. 3 of P.T Sheet no.7 and therefore, its value can be taken the same as the revised value of ₹10000/m^2 of the subject property of the above referred report subject to other features such as size, shape remaining almost same.*"

(ii). Regarding Headland Sada:

"*Referring to Addendum to Valuation Report no. RPS/27/2011/959 dated 16/07/2011, the revised value mentioned under para (2) of Part II Valuation is ₹8000/m^2. It is given to understand that the adjoining property in the neighborhood belonging to MPT is not affected by the presence of Garbage near to the subject plot of land surveyed under Chalta no. 2 of P.T Sheet no.54 of Vasco city Survey and therefore will have the same potential for development and use and therefore, its value can be taken the same as the revised value of ₹8000/m^2 of the subject property of the above referred report subject to other features such as size, shape remaining almost same.*"

6.3. Therefore, the MOPT in its letter dated 14 June 2012 has requested to consider the Valuation Certificate submitted by the Valuer and has requested to review the order of revision of 'Estate Rentals'.

7.1. In this regard, it may be relevant to mention the following:

(i). Regarding Mormugao Harbour:

At the time of fixing lease rentals for the Mormugao Harbour in May 2012, the MOPT had furnished the Valuation Report of the approved Valuer relating to the Mormugao Harbour.

As seen from the Valuation Report then furnished by the Valuer, the Valuer had furnished the valuation for Mormugao Harbour, based on the property surveyed under Chalta no.3 of P.T Sheet no.7. On the ground that the said plot was small in area and there was no much scope for developing the plot, the Valuer had valued the plot at ₹6000/m^2.

However, in an Addendum to the Valuation report, the Valuer has stated that there is scope for reclaiming the rear sea side and thereby making the plot larger in which case the plot will have greater potentiality for development or for fetching higher returns. Therefore, the Valuer had valued the area at Mormugao Harbour at ₹10000/m^2, if the plot is made larger by reclamation.

Now, the Valuer by another Addendum dated 1 June 2012 has stated that the adjoining Port operation area upto Gate no. 9 is in continuity to the subject plot of land surveyed under Chalta no. 3 of P.T Sheet no.7 and therefore, its value can be taken the same as the revised value of ₹10000/m^2.

(ii). Regarding Headland Sada:

At the time of fixing lease rentals for the Headland Sada in May 2012, the MOPT had furnished the Valuation Report of the approved Valuer relating to the Headland Sada.

As seen from the Valuation Report then furnished by the Valuer, the Valuer had furnished the valuation for Headland Sada, based on the property surveyed under Chalta no.2 of P.T Sheet no.54 of Vasco city Survey. On the ground that the area gives a very unsightly and unhygienic appearance due to the garbage plant, the Valuer had valued the plot at ₹5000/m^2.

However, in an Addendum to the Valuation report, the Valuer has stated that if the garbage plant is shifted, the value will appreciate. Therefore, the Valuer had valued the area at Headland Sada at ₹5000/m^2 in the present situation and ₹8000/m^2 if the garbage plant is shifted.

Now, the Valuer by another Addendum dated 1 June 2012 has stated that the adjoining property in the neighborhood belonging to MOPT is not affected by the presence of Garbage near to the subject plot of land surveyed under Chalta no. 2 of P.T Sheet no.54 of Vasco city Survey and therefore will have the same potential for development and use and therefore, its value can be taken as ₹8000/m^2.

7.2. Thus, the MOPT now submitted to this Authority to review the lease rentals approved in May 2012 for Mormugao Harbour and Headland Sada (which was based on lower value of land as assessed by the Valuer), based on the revised higher value of land as furnished by the Valuer in the Valuation Report dated 1 June 2012 at ₹10000/m^2 and ₹8000/m^2 respectively.

8.1. As can be seen from the Land Use Plan furnished by the port, the port operational area in Mormugao Harbour extends upto Gate no. 9. The area upto Gate no. 9 is in continuity to the land surveyed under Chalta no. 3 of P.T Sheet no.7. The Valuer has stated in the second Addendum that the value for the port operation area upto Gate no. 9 can be considered at

₹10000/m^2. However, for the land surveyed under Chalta no. 3 of P.T Sheet no.7, the Valuer does not seem to have withdrawn the condition of reclaiming the rear sea side to bring it at par with the value of the other area in continuation of the said piece of land. In other words, there is no change to the value of land surveyed under Chalta no. 3 of P.T Sheet no.7 valued at ₹6000/m^2. That being so, as per the second Addendum, the value of land in Mormugao Harbour other than the land surveyed under Chalta no. 3 of P.T Sheet no.7 is ₹10000/m^2.

