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TARIFF AUTHORITY FOR MAJOR PORTS

G.No. 159

New Delhi,

12 April 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 Paradip Port Trust for charging of rent in favour of educational institutions for the interim period i.e. from the date of expiry of lease till finalization of SOR as approved by TAMP vide Notification no. TAMP/42/2019-PPT dated 27 February 2020, as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/42/2019-PPT

Paradip Port Trust

QUORUM

Applicant

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

ORDER

(Passed on this 16th day of March 2021)

In August 2019, the Paradip Port Trust (PPT) had come up with a proposal for fixation of lease rent for the port lands outside Custom bound area i.e. in the Township Zone and Sector – 21 Zone, which are leased out to Educational Institutions.

1.2. After following due consultation process, this Authority vide its Order no. TAMP/42/2019-PPT dated 20 February 2020 has fixed the lease rent for the educational institutions at PPT. A prospective effect was given to the lease rent for the educational institutions at PPT, which came into effect from 02 April 2020 and is valid for a period of 5 years.

2. In this backdrop, the PPT vide its letter dated 18 January 2021 has made the following submissions:

- (i). The Board of Trustees' of PPT vide Resolution No.237/2015-16 dated 29.02.2016, had approved of continuing with the concessional rate of extent in respect of the existing lease hold premises, allotted to various Educational Institutions, subject to approval of the Ministry with the stipulation that; the concessional rates, being levied extended to these Institutions, may be continued as per the terms and conditions of initial allotment. Accordingly, decision/ recommendation of the Board was sent to the Ministry for approval, but the same was withdrawn subsequently based on the Clarification Circular (Land Policy Guidelines), 2018, issued by the Ministry on 14.05.2018.
- (ii). Thereafter, the Board of Trustees vide Resolution No.04/2019-20 dated 27.05.2019, had approved to implement the applicable SOR for the intervening period (i.e., period from lease expiry till new SOR to be notified by the TAMP), by adding an annual escalation @5% on the base price of State Govt. ready reckoner i.e., Rs.2.00 lakhs per acre from 1991 respectively, and annual *ground* rent will be collected as per the *existing* Policy Guidelines for Land Management, 2014 i.e., Re.1.00 per sq.m./ year for corresponding years.
- (iii). Based on above approval of the Board, a letter was sent, vide No.AD-EST-LAND-1-14/2018/3245 dated 14.08.2019, to TAMP for implementation of SOR retrospectively. But TAMP has approved the SOR prospectively, vide Notification No. TAMP/42/2019-PPT dated 27.02.2020, and remained silent over the matter of intervening period i.e., from the date of expiry of lease till notification of SOR by TAMP for Educational Institutions, for which Estate Wing is unable to issue demand notes in favour of Educational Institutions.
- (iv). Again, the matter was placed before the Board and the Board, vide Resolution No.67/2020-21 dated 01.10.2020, had approved "to extend the concessional rent to the Educational institutions from the date of expiry of lease till 26.02.2020 i.e., the date of notification of SOR by TAMP for Educational institutions and request the Ministry to consider these cases for continuing the concessional rent approved by the Board earlier, in accordance with the clause-15 (viii) of Policy Guidelines for Land Management, 2014, where the Ministry has powers to relax the provisions of the Policy Guidelines, in public interest."
- (v). In view of the Board's approval, letter was sent to the Ministry, vide letter No.AD-EST- LAND-1-14/2018/4103 dated 22.10.2020, for consideration of extending the concessional rent in favour of Educational Institutions. In reply to PPT's aforesaid letter, the Ministry, vide letter

No. PD—26027/3/2020-PD-II dated 27.11.2020, has intimated that *"Port may take necessary action at their end as per provisions laid down in the existing Land Policy Guidelines, 2015, in the interest of the Port."* But as per Land Policy Guidelines, 2015, Port Trust is not empowered to relax the rent in favour of Educational Institutions, in the public interest.

- (vi). In view of the above and to avoid legal complicity, it is requested to communicate the approval of SOR to be charged in favour of Educational Institutions for the interim period, i.e., from the date of expiry of lease till notification of SOR by TAMP vide No. TAMP/42/2019-PPT dated 27.02.2020, which was earlier proposed/ approved by the Board and was also forwarded to TAMP vide PPT's letter No.AD-EST-LAND-1-14/2018/3245 dated 14.08.2019.

