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TARIFF AUTHORITY FOR MAJOR PORTS

G.No. 171 **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 revision of its Scale of Rates for allotment of Port Land and Built up premises outside the custom bounded area, as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports

Case No. TAMP/7/2021-PPT

Paradip 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 16th day of March 2021)

This case relates to a proposal filed by the Paradip Port Trust (PPT) for revision of its Scale of Rates for allotment of Port Land and Built up premises outside the custom bounded area.

2.1. The lease rentals for the Port land (developed and undeveloped) outside the custom bond area at Township Zone, Industrial zone, Sector-21 Zone and Haridaspur for leasing and licensing purpose for non-Port related activities, for the first time, by this Authority vide Order no. TAMP/53/2014-PPT dated 15 May 2015, for a period of five years.

2.2. Subsequently, based on a separate proposal filed by PPT in April 2016, this Authority vide its Order no. TAMP/26/2016-PPT dated 08 February 2017 notified on 21 March 2017 had fixed the rentals for temporary allotment of open space on licence basis outside Custom bound area for non-port related activities and the Way Leave charges.

2.3. The validity of the lease rent fixed vide both the aforesaid Orders has expired on 16 July 2020. Based on the request made by PPT, this Authority vide its Order dated 08 September 2020 has extended the validity upto 16 January 2021.

2.4. In this backdrop, the PPT vide its letter no. AD-EST-MISC-III-06/2011 (Vol-II)/ 489 dated 11 January 2021 has submitted its proposal for revision of the lease rentals

3.1. The submission made by the PPT in its letter dated 11 January 2021 are given below:

(i). The Scale of Rates for allotment of Port land and built up space for non-port related activities, was approved and notified last by TAMP, vide Notification No. TAMP/53/2014 PPT dated 11.06.2015, which was effective from 11.07.2015 to 10.07.2020 and ROW and open space was notified by TAMP, vide notification No. TAMP/26/2016- PPT dated 23.02.2017, which became effective from the date of notification with validation upto 10.07.2020.

(ii). After completion of stipulated period, PPT appointed a registered valuer, through bidding process for undertaking the valuation process for Port Land & built up premises vide No. AD-EST-MISC-III-06/2011 (VOL-II)/1192, dated 09.03.2020.

(iii). Due to Pandemic situation, the above work could not be completed within stipulated time, for which based on the request of appointed valuer, extension order was issued vide no. AD-EST-MISC-III-06/2011 (VOL-II)/1631 dated 12.05.2020.

(iv). Thereafter, PPT had requested TAMP to extend the validity of present SOR for a further period of six months w.e.f. 11.07.2020, as the actual market value assessment may not be realistic due to COVID-19 situation.

(v). The Land Allotment committee (LAC) recommended the SOR based on the report submitted by the valuer and the same was approved by the Board, vide resolution no. 73/2020-21 dated 18.12.2020.

(vi). In view of above, TAMP is requested to approve the SOR recommended by the LAC and by its Board of Trustees for allotment of Port land on various zones outside the custom bounded area on license basis for non-port related activities and allotment of open space & Right of way and non-residential buildings outside the custom bound area.

3.2. The other main points contained in PPT's proposal dated 11 January 2021 are given below:

(i). **Description of the Property:**

(a). Land spread over an area of AC 4110.54 Dec in four revenue villages namely Bhitargarh, Bijayachandrapur, sandhakuda and Nua-Sandhakuda.

(b). AC. 20.00 Dec of land at Haridaspur, Berhampur sasan, Jaipur.

(c). About more than 1200 market units (Non-Residential) buildings are available with PPT for allotment to the Port users.

(d). The Property comprising of port land including Haridaspur has been divided into following areas, based on their land use, location, social status of area, accessibility of proximity of public transport and other relevant factors.

(i). Madhuban Area
(ii). V. Point, badpadia area.
(iii). Nuasandhakuda area.
(iv). Nuabazar area.
(v). Brundaban colony area.
(vi). Atharbanki area.
(vii). Sector – 21 area.
(viii). Haridaspur area.

(e). Further the above area has been largely grouped into 3 zones within port limit and another zone outside of the port limit as follows:

<u>Area within the Port Limit</u>

Sr. No.	Name of zone	Name of area	Water Spread Area in acre	Land Area in Acre	Total Area in Acre
1.	A	Township Area	-	1909.00	1909.00
2.	B	Industrial Area	-	1535.11	1535.11
3.	C	Sector-21 Area	-	666.43	666.43
				Grand Total :	**4110.54**

<u>Area Outside the Port Limit</u>

Sr. No.	Name of zone	Name of area	Water Spread Area in acre	Land Area in Acre	Total Area in Acre
1.	-	Haridaspur	-	20.04	20.04
				Grand Total :	**20.04**

(ii). **<u>Proposal of the Port</u>**

The relevant extract of the Scale of Rates proposed by the PPT is reproduced below:

" **Scale of Rates for Allotment of Port Land**:

(a). **Proposed Scale of Rates for allotment of Port land on lease basis for non Port related activities outside the custom bond area**

(Amount in ₹ 'per Acre')

Sr. No.	Zone	Proposed SOR	
		Market Value of the Port Land	Reserve price in terms of annual lease rent
1.	Township Zone	2,32,28,335	13,93,700
2.	Industrial Zone	1,99,09,993	11,94,600
3.	Sector – 21	1,74,85,058	10,49,103
4.	Haridaspur	6,73,238	40,394

The above rates will be escalated @ 2% per annum

(b). **Proposed Scale of Rates for allotment of open space and Right of Way (ROW)**

Sr. No.	Zone	Proposed SOR	
		Market Value of the Port Land	**Rate per sq.m./ day**
1.	Township Zone	2,32,28,335	₹ 0.94
2.	Industrial Zone	1,99,09,993	₹ 0.80
3.	Sector – 21	1,74,85,058	₹ 0.71
4.	Haridaspur	6,73,238	₹ 0.02

The above rates will be escalated @ 2% per annum

(c). **Proposed Scale of Rates for non-residential building for different location (Rate per month per square feet (in ₹) for particular item as R.C.C. or AC Sheet**

Area	Particular of item	Rent per month per sq. feet (in ₹)
Badapadia	R.C.C.	12.00
	AC Sheet	8.56
Madhuban	R.C.C.	11.93
	AC Sheet	9.06
FMMC	R.C.C.	11.33
Nuabazar	R.C.C.	13.70
	AC Sheet	11.14
Sector-21	R.C.C.	11.65
Atharbanki	AC Sheet	10.91
Ex-OMA	AC Sheet	8.56
Ex-Coast Guard	R.C.C.	12.97
	AC Sheet	9.62
Marine Workshop	AC Sheet	8.63
Marine Shop	AC Sheet	8.63
Inside Bus stand	R.C.C.	10.81
Old Trade Centre near Hanuman Temple	R.C.C.	12.00
New Trade Centre	R.C.C.	23.98
Paradip Bhawan	R.C.C.	23.98

The above rates will be escalated @ 5% per annum

"

(iii). The PPT has proposed lease rentals applicable for the year 2021 as a base Reserve price in terms of annual lease rent in the proposed SOR in respect of allotment of port land and for allotment of open space and Right of way (ROW). This implies that the Port has not sought any increase in lease rentals over the existing indexed lease rental.