8.2. Thus, as per the Valuer, within the area covered under Mormugao Harbour, two different value of land prevail:

(i). Land surveyed under Chalta no. 3 of P.T Sheet no.7 ₹6000/m^2

(ii). Land other than at (i) above ₹10000/m^2

8.3. Similarly, incase of Headland Sada, the Valuer has stated that the property in the neighborhood belonging to MOPT is not affected by the presence of Garbage near to the subject plot of land surveyed under Chalta no. 2 of P.T Sheet no.54 of Vasco city Survey and hence value of the land can be considered at ₹8000/m^2. However, for the land surveyed under Chalta no. 2 of P.T Sheet no. 54 of Vasco city survey, the Valuer does not seem to have withdrawn the condition of shifting of the garbage plant, so as to bring it at par with the value of the other area in Headland Sada. In other words, there is no change to the value of the land surveyed under Chalta no. 2 of P.T Sheet no.54 valued by the valuer at ₹5000/m^2. That being so, as per the second Addendum, the value of land at Headland Sada surveyed under Chalta no. 2 of P.T Sheet no.54 is ₹8000/m^2 .

8.4. Thus, as per the Valuer, within the area covered under Headland Sada, two different value of land prevail:

(i). Land surveyed under Chalta no. 2 of P.T Sheet no.54 ₹5000/m^2

(ii). Land other than at (i) above ₹8000/m^2

8.5. From the above, it is evident that there needs to be two different set of rentals within the Mormugao Harbour and Headland Sada respectively, based on the two different value of lands. Such an arrangement would have an impact on the following tariff items:

(i). Licence fee on Port land for maintaining office buildings and other structures at Mormugao Harbour/ Vasco Da Gama – Bay and Head Land Sada prescribed under Section – I (a) and (b) respectively.

(ii). Charges for occupation of foreshore land for the purpose of carrying out launch/ barge repairs workshop or any other industry including Commercial/ Non-Commercial purpose at Vasco Da Gama bay as prescribed at Section - II (1).

(iii). Way leave charges prescribed for Mormugao/ Vasco da Gama Bay and Head Land Sada/ Bogda at Section – III (a) and (b) respectively.

8.6. A comparative position of the rentals prescribed for the above mentioned areas as in the Order of May 2012 and that based on the revised value of land now furnished by the Valuer is given below:

Sl. No.	Reference to Rent Schedule and Description	Lease rentals in ₹ per 10 sq.m. or per calendar month	
		Approved in May 2012	Based on revised Valuation Report dated 1 June 2012
1.	Section – I - Licence fee on Port land for maintaining office bldgs. and other structures at:		
	(a). Mormugao Harbour and Vasco Da Gama - Bay.	300.00	-----
	(i) Land surveyed under Chalta no. 3 of P.T Sheet no.7	-----	300.00
	(ii) Land other than at (i) above	-----	500.00

	(b). Head Land Sada (i) Land surveyed under Chalta no. 2 of P.T Sheet no.54 (ii) Land other than at (i) above	250.00 ----- -----	----- 250.00 400.00
2.	Section – II - Charges for occupation of foreshore land		
	(1). For the purpose of carrying out launch/ barge repairs workshop or any other industry including Commercial/ Non-Commercial purpose at Vasco Da Gama bay. (i) Land surveyed under Chalta no. 3 of P.T Sheet no.7 (ii) Land other than at (i) above	300.00 ----- -----	----- 300.00 500.00
3.	Section – III - Way leave charges		
	(a). Mormugao/ Vasco Da Gama - Bay. (i) Land surveyed under Chalta no. 3 of P.T Sheet no.7 (ii) Land other than at (i) above	300.00 ----- -----	----- 300.00 500.00
	(b). Head Land Sada/ Bogda (i) Land surveyed under Chalta no. 2 of P.T Sheet no.54 (ii) Land other than at (i) above	250.00 ----- -----	----- 250.00 400.00

9.1. In the past, when the ports/ private terminals have filed a proposal for review of the tariff Order passed by the Authority earlier, the review application so filed by the ports/ private terminals have been processed following the usual consultation process.

9.2. In the instant case, the MOPT has requested for review of the lease rentals approved in May 2012 for Mormugao Harbour and Headland Sada based on the revised higher value of land as furnished by the Valuer in the Valuation Report dated 1 June 2012 at ₹10000/m^2 and ₹8000/m^2 respectively. Incidentally, the revised higher value of land as furnished by the Valuer for Mormugao Harbour and Headland Sada at ₹10000/m^2 and ₹8000/m^2 respectively in the Valuation Report dated 1 June 2012 is the same higher value of land as furnished by the Valuer earlier for Mormugao Harbour and Headland Sada, if the rear sea side would be reclaimed or the garbage plant would be shifted respectively. In other words, the lease rentals proposed by MOPT in January 2012 and the lease rentals now based on the Valuation Report of the Valuer as on 1 June 2012 incase of Mormugao Harbour and Headland Sada would be the same. The relevant stakeholders are already aware of the lease rentals proposed by the port for Mormugao Harbour and Headland Sada based on the value of land as furnished by the Valuer at ₹10000/m^2 and ₹8000/m^2 respectively.

9.3. The exercise now undertaken is to only correctly prescribe lease rental relating to Mormugao Harbour and Headland Sada respectively based on the differential value of land within the Mormugao Harbour and Headland Sada. Therefore, the consultation process was not felt necessary.