3.1. In the proposal of PPT in August 2019, when it had come up with a proposal for fixation of lease rent for the port lands outside Custom bound area i.e. in the Township Zone and Sector – 21 Zone, which are leased out to Educational Institutions (which culminated in the tariff Order no. TAMP/42/2019-PPT dated 20 February 2020), the PPT had also stated that for the intervening period (i.e., period from lease expired till new SOR to be notified by the TAMP), the applicable SOR shall be arrived at proportionately by applying an annual escalation @ 5% on the base price of State Govt. ready reckoner i.e., ₹ 2.00 lakhs per acre from 1991 respectively, and annual ground rent will be collected as per the existing Policy Guidelines for Land Management, 2014 i.e., ₹ 1.00 per sq.m./ year for corresponding years. However, it was inadvertently missed out to be dealt in the above said Order. Nevertheless, to prescribe the rentals for the period prior to 02 April 2020, the PPT in its proposal of August 2019 had neither indicated any specific market value of the land nor proposed any specific SOR for the intervening period.

3.2. Accordingly, the PPT was conveyed vide letter dated 19 February 2021 to indicate the market value of the land and the specific Scale of Rates for the educational institutions at PPT for the relevant interim period prior to 02 April 2020, to enable prescribe the rentals for the said interim period.

4.1. In this regard, the PPT vide its letter dated 01 March 2021 has made the following submissions:

- (i). The earlier proposal for determining the rate for intervening period was with annual escalation @ 2% on the base price of State Govt. ready reckoner, i.e. ₹. 2.00 lakh per acre from 1991.
- (ii). Based on the above, the year-wise rate from 1991 to 2020 has been prepared as follows:

<u>Proposal of charging SOR for Educational Institutions from the intervening period (i.e. date of expiry of lease till notification of SOR by TAMP) with year wise annual lease rentals</u>			
Sl. No.	Year	Market value enhancing 2% every year per acre	Annual lease value (6% of market value)
1	1990 - 91	2,00,000.00	12,000.00
2	1991 - 92	2,04,000.00	12,240.00
3	1992 - 93	2,08,080.00	12,485.00
4	1993 - 94	2,12,242.00	12,735.00
5	1994 - 95	2,16,487.00	12,989.00
6	1995 - 96	2,20,817.00	13,249.00
7	1996 - 97	2,25,233.00	13,514.00
8	1997 - 98	2,29,738.00	13,784.00
9	1998 - 99	2,34,333.00	14,060.00
10	1999 - 00	2,39,020.00	14,341.00
11	2000 - 01	2,43,800.00	14,628.00
12	2001 - 02	2,48,676.00	14,921.00
13	2002 - 03	2,53,650.00	15,219.00
14	2003 - 04	2,58,723.00	15,523.00
15	2004 - 05	2,63,897.00	15,834.00

16	2005 - 06	2,69,175.00	16,151.00
17	2006 - 07	2,74,559.00	16,474.00
18	2007 - 08	2,80,050.00	16,803.00
19	2008 - 09	2,85,651.00	17,139.00
20	2009 - 10	2,91,364.00	17,482.00
21	2010 - 11	2,97,191.00	17,831.00
22	2011 - 12	3,03,135.00	18,188.00
23	2012 - 13	3,09,198.00	18,552.00
24	2013 - 14	3,15,382.00	18,923.00
25	2014 - 15	3,21,690.00	19,301.00
26	2015 - 16	3,28,124.00	19,687.00
27	2016 - 17	3,34,686.00	20,081.00
28	2017 - 18	3,41,380.00	20,483.00
29	2018 - 19	3,48,208.00	20,892.00
30	2019 - 20	3,55,172.00	21,310.00
say			21,310.00

(iii). The same is submitted for approval please.

4.2. The PPT has also made available the copy of Board proceeding held on 13.12.2019. From the Minutes, it is seen that the Board of Trustees of PPT has accorded approval to implement the SOR during the intervening period i.e. period from the date the lease expired till new SOR to be notified by TAMP shall be arrived at proportionately by applying an annual escalation @ 2% on the base price of State Government Ready Reckoner i.e. ₹ 2 lakhs per acre from 1991 onwards and annual ground rent will be collected as per the existing policy guidelines for land management of 2014 i.e. ₹ 1/- per sq.m per year during the period.

5. The submissions made by PPT are analysed herein below:

- (i). Based on the stipulations contained in the Land Policy Guidelines, 2014 and the clarification issued by the Ministry of Shipping (MOS) vide Policy Guidelines for Land Management Clarification, 2018, in May 2018, the PPT in August 2019 had come up with a proposal for fixation of lease rent for the port lands outside Custom bound area i.e. in the Township Zone and Sector – 21 Zone, which are leased out to Educational Institutions.
- (ii). As per the said clarification, in cases where social and education utilities viz., schools, colleges, hospitals, etc., have to be established by other than local/ government bodies, land can be allotted on tender-cum-auction basis and that while fixing up market value of the land as per Para 13, the Land Allotment Committee should consider the rate for land for similar purposes and that if the ready reckoner for land for similar purposes is not available, then the rates of the adjacent local authorities for similar purposes could also be considered while fixing the market value.
- (iii). Thus, as clarified by the MOS, in the Clarification to the Land Policy Guidelines, based on the records as available with concerned Tahsildar and Sub-Registrar, the PPT had considered the rate of the adjacent locality for similar purpose, while fixing the market value of the land. Thus, the market value of the land allotted for establishment of a school (about 40 kilometres away) in the year 1991 at ₹ 2 lakhs per acre had been escalated by PPT @ 2% every year from the year 1990-91 onwards, so as to determine the current market value of the land at ₹ 3,55,170/- per acre for the year 2019-20. Thereafter, by applying a factor of 6% on the market value of the land at ₹ 3,55,170/- per acre for the year 2019-20, the lease rent had been worked out by the PPT at ₹ 21,310/- per acre per annum.
- (iv). Given that the lease rent for the educational institutions at PPT were being fixed for the first time in the year 2019 based on the stipulations contained in the Land Policy Guidelines of 2014 read with the Clarification of 2018, a prospective effect was given to the lease rent for the educational institutions at PPT, vide Order no. TAMP/42/2019-PPT dated 20 February