4.1. While acknowledging the proposal, the PPT was requested vide letter dated 28 January 2021 to explain the reason for not proposing lease rentals for undeveloped land in Township, Industrial, Sector-21 and Haridaspur Zones.

4.2. In this regard, the PPT vide its letter dated 04 February 2021 has responded that there is no such undeveloped land available in PPT area as land has been allotted on as is where is basis through e-tender-cum-e-auction. Hence, the valuer has proposed the rate of developed land to be adopted for whole Paradip Port area.

5. In accordance with the consultative procedure prescribed, a copy of the proposal of PPT dated 11 January 2021 was forwarded to the concerned users/ user organisations vide letter dated 28 January 2021 seeking their comments. Some of the users viz Shri. Sanjay Kumar Acharya, Advocate, Orissa High Court, M/s. Thakur Automobile Service Station, Paradip Port Lease Land Owners Society, Hotel Aristrocrat Private Limited & Hotel Padma Private Limited vide their emails dated 10 February 2021 and Odisha State Co-operative Bank Limited (OSCBL) vide its email dated 5 March 2021, have furnished their comments. These comments have been forwarded to PPT for feedback information. The PPT has responded vide its letters dated 18 February 2021 and 10 March 2021.

6. Based on a preliminary scrutiny of the proposal, additional information/ clarification was sought from PPT vide letter dated 15 February 2021. The PPT has responded vide its letter dated 18 February 2021. The information/ clarification sought and the response of PPT thereon are tabulated below:

Sr. No.	Additional information/ clarification sought from PPT	Response of PPT
(i).	As seen from the Valuation Report attached to the proposal in reference, the Valuer in his report at page no. 12-16 has arrived at the market value of the land based on the Method-1 (Cost Approach Method) – State Government's Ready Reckoner of the land value in the area by considering the benchmark value collected for the Sub-Registrar's office of the area concerned and from official website of Odisha Government and considered an additional value towards the factors like demand, distance, utility, infrastructure etc. by applying certain multiplication factor for each of the above factors. In the connection, the PPT to clarify the following;	
(a).	The calculation showing arriving at the average benchmark market value for the Bijaya Chandrapur and Batijanga, Bramhapur Sasan (near Haridaspur land), so as to arrive at the market value for the various zones viz. Township area, Industrial Area, Section-21 area and Haridaspur area to be furnished.	The Government's ready reckoner has fixed the benchmark value for each revenue village, hence the average benchmark value of that revenue village is the estimated value for that area. While finalizing the last SOR, the valuer had arrived at the average Benchmark value as ₹. 1,00,000,00/- per acre land in Bijayachandrapur considering the rate varied from a range of ₹. 60,00,000/- to ₹. 2,00,000,00/- In the present proposal, the Benchmark value varies from ₹.1,00,000,00/- to ₹.2,64,000,00/- for Bijayachandrapur and the average benchmark value has been considered as ₹.1,25,00,000/-. Regarding Haridaspur, earlier, valuer had considered the Benchmark value of ₹. 5,00,000/- per acre land as it varied from a range of ₹. 4,60,000/- to ₹.6,90,000/-. In the present proposal, the Benchmark value varies from ₹.6,00,000/- to ₹. 13,11,900/- for Haridaspur, Batijanga and Brahmapursanas and the average benchmark value has been considered as ₹.6,00,000/-.
(b).	The basis for considering different multiplication factor values for each of the factors viz. demand, distance, utility, infrastructure etc. for arriving at the additional value of the land, to be furnished.	Valuer has arrived at the multiplication factor taking into account the physical location of the area i.e. considering the location & situation of the property, proximity of civic amenities/ Central Business District (CBD) and means of communication, encumbrances, tenancy rights, etc.

<table>
<tr><td>(c).</td><td>The additional value for the Utility factor as arrived in the Valuation Report at page no. 14 is not matching with the summary given at page no. 16 of the Value report. The details of the mismatch is given below.

<table>
<tr><th>ZONE</th><th>Town-ship Area</th><th>Industrial Area</th><th>Sector -21</th><th>Haridaspur (Mouza Bramhapur Sasan)</th></tr>
<tr><td>Additional Value as arrived at page no. 14</td><td>75,00,000/-</td><td>37,50,000/-</td><td>12,50,000/-</td><td>60,000/-</td></tr>
<tr><td>Additional Value as considered at page no. 16 (Summary)</td><td>15,00,000/-</td><td>7,50,000/-</td><td>2,50,000/-</td><td>6,000/-</td></tr>
</table>

The PPT to rectify the above error and review the proposed SOR light of the above changes, if required.</td><td>The additional value of utility factor is taken as one-fifth of the additional value derived in page-14 of the valuation report for Township, Industrial and Sector-21 area and one-tenth for the area outside the Port limit i.e. for Haridaspur Zone while summarizing the same in page 16 as the same utility is existing in the previous rate.</td></tr>
<tr><td>(ii).</td><td>The Valuer in his Valuation Report has determined the market value for the non-residential units considering the value of replacement cost / sqft. for the plinth area for each of the RCC structures and AC sheet structures at various locations and the value of the land as recommended by him for the two zones viz. Township area, Section-21 area.</td><td></td></tr>
<tr><td>(a).</td><td>In this regard, the basis for the arriving the value of replacement cost / sqft. for the plinth area for each of the RCC structures and AC sheet structures at various locations to be furnished.</td><td>Replacement cost is taken as per plinth area rates fixed by State Govt. which has been suggested by valuer in page No: 33 & 34 of the said valuer report.</td></tr>
<tr><td>(b).</td><td>Further, It is seen from the statement of value of the non-residential units at page no. 35 of the valuation report, the Valuer has considered a uniform rate of ₹ 533.25 per sft. towards cost of land for all the non-residential units for various locations except for structures at Section-21. In this regard, the PPT is requested to confirm that the structures at the locations viz. Badapadia, Madhuban, FMMC, Nuabazar, Atharbanki, Ex-Coast Guard, Marine Workshop, Marine shop, Inside Bus Stand, Old Trade Centre near Hunuman Temple, New Trade Centre and Paradip Bhawan all fall within the Township Area Zone.</td><td>Yes, the structures at locations viz. Badapadia, Madhuban, FMMC, Nuabazar, Athrabanki, Ex-Coast Guard, Marine Workshop, Marine Shop, inside Bus stand, old trade centre near Hanuman Temple, New Trade Centre and Paradip Bhawan are coming under Township Zone area of PPT.</td></tr>
<tr><td>(iii).
(a).</td><td>As seen from the LAC Report, as against the existing escalation factor of 5% approved vide our Order no. TAMP/53/2014-PPT dated 15 May 2015, the LAC is seen to have recommended an escalation factor of 2% per annum on the proposed lease rentals. In this regard, the PPT to explain the reason for prescribing reduced annual escalation factor.</td><td>Since the demand of Port land is increasing in a slower manner in comparison with 2015, due to market condition and as lots of cases have been filed by lessees for continuing with earlier notified rate which has yet not been finalized and Hon'ble High Court has given a order to allow the lease rent in the old rate till outcome of the writ petition. The Port Land Allotment Committee has also recommended for 2% escalation rate instead of 5% per annum as per Clause No: 13 (c) under Market value of land and SOR of Land Policy Guidelines, 2014 where it has been mentioned that Board will fix a rate of annual escalation which would not be less than 2%.