10. Accordingly, the revised Scale of Rates prescribing estate rentals of MOPT alongwith the conditionalities is attached as **Annex**.

11. The revised Scale of Rates for the estates of MOPT shall come into effect from the effective date from when the tariff Order dated 2 May 2012 is implementable and will be in force for a period of five years.

(T. S. Balasubramanian)
Member (Finance)

<u>Annex</u>

Part – III
Estate Rentals

"**General Note:**

All the conditions/ notes prescribed in the existing Scale of Rates/ Schedule of License Fees and Lease Rentals shall apply to the extent they are not inconsistent with the conditions prescribed in the Land Policy for Major Ports 2010 announced by the Government on 13 January 2011. Incase of disagreement, the conditions prescribed by the Government in the Land Policy for Major Ports 2010 shall prevail.

I. **LICENSE FEE ON PORT LAND FOR OFFICE BUILDING AND OTHER STRUCTURES**:

Description	**Rate per 10 sqm. or part thereof per calendar month or part thereof (in ₹)**
Licence fee on Port land for maintaining office bldgs. and other structures at:	
(a). Mormugao Harbour and Vasco Da Gama - Bay. (i) Land surveyed under Chalta no. 3 of P.T Sheet no.7 (ii) Land other than at (i) above	 300.00 500.00
(b). Head Land Sada (i) Land surveyed under Chalta no. 2 of P.T Sheet no.54 (ii) Land other than at (i) above	 250.00 400.00
(c). Baina	500.00
(d). Vasco Da Gama - City	2500.00
(e). Dabolim	300.00

Notes: (a). The approval of the Board is to be obtained in case the land is used for building structures for residential purpose, in the above mentioned areas.

(b). The Licence fee on land surveyed under Chalta no.3 of P.T Sheet no.7 for maintaining office building and other structures at Mormugao Harbour and Vasco Da Gama – Bay as prescribed at (a)(i) would stand revised automatically to ₹500/- per 10 sqm. or part thereof per calendar month or part thereof, immediately upon the MOPT reclaiming the rear seaside of the said portion of land.

(c). The Licence fee on land surveyed under Chalta no.2 of P.T Sheet no.54 for maintaining office building and other structures at Headland Sada as prescribed at (b) (i) above would stand revised to ₹400/- per 10 sqm. or part thereof per calendar month or part thereof, immediately upon shifting of the garbage plant from the said portion of land.

II. **CHARGES FOR OCCUPATION OF FORESHORELAND**:

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

Note: The charges for occupation of Foreshore land for the purpose of carrying out launch/ barge repairs workshop or any other industry including Commercial/ Non-Commercial purpose at Vasco Da Gama bay as prescribed at (1) above would stand revised to ₹500/- per 10 sqm. or part thereof per calendar month or part thereof, immediately upon the MOPT reclaiming the rear seaside at Mormugao Harbour.

III. **WAY LEAVE CHARGES**:

Sr. No.	**Description**	**Rate per 10 sqm. or part thereof per calendar month or part thereof (in ₹)**
	Way leave charges at:	
(a).	(a). Mormugao/ Vasco Da Gama - Bay. (i) Land surveyed under Chalta no. 3 of P.T Sheet no.7 (ii) Land other than at (i) above	 300.00 500.00
(b).	(b). Head Land Sada/ Bogda (i) Land surveyed under Chalta no. 2 of P.T Sheet no.54 (ii) Land other than at (i) above	 250.00 400.00
(c).	Baina	500.00
(d).	Beyond Vasco Bay upto Port limit, Dabolim/ Chicalim/ Sancoale/ North of Zuari River/ Betul Foreshore	350.00

Note:

1. For the purpose of way leave charges, the area occupied by single pipelines should be calculated based on the diameter and length of those pipelines. Incase of multi-layer pipeline stacks, the physical area occupied by the multilayer pipeline stacks should be considered and the respective users should be billed for pro-rata area on the basis of the diameter and length of their pipelines passing through that area. With respect to the area shared with road, rails, jetties, etc., the respective users should be billed pro-rata for 50% of the concerned area assuming that they do not have exclusive possession of land and what they have is only ‘Right of Way’. As far as underground pipes are concerned if the users establish that the possession of surface area above the underground cross-country pipelines is not physically with them, the area occupied by such pipelines should be counted 50% of the product of diameter and length, for the purpose of levy of way leave charges.

2. The way leave charges at Land surveyed under Chalta no. 3 of P.T Sheet no.7 as prescribed at (a)(i) above would stand revised to ₹500/- per 10 sqm. or part thereof per calendar month or part thereof, immediately upon the MOPT reclaiming the rear seaside of the said portion of land.

3. The way leave charges at Land surveyed under Chalta no. 2 of P.T Sheet no.54 as prescribed at (b)(i) above would stand revised automatically to ₹400/- per 10 sqm. or part thereof per calendar month or part thereof, immediately shifting of the garbage plant from the said portion of land.

4. The Licence Fees for water area shall be charged 50% of the licence fee of abutting land.

5. The rates provided in the Scale of Rates shall get automatically escalated by 2% per annum 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.

\- - - - -