2020. Thus, the lease rent for the educational institutions came into effect on 02 April 2020 i.e. after expiry of 30 days from the date of notification of the said Order in the Gazette of India on 03 March 2020.

- (v). In the above referred proposal, the PPT had also stated that for the intervening period (i.e., period from lease expired till new SOR to be notified by the TAMP), the applicable SOR shall be arrived at proportionately by applying an annual escalation @ 5% on the base price of State Govt. ready reckoner i.e., ₹ 2.00 lakhs per acre from 1991 respectively, and annual ground rent will be collected as per the existing Policy Guidelines for Land Management, 2014 i.e., ₹ 1.00 per sq.m./ year for corresponding years. However, it was inadvertently missed out to be dealt in the above said Order.
- (vi). Nevertheless, it is noteworthy that the Land Policy Guidelines, mandates this Authority to prescribe lease rent based on the market value of the land. Thus, to prescribe the rentals for the period prior to 02 April 2020, the PPT in its proposal of August 2019 had neither indicated any specific market value of the land nor proposed any specific SOR.
- (vii). In view of the above, at our request, the PPT has furnished the year-wise rates from 1991 to 2020, in continuation to its earlier proposal for determining the rate for intervening period, by considering an annual escalation @ 2% on the base price of State Govt. ready reckoner, i.e. ₹ 2 lakhs per acre from the year 1991.
- (viii). Given that the matter under consideration now formed part of the PPT's earlier proposal of August 2019, which had been taken on consultation with the users then, no separate consultation proceedings has been felt necessary at this juncture.
- (ix). Given that the proposal of the port has the approval of its Board of Trustees and also since none of the users had objected to the proposal of the PPT in its earlier proceedings, this Authority is inclined to approve the lease rentals for the intervening period, as proposed by the Port. However, as against the proposal of the Port to prescribe the lease rentals from the year 1990-91 onwards, the lease rent shall be prescribed from the year 2004-05 onwards, given that the Land Policy Guidelines of 2004 was issued on 08 March 2004. It is noteworthy that the Land Policy Guidelines of 2004 was the pioneer in prescribing determination of the lease rentals based on the market value of the Land.
- (x). The approval of annual lease rent for educational institutes from the year 2004-05 should not be construed as regularisation by this Authority of lease period beyond the date of expiry of 30 years lease period of any educational institutes.
- (xi). Clause 11.2(d) of the Land Policy Guidelines stipulates the levy of ground rent @ ₹ 1/- per sq.m. in the event of allotment of land on upfront basis. However, there is no provision to collect ground rent in addition to annual lease rent, in the Land Policy Guidelines. In view of the above, proposal of the port to levy of ground rent at the rate of ₹ 1/- per sq.m. per annum in addition to the annual lease rent, may not be approved.

6.1. In the result, and for the reasons given above, and based on collective application of mind, the Scale of lease rent for allotment of Port land on lease basis outside Custom bond in favour of Educational Institutions as given below, is approved.

Sl. No.	Year	Annual lease value (6% of market value)
1	2004 - 05	15,834.00
2	2005 - 06	16,151.00
3	2006 - 07	16,474.00
4	2007 - 08	16,803.00
5	2008 - 09	17,139.00
6	2009 - 10	17,482.00

7	2010 - 11	17,831.00
8	2011 - 12	18,188.00
9	2012 - 13	18,552.00
10	2013 - 14	18,923.00
11	2014 - 15	19,301.00
12	2015 - 16	19,687.00
13	2016 - 17	20,081.00
14	2017 - 18	20,483.00
15	2018 - 19	20,892.00
16	2019 - 20	21,310.00

6 .2. The Scale of rates approved is valid from the year 2004-05 with a validity upto 01 April 2020.

6.3. The terms and conditions as prescribed in the extant Land Policy Guidelines, shall continue to govern the lease rent approved for the respective period.

(T.S. Balasubramanian)
Member (Finance)