The same has also approved by PPT Trust Board.</td></tr>
<tr><td>(b).</td><td>However, for the non-residential building, the port has proposed an annual escalation of 5% p.a. The reason for prescribing different escalation factor to be explained.</td><td>As PPT is maintaining the said building with enhanced cost of materials and manpower, the land rate proposed SOR for non-residential building has been proposed with annual escalation of 5% per annum without any change of the same.</td></tr>
</table>

(iv).	The PPT to note the substantial variation in Market value of same land between the Port Related activities and non-Port related activities and confirm the above position, apart from clarifying the reason for pegging the Market value of land for non-port related activities at substantially higher level.	For Port related activities, the rate has been reduced as per SIPC project to promote port based industries. The same has also been notified by TAMP on dated 27 July 2017. The differential amount is being compensated in terms of MGT which has to be borne by the lessee. This is line with competitive rates of neighboring Ports.
(v).	The PPT has proposed two definitions viz. clause 2.(p) "Document Preparation Charges" and clause 2.(u) "Document preparation charges (Processing fee)" with almost a similar description. The PPT to consider deletion of one of the definitions.	Clause No- 2(p) "Document Preparation Charges" may please be omitted from the definition at page 86 of the proposed report.
(vi).	The Foot Notes at clause 3.2 and clause 3.3. prescribe that the respective rates are subject to be escalated @ 2% and 5% per annum respectively. However, at clause 4.10 "Terms and Condition", the PPT has generally prescribed that the reserve price in terms of annual lease rent prescribed shall bear an escalation factor of 2% every year. As such, clause 3.3 and clause 4.10 is seen to be contradicting each other. The PPT to remove the said anomaly.	Clause No- 4.10 may be read as follows. "*The reserve price in terms of annual lease rent prescribed above shall bear an escalation factor of 2% every year whereas for non-residential building for different locations the rate will be escalated at 5% per annum."*

7. In view of the outbreak of COVID – 19 and in pursuance of the then Ministry of Shipping (MOS) letter No. 11053/30/2020-Coord. dated 16 April 2020 to hold virtual meetings, a joint hearing on the case in reference was held on 19 February 2021 through Video Conferencing. The PPT has made a brief power point presentation of its proposal. At the joint hearing, the PPT and the users/ lessees have made their submissions.

8. The proceedings relating to consultation in this case are available on records at the office of this Authority. An excerpt of the arguments made during the joint hearing will be sent separately to the port and relevant parties. These details will also be made available at our website http://tariffauthority.gov.in.

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

(i). Based on a proposal filed by the Paradip Port Trust (PPT), this Authority vide its Order no. TAMP/53/2014-PPT dated 15 May 2015 notified on 17 June 2015 had fixed the lease rentals for the Port land (developed and undeveloped) outside the custom bond area at Township Zone, Industrial zone, Sector-21 Zone and Haridaspur for leasing and licensing purpose for non-Port related activities, for the first time. Subsequently, based on a separate proposal filed by PPT in April 2016, this Authority vide its Order no. TAMP/26/2016-PPT dated 08 February 2017 notified on 21 March 2017 had fixed the rentals for temporary allotment of open space on licence basis outside Custom bound area for non-port related activities and the Way Leave charges. The validity of the lease rent fixed vide both the aforesaid Orders has expired on 16 July 2020. Based on the request made by PPT, this Authority vide its Order dated 08 September 2020 has extended the validity upto 16 January 2021. In this backdrop, the PPT has come up with a proposal for revision of the lease rentals, following the stipulation contained in the Land Policy Guidelines of 2014

(ii). The PPT has filed its proposal in January 2021. The PPT has furnished the additional information/ clarification sought by us in February 2021. The proposal of PPT alongwith the information/ clarification furnished by the PPT during the processing of the case, is being considered in this analysis.

(iii). Before proceeding with the analysis of the proposal, it is relevant here to mention that all the users/ lessees, who have forwarded their comments on the subject proposal have questioned the authority of the Port to forward a proposal for revision of rentals and have also questioned the basis on which this Authority has proceeded ahead in dealing in the proposal of the Port for revision of lease rentals, given that various users/ lessees have approached the Hon'ble High Court of Orissa with regard to the lease rentals of PPT fixed in the year 2015 and that the matter is subjudice.

In this regard, it is to state that it is true that some of the users/ lessees have challenged the Order of May 2015 passed by this Authority fixing lease rentals for the PPT's estates as well as the Demand notice raised by the PPT on the users/ lessees, based on the Order passed by TAMP, in the Hon'ble High Court of Orissa. The Hon'ble High Court in some of these cases have stayed the demand notice and has directed the petitioners to continue to pay their rent as per the Old rates. As far as we are aware, the Hon'ble Court has not stayed the tariff Order passed by this Authority fixing lease rentals for the PPT estate. The Hon'ble Court has also neither restrained the PPT to submit proposal for the revision of scale of rates nor has it restrained this Authority to process the proposal filed by the PPT. Moreover, the period of lease rentals which has been challenged are 2015 to 2020, whereas the proposal of the port is to revise the rentals fixed in the year 2015 for the period beyond 2020. In other words, no bar has been placed either on PPT or on this Authority to fix lease rentals for the period subsequent to the year 2020. Further, it is reasonable to assume that the PPT, as a statutory body, would have kept in view the above aspects and only after carrying out due diligence on its part would have come up with a proposal for fixation of lease rentals before this Authority. In view of the above, this Authority is inclined to proceed further to dispose the subject proposal filed by PPT.

(iv). This Authority is mandated to follow the Land Policy Guidelines issued by the Government from time to time for the purpose of determining lease rentals for the lands belonging to the Port Trusts. The then Ministry of Shipping in the Government of India has announced Land Policy Guidelines for Major Ports, 2014 in January 2014 which has come into effect from 2 January 2014. Subsequently, the Ministry has issued amended Land Policy Guidelines, 2014 under Section 111 of the MPT Act, 1963 for implementation with effect from 17 July 2015. The PPT has, thus, come up with the subject proposal, based on the provisions of the Land Policy Guidelines for Major Port Trusts, 2014, as amended in July 2015.

(v). 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). In the case of PPT, a LAC has been constituted under the Chairmanship of Deputy Chairman and consisting of Chief Engineer & Secretary, F.A. & C.A.O. and Traffic Manager as Members of the Committee

(vi). 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. In terms of the said para of the amended Land policy guidelines of 2014, the Land Allotment Committee is 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 with an appropriate annual escalation rate to be approved 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 is identified by the Port. 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.

(vii). From the Valuation Report of the Valuer as made available by the PPT, it is seen that the Valuer has taken into account the following factors in his Report, before arriving at the market value for the Land in various Zones.

(a). As regards the rates as per State Govt. Ready reckoner, the valuer has adopted cost approach method, wherein after collecting the average basic bench mark value from Revenue Department, the Valuer has considered various multiplication factors towards demand, distance, utility and Modern infrastructure facilities in different areas and different zones, taking into account the physical location of the area i.e. considering the location & situation of the property, proximity of civic amenities/ Central Business District (CBD) and means of communication, encumbrances, tenancy rights, etc. The value of the land so determined for the four zones are, Township area is at ₹. 227.50 lakhs per acre, Industrial area is at ₹ 195.00 lakhs per acre, Sector-21 area is at ₹ 171.25 lakhs per acre and Haridaspur is at ₹.6.33 lakhs per acre.

(b). As regards the second method of valuation is concerned, the Valuer has not considered the relevant transaction registered in the last three years in the Port vicinity due to non-transparent practices followed by the seller/ purchaser in general.

(c). The rate for the Township zone, was discovered through tender in the year, 2018-19. The valuer has given escalation of 5% annually and arrived a rate of ₹. 232.28 lakhs per acre for township land for the year, 2020. However, in the other three zones, no such recent tender was found.

(d). The valuer has determined the Market value for the year 2020-21 considering market value of the land as of 2015 of the respective zones (as considered in the Order of May 2015) and escalated it by 5% per annum (being the escalation factor as approved vide the Order of May 2015). The updated and escalated market value of the land per acre for the four zones viz. Township area, Industrial area, Sector-21 area, and Haridaspur as of year 2020-21 with due escalation @ 5 % p.a. works out to ₹.232.28 lakhs, ₹.199.10 lakhs, ₹.174.85 lakhs and ₹.6.73 lakhs respectively.

(e). A comparative position of the market value of the land in various Zones, as determined by the Valuer is tabulated below:

(₹ in lakhs per acre)

Zone	State Government Ready Reckoner along with multiplication factor	Actual relevant transaction registered in the last three years in the Port vicinity	Tender cum auction in the last three years in the Port vicinity	Market value of land considering existing TAMP approved rate and escalated @ 5% p.a. till the year 2020
Township	227.40	No reliable data available	232.28	232.28
Industrial	195.00		No reliable data available	199.09
Sector – 21	171.25			174.85
Haridaspur	6.33			6.73

(f). Given that the existing escalated market value in PPT is higher than the market value of land as determined by the various methods as discussed above, the Valuer has recommended to adopt the existing escalated market value of the port land, which is the highest amongst all the factors.

(g). Based on the Valuer's Report, the LAC has recommended adoption of the highest amongst all the factors as the market value of the land in the various Zones.

(viii). Clause 13(b) of the guidelines stipulates that Reserve Price in terms of annual lease rent would be arrived, as a percentage of latest market value of land determined based on the five factors in accordance with para 13(a) and that the percentage should not be less than 6% which is to be fixed by the Port Trust Board. Accordingly, the lease rental has been arrived by PPT at 6% of the market value of the land for the respective Zones as tabulated below:

Sl. No	Particulars	Unit	Township Zone	Industrial Zone	Sector-21 Zone	Haridaspur
1	Escalated Market value of land as in 2020-21	Rate in ₹ Per Acre	2,32,28,335	1,99,09,953	1,74,85,058	6,73,238
2	Reserve Price @ 6% of Market Value of Land	Rate in ₹ Per Acre per annum	13,93,700	11,94,600	10,49,103	40,394

(ix). The lease rentals/ reserve price per acre per annum as derived by the PPT for the land at various Zones as brought out above, has been converted into 'per sq.m per day' basis so as to enable the Port to levy charges for allotment of open space and Right of Way (ROW), as shown below

No.	Particulars	Township Zone ₹.	Industrial Zone ₹.	Sector–21 ₹.	Haridaspur Zone ₹.
i	Reserve Price in terms of Annual lease rent (per acre/ per annum)	13,93,700	11,94,600	10,49,103	40,394
ii	Reserve Price in terms of Annual lease rent (per sq.m/ per annum) [1 acre = 4046.86 sq.m.]	344.39	295.19	259.24	9.98

iii	Right of Way Charges (per sq.m/ per day) [1 year = 365 days]	**0.94**	**0.80**	**0.71**	**0.02**

(x). All the users/ lessees have strongly objected to the lease rentals proposed by the Port. The users/ lessees have argued that given that the proposed rentals have been derived from the existing rentals and since the existing rentals itself have been challenged by various parties in the Hon'ble Court, the rentals should not be increased by the Port. The users/ lessees have also stated that the proposal of the port is not in line with the Land Policy Guidelines.

The PPT has countered the arguments made by the users/ user organizations on the proposal in reference by stating that the proposal of the Port is in accordance with the Land Policy Guidelines, 2014, and as such there is no scope available to the Port to reduce the rentals, as suggested by the lessee.

In this regard, it is to state that as per Clause 13(b) and (c) of the Land Policy Guidelines, the mandate of the LAC is to recommend the Market Value for any land normally taking into account the highest of the factors as mentioned in Clause Para 13(a) of the Land Policy Guidelines, as brought out in the preceding paragraphs. The mandate of the concerned Port is to make a proposal as outlined in clause 13 (a) to this Authority for fixing the latest SOR of the land. The mandate of this Authority is to notify the latest SOR of the land after following due process of consultation with stake holders. Valuation of the port land is in the domain of PPT and not in the purview of this Authority. Accordingly, the question of this Authority adjudicating on the objections made by the users/ lessees on the Valuation methodology adopted by PPT, does not arise. Given that the proposal of the port has been recommended by the LAC and has been approved by the Board of Trustees of the Port, this Authority is inclined to approve the proposal of the Port.

(xi). The PPT proposes to introduce Scale of Rates for allotment of non-residential building (R.C.C/ AC sheet structure) at different locations in Township Zone and one structure in Sector - 21. From the Valuation Report as made available by the PPT, it is seen that the Valuer has considered the plinth area rates fixed by State Government rate for each of R.C.C/ AC sheet structure and has thereafter applied various multiplication factors towards facilities viz water supply, sanitary installations, electric facilities etc. to arrive at the replacement value for the plinth area for each of the RCC structures and AC sheet structures at various locations. Based on the life of the structure, the replacement value so arrived is further adjusted to arrive the net value of the each of structures. In addition to the net value of the structure, the Valuer has also considered cost of the land occupied by the structure based the market value of the land (to be approved) for the Township zone and the Sector – 21, to arrive at the value of the each of structures. Thereafter, based on the valuation as brought out above, the lease rent has been worked out by the Valuer at 12% on the said value of the land and non-residential buildings/ structures at different locations.

Considering that the monthly rentals for the non-residential buildings at different locations at PPT as arrived by the Valuer has been recommended by the LAC, and given that the Board of Trustees of PPT has approved the recommendation of the LAC, this Authority is inclined to prescribe the Schedule of Rates for non-residential buildings (RCC or AC Sheet structures) at different locations at PPT, as proposed by the PPT.

(xii). The PPT has proposed to reduce the annual escalation from the existing 5% to 2% in the proposed Schedule of Rates in respect of allotment of land on lease basis for non-port related activities and for allotment of open space and Right of way in all Zones. The proposed reduction has been attributed by the Port to the slower demand for the plots of the land and taking into account the pending legal cases. As regards the non-residential units, the port has proposed an escalation factor of 5%, by taking into account the enhanced cost of materials and manpower required for maintaining the said buildings. Clause 13(c) of the Land Policy Guidelines of 2014 gives flexibility to the ports to fix annual escalation which would not be less than 2%. Given that the proposed quantum of escalation factor is within the stipulation in the Land Policy Guidelines, this Authority is inclined to approve the escalation factors, as proposed by the Port.

(xiii). The PPT has proposed various definitions/ conditions/ notes in the proposed draft Scale of Rates which are generally seen to be in line with the definitions/ conditions/ notes as approved by this Authority for revision of Scale of Rates (SOR) for allotment of Port land and built up space in May 2015, except for the following, as discussed below:

(a). The definition relating to Service Tax in the present SOR of PPT has been rightly modified to definition of GST. The GST has been defined as a statutory tax levied by the Government for Goods and services but actually borne by the customers. It is categorised under Indirect Tax and has come into existence under GST Act. The definition in respect of GST as proposed by the Port is approved.

(b). The Port has proposed to modify the existing Clause 4.10 to the effect that "*The reserve price in terms of annual lease rent prescribed above shall bear an escalation factor of 2% every year whereas for non-residential building for different locations the rate will be escalated at 5% per annum."* The revised prescription at Clause 4.10 is seen to in line with the proposal of the Port, and hence, is approved.

10.1 In the result, and for the reasons given above, and based on a collective application of mind, the Scale of Rates for allotment of Port Land and Built up premises outside the custom bonded area belonging to the PPT for leasing and licencing purpose for non-port related activities attached as **Annex** is approved.

10.2 The PPT has proposed a lead time of 30 days as a condition in its proposed draft SOR for the revised SOR to become effective. Accordingly, the Scale of rates approved for Rates for allotment of Port Land and Built up premises outside the custom bonded area belonging to the PPT for leasing and licencing purpose for non-port related activities shall come into effect after expiry of 30 days from the date of Notification of this Order in the Gazette of India and shall remain in force for a period of five years thereafter. The approval accorded shall automatically lapse thereafter unless specifically extended by this Authority.

10.3. The validity of the existing of PPT for allotment of port lands and built up space outside the custom Bond area for leasing and licensing purpose for non-port related activities of PPT was extended till 16 January 2021. It will take some more time for this Order to come into effect. That being so, the validity of the existing Scale of Rates is deemed to have been extended from 17 January 2021 till the revised SOR comes into effect.

(T.S. Balasubramanian)
Member (Finance)

Annex

PARADIP PORT TRUST

Scale of Rates (SoR) for allotment of Port land and built up space outside the custom bond area for leasing and licensing purpose for non-Port related activities.

1. SHORT TITLE, COMMENCEMENT AND APPLICATION.

a) This may be called "The Scale of Rates of Paradip Port Trust for allotment of Port land and built up space outside the custom bond area for leasing and licensing purpose for non-Port related activities".

b) The same shall come into come into effect after expiry of 30 days from the date of Notification of the Order in the Gazette of India and shall remain in force for a period of five years.

c) It applies to the areas located beyond the custom bond area in three zones namely i.e., Township Zone, Industrial Zone and Sector-21 Zone for allotment of Port land for non-Port related activities for a period of five years from the date of approval of the Board.

2. DEFINITION

a) **"Board",** in relation to a Port means the Board of Trustees constituted under Major Port Trust Act, 1963 for the Port.

b) **"TAMP",** means the Tariff Authority for Major Ports constituted under section 47-A of Major Port Trust Act, 1963.

c) **"Chairman",** means the Chairman of the Board and includes the person appointed to act in his place under section 14 of Major Port Trust Act, 1963.

d) **"Land",** shall have the meaning assigned to it as in Section 2 (k) of Major Port Trust Act, 1963.

e) **Commercial Unit",** the built up space owned by the Port for running business related activities excluding the built-up space used for residential and educational institution purposes.

f) **"Lease",** shall have the meaning assigned to it as in Section 105 of the Transfer or Property Act, 1982 i.e., "transfer of a right to enjoy immovable property, made for a certain time, expressly provided for, in consideration of a price paid or promised, or of money to be rendered periodically or on specified occasions to the transferor by the transferee, who accepts the transfer on such terms".

g) **"License",** shall have the same meaning assigned to it as in Section 52 of the Indian Easements Act, 1882 i.e., "a right granted to another person by the grantor, to do or continue to do upon the immovable property of the grantor, something which would, in the absence of such right, be unlawful, and such right does not amount to an easement or an interest in the property.

h) **"Upfront basis",** means allotment of land on lease basis on payment of one time upfront payment for the entire lease period and the nominal lease rent approved by the Boar from time to time.

i) **"Premium basis",** means allotment of land on annual lease basis on payment of annual lease rent with escalation approved by the Board from time to time.

j) **"Port related activities",** means those activities directly related to Cargo Handling for enhancement of Port business and other activities vital for Harbour operations.

k) **"Non Port related activities",** means those activities related to Port and the township for smooth functioning, but at the same time indirectly supporting the business of the Port.

l) **"Development charges",** means the onetime payment for the entire/license period charged on the lessees/licensees by the Board for recovering the investment made by the Board for creation of infrastructure facilities such as road, electricity, water supply etc. but does not include reclamation of allotted premises.

m) **"Way leave charges',** means

i) the charges to be paid towards facility compensation or Right of Way charges for laying pipelines, conveyors etc, in advance on 11 (eleven) month basis calculated based on the area occupied by such facilities. .

ii) the charges to be paid by respective users, in case of multi-layer stacks calculated based on the area occupied by the multilayer pipeline/conveyor stacks.

n) **"Supervisory charges",** means one time charges levied @ 15% of the cost of laying of pipelines conveyor etc. in the Port limits even if the supervision is done by the 3rd party for grant of way leave permission.

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

p) **"Building rent",** means the compensation to be paid by the allottee on annual/ month basis for the use of built up premises as per the agreed terms and conditions.

q) **"Security Deposit",** means refundable amount to kept with the Board by the lessee/ licensee for the entire lease/license period subject to fulfilling all the agreed terms and conditions.

r) **"Goods and Service Tax (GST)',** means a statutory tax levied by the Government for Goods and services but actually borne by the customers. It is categorised under Indirect Tax and came into existence under GST Act.

s) **"Penalty",** means the charges levied by the Board for violation of terms and conditions of allotment and wrongful use and occupation of allotted premises.

u) **"Document preparation charges (Processing fees)"** means the charges to be paid by the lessee/ licensee to the Board for preparation of lease/ licence agreement.

3. SCALE OF RATES (SOR) FOR ALLOTMENT OF PORT LAND AND BUILT UP PREMICESS OUTSIDE THE CUSTOM BONDED AREA:

3 .1. Scale of Rates for Allotment of Port land on lease basis for non-Port related activities outside the custom bonded area.

(amount in ₹ per acre)

Sr. No.	Zone	SOR	
		Market Value of the Port Land	Reserved price in terms of annual lease rent
1.	Township Zone	2,32,28,335	13,93,700
2.	Industrial Zone	1,99,09,993	11,94,600
3.	Sector – 21	1,74,85,058	10,49,103
4.	Haridaspur	6,73,238	40,394

The above rates will be escalated @ 2% per annum

3.2. Scale of Rates for Allotment of open space and Right of Way

(amount in ₹ per acre)

Sr. No.	Zone	SOR	
		Market Value of the Port Land	Rate per sq.m./ day
1.	Township Zone	2,32,28,335	0.94
2.	Industrial Zone	1,99,09,993	0.80
3.	Sector – 21	1,74,85,058	0.71
4.	Haridaspur	6,73,238	0.02

The above rates will be escalated @ 2% per annum

3.3**.** Scale of Rates for non-residential building for different location (Rate per month per square feet for particular item as R.C.C. or AC Sheet

Area	Particular of item	Rent per month per sq. feet (in ₹.)
Badapadia	R.C.C.	12.00
	AC Sheet	8.56
Madhuban	R.C.C.	11.93
	AC Sheet	9.06
FMMC	R.C.C.	11.33
Nuabazar	R.C.C.	13.70
	AC Sheet	11.14
Sector-21	R.C.C.	11.65
Atharbanki	AC Sheet	10.91
Ex-OMA	AC Sheet	8.56
Ex-Coast Guard	R.C.C.	12.97
	AC Sheet	9.62
Marine Workshop	AC Sheet	8.63
Marine Shop	AC Sheet	8.63
Inside Bus stand	R.C.C.	10.81
Old Trade Centre near Hanuman Temple	R.C.C.	12.00
New Trade Centre	R.C.C.	23.98
Paradip Bhawan	R.C.C.	23.98

The above rates will be escalated @ 5% per annum

4. Terms and Conditions

4.1 Due date Payment

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

4.2. Mode of Payment

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

4.3. Interest on delayed payment

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

4.4. Counting date of allotment

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

4.5. Non-utilisation of allotted land

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

4.6. Penalty

(i). If the lessee breaches / violates any provisions of lease agreement, the Board would reserve the right to impose the appropriate penalty or cancel the lease depending upon the nature and magnitude of such violation. In case of cancellation, no refund will be made.

(ii). If the lessee/licensee continue unauthorisedly beyond the approved period, will be liable to pay compensation for wrongful use and occupation at three times of the then Scale of Rates till the vacant possession is obtained.

4.7 Observation of rules and regulations of Paradip Port Trust

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

4.8 **Refund of proportionate value in case of resumption of the allotted premises before expiry of lease in Port interest**

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

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

4.10. The reserve price in terms of annual lease rent prescribed above shall bear an escalation factor of 2% every year whereas for non-residential building for different locations the rate will be escalated at 5% per annum.

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

4.12. Incase of any inconsistency in the definitions/conditions/ notes in the Scale of Rates vis-à-vis the Land Policy Guidelines, 2014, the provisions contained in the Land Policy Guidelines of 2014 would prevail.

4.13. **Registration fees:**

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

4.14. **Document preparation charges (Processing fees):**

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

4.15. **Goods and Services Tax (GST):**

GST to be borne by the customers on actuals.

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

F.No.TAMP/07/2021 - PPT	**:**	**Proposal received from Paradip Port Trust for revision of its Scale of Rates for allotment of Port Land and Built up premises outside the custom bounded area.**

The summary of comments received from the user associations and the reply of PPT thereon is tabulated below:

Sr. No.	Comments by User/ User Organisations	Response of PPT
	Shri. Sanjay Kumar Acharya, Advocate, Orissa High Court, M/s. Thakur Automobile Service Station, Paradip Port Lease Land Owners Society, Hotel Aristrocrat Private Limited, Hotel Padma Private Limited and The Odisha State Co-operative Bank Limited.	
(i).	PPT has proposed to increase the value of Port land for different zones for allotment on upfront annual lease basis for non-port related activities i.e., for Township zone - Rs. 2,32,28,335/-; Industries zone - Rs. 1,99,09,993/-; Sector 21 - Rs. 1,74,85,058/- and Haridaspur- Rs. 6,73,236/-. We object the proposal for the following reasons:	Port has worked out the SOR in accordance with the mechanism specified in the Land Policy Guidelines, 2014 and has no scope to adhere to the suggestions of the lessees for working out the SOR.
(a).	In the year 1978, PPT vide an advertisement in Odia daily, 'The Samaj', made public invitations for allotment of Port land on permanent lease basis for an initial period of 30 years with an automatic renewal clause. As per the said advertisement the price of unreclaimed port land was fixed at Rs. 50,000/- per acre for setting up different port based industries such as hotels, commercial establishments, cinema halls and various other activities.	
(b).	Pursuant to such advertisements, the members of the Paradip Port Lease Land Owners Society applied for taking different patches of land from PPT on lease basis. Consequent upon such proposal by the Members of the society, the PPT decided to lease out the land for various activities by entering into individual agreements with the leaseholders.	It is a fact that State Govt. is allotting land within the Port area at lesser rate in comparison to the proposed SOR but the State Govt. does not provide any infrastructure facilities to its allottees. The method of calculation of the lease adopted by the State Govt. may be a different one, to the method adopted in the Land Policy Guidelines, 2014. Hence, PPT has no scope to reduce the price as suggested by the lessee.
(c).	Thereafter, when all the leases expired on or after 2010, then the PPT decided to charge the lease premium at the rate of Rs. 35,20,000/- per acre for a period of 20 years. While the same was being a problem for the leaseholders to pay the lease premium at the rate of Rs. 35,20,000/- per acre for a period of 20 years, the PPT submitted a proposal before your good office for enhancement of scale of rates in the year 2015. Consequent upon such proposal, objections were invited to such proposal of PPT by your office to which serious objections were made by the lease land holders against the proposal of PPT, where after series of discussions took place but to no avail as this Authority mechanically without considering the objections of the leaseholders accepted the proposal of the Paradip Port Trust vide its order dated 11.06.2015, which gave rise to discontentment among the leaseholders and series of representations were filed with the Ministry of Shipping.	
(d).	Based on the representation of the land leaseholders, the Ministry directed the PPT vide its letter dated 08.07.2015 for reviewing its proposal in terms of the land policy guidelines, 2014 and to send realistic proposals by considering the actual prevailing rates of the land. Thereafter, the board of trustees in their meeting dated 19.12.2015 observed that revised proposals in compliance of the above letter has not been communicated to the Ministry for Consideration for relaxation of SOR.	The land rates for the Cargo related activities are kept on a lower side as compared with non-port related activities to have the competitive edge over the other Ports located on east coast, failing which Port may lose its cargo due to higher cost involved in
(e).	Admittedly even after the letter dated 08.07.2015 and the recommendation of Board of Trustees dated 19.12.2015, since no fresh proposal for revising the SOR was forthcoming from PPT, and as demand notices was send to us with revised increased price, being left with no other option, the Paradip Port Lease Land Owners Society approached	

	the Hon'ble High Court vide writ application bearing W.P.(C) No. 10904/2018 and W.P.(C) No. 8787/2018 respectively, where the Hon'ble High Court of Orissa after admitting the writ application has stayed the demand notices raised by the PPT pursuant to the order of this Authority (TAMP) dated 11.06.2015. It is needless to state here that this Authority has also been issued notice by the Hon'ble High Court of Orissa in the said case however, till date there has been no representation by this Authority before the Hon'ble High Court of Orissa even though the notice is made sufficient.	cargo handling as it is a part of logistic cost. In view of this, the different rates have been worked out for cargo related activities and non-port relative activities. The rate which has been proposed is as per Land Policy Guidelines Clause-13 (iv) where the Valuer has analyzed the five factors as per Land Policy Guidelines and proposed to adopt the existing market value to be continued with an escalation of 2% instead of 5%.
(f).	As in PPT's letter dated 11.01.2021 they have clearly mentioned that the actual market value assessment may not be realistic due to pandemic situation, still approving the same by the board is gross injustice to the lease holders, and also as due to adverse market condition there is no money to pay the increased rentals, so there should not be any further upward revision in Scale Of Rates (SOR) in the port land allotted to us.	
(g).	As per the committee meeting held on 20.11.2020, PPT has mentioned that there are 39 nos of court cases which are challenged against the SOR notified on 11.06.2015 where the Hon'ble High Court has ordered to stay the demand note sent by PPT and the matter is still pending before the Hon'ble High Court so it is illegal to take such decisions for revision of rates while the matter is still sub-judice. We are not able to understand that when the previous SOR are challenged, on what basis the PPT has given the leaseholder a new proposal by further escalating the rates. The action of the PPT in sending fresh proposals amounts to colourable exercise of power by which the PPT is attempting to remove the basis of litigation pending before the Hon'ble High Court of Orissa. Hence, the said proposal is liable to be rejected on this ground alone.	
(h).	As my land vicinity lies in the Township Zone, and as due to the loss of the business and other connected factor due to Covid 19, the increase in price from 1,82,00,000 in the prior SOR to 2,32,28,335 in the present SOR by making a substantial difference of 50,28,335 is a hefty fee for the leaseholder. This exponential increase in the charges are arbitrary and contrary to the spirit of the Land Policy Guidelines for Major Ports, 2014.	
(i).	As per para 18 of the land policy guidelines 2014, "due care is to be taken to choose the relevant factor which captures the realistic market value of the land. Mechanical and inappropriate application of the land policy guidelines may lead to inflated and unrealistic market value which result in poor response to tender cum auction and subsequently loss of business to the port". The Port with regard to the SOR of 2015 has chosen the Clause 18 (iv) i.e. Rate arrived by the approved valuer appointed for the purpose by the port, whereas the port is recommending to adopt the value through method 1 which is clause 18 (1) i.e. State Governments ready reckoner of land values in the area, if available for similar activities. It is in contrast with the SOR of 2015 subsequently making it inappropriate application of Land policy guidelines 2014 which is gross injustice to the leaseholders.	
(j).	Be that as it may, coming to the proposal dated 11.01.2021 i.e., the fresh proposal in hand, it is to state that all the members of the society have gone through the proposal of PPT and have understood the purports thereof.	
(k).	On perusal of the 97 pages proposal of the PPT which contains the detailed report of the Registered valuer namely Er. Bishnu Prasad Mohapatra who himself indirectly in his report has admitted that while fixing the earlier lease rentals, PPT has not followed the land policy guidelines, 2014. However, at page no. 39 of the proposal, he has directly come to a conclusion that 'the existing rate persisting in Paradip Port Trust is much more than in comparison with method - 1, 2 and 3 (i.e., methodologies as per the land policy guidelines, 2014). Hence, the valuer in his report has come to a conclusion that since the existing rates are much more than the rates arrived by as per the methodology in the land policy guidelines, the present value may be adopted by port with an	

	escalation of 2% per annum. In this regard it is submitted that, certainly the fresh proposal submitted by PPT is not on the basis of the methodology described in the land policy guidelines of 2014 which can be ascertained from the report of the valuer. Therefore, the proposal submitted by PPT by simply escalating the existing rates i.e., the rates of 2015 (Rs. 1,82,00,000/-) with an escalation factor of 5% per annum and arriving at the new price as per page 37 of the proposal is ex-facie absurd, arbitrary and without any authority whatsoever.	
(l).	At this juncture PPT have accepted that the market condition is not good and people are not happy with the previous increased rental. Instead of making a request for relaxation of the implementation of this guidelines in the light of clause 20 (viii) of the Land Policy Guidelines 2014, the port's decision to increase the rentals is gross injustice to the lease holders. So the new SOR should not be enhanced further.	
(m).	It is the need of the hour to mention that the land is allotted by the state government for the purpose of setting up of hotels etc. at a lease rate of approx. Rs 30 lakhs per acre for a period of 99 years whereas PPT gives lease only for a period of 20 & 30 years and yet the price fixed by the PPT is exorbitantly higher than the state government and as the previous SOR set by the Paradip port is still in dispute with regard to the price fixed by the State government, the new proposal should be quashed and should not be enhanced further.	
(n).	As the state government has set the bench mark value of Rs 1,25,00,000, as per the method one which is strongly suggested by PPT , it is observed that the value of multiplication factors such as Demand modification value, distance modification value ,utility modification value , infrastructure modification value, escalation modification value do not have any explanation in the proposal where as these multiplication factors are exorbitantly high, arbitrary and un reasonable. Hence, the rentals should not be enhanced further.	
(o).	The revised rate of the land premium and other allied charges have been fixed at an exorbitant market value of the land which is abnormally higher than the prevailing value of the land and other mitigating factor, that too with an escalation factor of 5% every year. It is submitted that such a decision goes against the overall frame work and spirit of the land policy guidelines 2014 and the businesses are in no condition to pay the revised amount, hence I request your good office for quashing of this proposal for revised SOR and not enhancing further. Hence, on the basis of the grounds narrated herein above, TAMP is requested to reject the proposal of Paradip Port Trust for revision of Scale of Rates primarily on two grounds i.e. the SOR proposed by the PPT is not in line with the land guidelines act 2014 and secondly since the matter is still Sub judice before the Hon'ble High Court of Orissa, by sending fresh proposal is a contemptuous attack on the order of Hon'ble High Court of Orissa, hence the same is liable to be declined/ rejected by the Authority.	
2.	**Comments of M/s. Thakur Automobile Service Station, Hotel Aristrocrat Private Limited, Hotel Padma Private Limited and The Odisha State Co-operative Bank Limited, in addition to the comments as given above.**	
(i).	The premium, salami or nazrana is paid once for all at the time of registration of the lease initially and is not a recurring payment and as such the payment of a substantial price towards the premium at the time of registration of the lease is certainly one of the surest indications of the permanency of the lease. Thererfore, there is no question of payment of land premium again at a future date at the time of renewal.	
(ii).	Further, it is to state that PPT has acquired land at a nominal price of Rs 1 Per Acre in case of Govt. land and Rs 230.00 Per Acre in case of privately acquired land from the State Govt. The total amount paid by Paradip Port Trust is within 1 Crore for acquiring the entire Port land of 6250 Acres. PPT has levied developmental charges @ Rs 240.00 Per	

	100 Sqft towards the expenditure incurred on the infrastructure facilities such as road, water supply lines, electricity etc. Hence, it is to conclude herewith that the entire expenditure incurred by PPT towards development of land has already been paid to them by respective lessees in the form of developmental charges. Hence every lessee has the right to claim that the SoR to be kept at the minimum with no further escalation of rates.	
(iii).	Further it is also learnt that the Land Policy Guidelines 2014 is going to be repealed by a guideline known as Policy Guidelines for Land Use Managemnt 2020. According to this guideline, the SoR for fixing the Scale of Rates has drastically changed from the existing guideline. In accordance with the new guideline, the SoR has to be fixed equally to Govt. guideline value and no market value of the Port land is to be worked out by the Port. The Govt. guideline value for Port land is currently 200% less than the proposed rate against which TAMP has called for the comments.	
(iv).	Paradip Port Trust has got 2 types of rates in the earlier notification for developed and undeveloped land considering the cost involving filling up of the low lying Port land. As on date, Paradip Port has not taken up any activity for reclamation of these low lying areas but the SoR for the undeveloped land has already been removed in the proposed SOR by PPT, which will put an additional burden to the lessees as the transportation cost for filling up of the land has already gone up many folds during the past 3 years	
(v).	Hotel Aristocrat was constructed in the year 1979-80 and at that time, there was no hotel in entire Paradip or nearby vicinity. The land was allotted by PPT in order to serve the Port employees, Port users and the general public of Paradip. The lease land was registered in the year 1979-80 for a period of 30 years. Since last 10 years there is not much business activity going on at Paradip nor any industrial activities going on at Paradip because all the nearby industries have completed their construction work and due to the Covid 19 pandemic situation there is no floating population at Paradip nor do the general public visit hotels. We are even facing difficulties in even paying the electricity and other statutory dues to Paradip Port Trust and other State Govt. Bodies. The hotel is running into losses and it is also getting difficult for us to clear invoices pertaining to even day to day affairs of the hotel. Due to saline climatic conditions, the building maintenance and upkeeping of the hotel and its premises is adding to our woes. At the end of the day, it is becoming an enormous and difficult task to run the Hotel. The proposed enhancement will definitely put us in hardship and probably lead to closure of hotel business and thus resulting in loss of livelihood.	

2. In view of the outbreak of COVID – 19 and in pursuance of the then Ministry of Shipping (MOS) letter No. 11053/30/2020-Coord. dated 16 April 2020 to hold virtual meetings, a joint hearing on the case in reference was held on 19 February 2021 through Video Conferencing. The PPT has made a brief power point presentation of its proposal. A summary of the arguments made by the PPT and the users/ user organisations during the joint hearing held on 19 February 2021 is given below:

PPT

(i). We have a total land of 6285.54 acres. The port area is divided into four zones viz. Harbour area, Township area, Industrial area and Sector-21 area. This proposal is for revision of SOR for the three zones i.e. Township area, Industrial area and Sector-21 area. We have not proposed the revision of SOR for the Harbour area, which comes inside the Custom bonded area.

(ii). In addition, we have a small parcel of land of about 20.04 acres at Haridaspur. We have recently connected with a railway network from Haridaspur to Paradip, which has improved the railway evacuation system of the Port. Earlier, we were connected only with Cuttack, which was a main station for passenger trains also, whereby there was a huge congestion.

(iii). Earlier, SoR for allotment of Port land outside custom bonded area was notified by TAMP which was effective from 11.07.2015 to 10.07.2020. Another proposal of SoR for allotment of RoW and open space was approved by TAMP in February 2017, the validity of which is co-terminus with the SOR of 2015.

(iv). We engaged the valuer in March 2020 for valuation of Port land & built-up premises. Due to COVID-19 pandemic situation, the valuation work could not be completed within stipulated period. PPT granted an extension of time to Valuer upto May 2020. Based on our request in July 2020 that the actual market value assessment may not be realistic due to COVID-19 pandemic situation, TAMP has extended the validity of present SoR for a further period of six months w.e.f. 11.07.2020. Now, valuer has submitted the report for revision of SoR on allotment of Port land, RoW, Open Space and built up premises outside the Custom Bonded area.

(v). We have derived the market value based on the five factors as per the Land Policy guidelines,

(a). State Govt. Ready reckoner - the valuer has adopted cost approach method by collecting bench mark value from Revenue Department and has arrived at the average bench mark value by considering the various multiplication factors viz. demand, distance, utility and Modern infrastructure facilities in different areas and different zones.

(b). Due to non-transparent practices followed by the seller/ purchaser in general, the Valuer did not consider the relevant transaction registered in the last three years in the Port vicinity.

(c). The rate for the Township zone, was discovered through tender in the year, 2018-19. The valuer has given escalation of 5% annually and arrived a rate of ₹. 2,32,28,335/- for township land for the year, 2020. However, in the other three zones, no such recent tender was found.

(d). After considering all aspects of Land Policy Guidelines and different methodology adopted by the valuer at various zones, the valuer has suggested that since the existing escalated rate persisting in PPT is more than in comparison with the values as derived in above method & suggested to continue with the existing rentals with an escalation @ 2% annually.

(vi). Considering the existing market value of Port land at different zones as of 2020 and by giving an annual escalation of 5% from the date of notification of TAMP w.e.f 2015, the SoR for allotment of land at different locations/ zones has been proposed by enhancing 2% instead of 5% per annum prospectively and annual lease rent @ 6% of the market value.

(vii). In case of allotment of open space and Right of Way, SOR has been calculated per sqm./day by considering the recommended market value of land at different locations/ zones with an annual escalation of 2% instead of 5 %. It is submitted that the existing RoW rate is lagging from the proposed RoW/ open space by one and half year i.e. from February 2017.

(viii). The valuer has adopted the cost approach method for RCC frame structures considering different sqft. rate with depreciation cost and escalation of land rate @ 5% as per notification of TAMP from 2015. Considering that the units in the non-residential buildings should be treated as individual unit and the last market value/ auction amount of the particular unit may be treated as base price of that unit for further allotment and as PPT is maintaining such buildings with enhanced cost of materials and manpower, the Valuer has recommended to continue with an annual escalation of 5%.

TAMP
[Member (Finance)]

(ix). Is the escalation factor 5% or 2% in addition of Reserve price?
[PPT : The 5% escalation factor has been adopted upto the year 2020. Based on the Valuer recommendation, 2% escalation factor is proposed for allotment of Port land.]

Orrisa State Co-operative Bank (OSCB)
(S.C, Behera, OSCB)

(x). We have requested for extension of time upto 5 March 2020 for giving our comments.
[TAMP : Please try to give your comments by 28 February 2020]

[OSCB : We will try]

Bethany Covent School, Paradip (BCSP)
(Jeebant Kumar Nayak, Principal, BCSP)

(xi). We await communication from our top management. Reply is yet to be received. We will give our comments shortly.

TAMP

(xii). Is the unit of levy of Rate per sq.m per day for way leave charges, relevant?

[PPT: ROW is being calculated based on per sq.m per day. TAMP has earlier notified as ‘per sq.m per day’. We are allotting Way Leave on temporary and well on permanent basis also. If we get the approval on day basis that will help for both the types of allotment.]