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Tariff Authority for Major Ports

G No. 52 **New Delhi, 1 March 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 proposal received from the Kolkata Port Trust (KOPT) to incorporate some provisions in the existing Rent Schedule for Land and Building of KOPT at Haldia as in the Order appended hereto.

(Rani Jadhav)
Chairperson

Tariff Authority for Major Ports
Case No. TAMP/62/2011-KOPT

Kolkata Port Trust **- - -** **Applicant**

<u>O R D E R</u>
(Passed on this 14th day of February 2012)

This case relates to a proposal received from the Kolkata Port Trust (KOPT) to incorporate some provisions in the existing Rent Schedule for Land and Buildings of KOPT at Haldia.

2.1. The main points made by KOPT in its proposal are summarized below:

(i). KOPT under item no. 1.1 (for land) of Annexure – IV of its proposal sent to TAMP for revision of its Rent Schedule had proposed for inclusion of the following provisions, which were in line with the provision that existed in the earlier Rent Schedule approved by TAMP on 2 December 1999:

"(1) If land is taken in a zone other than commercial zone for the purposes as mentioned in (g) (i), (ii) & (iii) above, 50% of the difference in rent between that applicable for the respective zone and commercial zone depending upon the usage, shall be charged extra over the land rent for the respective zone as per approved Rent Schedule.

(2) In the event of utilisation of land for mixed purpose i.e. office-cum-residential, the rent chargeable shall be simple average of applicable rents for the specific usage.

* These rates are not applicable in case of allotment on ship-to-ship basis for storage of import/export goods inside Dock Interior Zone."

(ii). The revised Rent Schedule so approved by TAMP in January 2011 does not have the above provisions.

(iii). At times, necessities are felt for creating some need based commercial activities such as creation of offices, weigh bridges, workshops, in zones other than Commercial zones, besides, at times, land are also required to be utilized at Haldia for mixed purposes. Accordingly, from the point of view of recovering higher rate of rent/ licence fee out of such commercial activities etc. on zones other than Commercial zone, the above two provisions are required to be incorporated in the Rent Schedule of KOPT's land and buildings at Haldia.

(iv). Further, the KOPT has obtained possession of some Pucca Roofed and AC/CI Roofed covered space in Commercial Zone of HDC and has decided to allot these premises on licence basis on realization of licence fee.

(v). The Rent Schedule approved by TAMP does not have any rate of rent/ licence fee in respect of Pucca Roofed and AC/CI Roofed covered space in Commercial Zone of HDC.

2.2. The KOPT has proposed inclusion of the following provisions in the existing Schedule of Rent of KOPT's land and buildings at Haldia:

(a). Inclusion of the following provisions at the end of Clause (I) of Annex – II:

" **Note:**

(1) If land is taken in a zone other than commercial zone for the purposes as mentioned in (e), (f) & (g) above, 50% of the difference in rent between that applicable for the respective zone and commercial zone depending upon the usage, shall be charged extra over the land rent for the respective zone as per approved Rent Schedule.

(2) In the event of utilisation of land for mixed purpose i.e. office-cum-residential, the rent chargeable shall be simple average of applicable rents for the specific usage.

* These rates are not applicable in case of allotment on ship-to-ship basis for storage of import/export goods inside Dock Interior Zone."

(b). Inclusion of the following rates under Clause (II) (BUILDINGS) of Annex – II:

Proposed Sl. No.	Zone, Location, other description	Rate of Rent/ Licence fee per sq. mtrs. per month (in ₹)
(a) (v)	**Pucca Roofed Structure** Commercial Zone	87.86
(b) (v)	**AC/ CI Roofed Structure** Commercial Zone	72.86

2.3. The Board of Trustees of the KOPT has approved the proposal of the port for inclusion of the above said provisions in the Scale of Rates of KOPT.

3. As seen from the workings furnished by KOPT, it has arrived at the proposed rates for the Pucca Roofed structures and AC/CI roofed structures at Commercial zone in the following manner:

(a). Pucca roofed structure:

Item no.	Description	Amt. in ₹. per sq. mtr per month
1	Scheduled licence fee of pucca roofed structure in the Dock Zone	77.00
2	Scheduled licence fee of land in the Dock Zone	12.23
3	Difference (1 – 2)	64.77
4	Scheduled licence fee of land in the Commercial Zone for office purpose	23.09
5	Proposed licence fee of pucca roofed structure in the Commercial Zone (4 + 3)	87.86

(b). AC/ CI roofed structure:

Item no.	Description	Amt. in ₹. per sq. mtr per month
1	Scheduled licence fee of AC/ CI roofed structure in the Dock Zone	62.00
2	Scheduled licence fee of land in the Dock Zone	12.23
3	Difference (1 – 2)	49.77

4	Scheduled licence fee of land in the Commercial Zone for office purpose	23.09
5	Proposed licence fee of AC/ CI roofed structure in the Commercial Zone (4 + 3)	72.86

4. In accordance with the consultation process prescribed, a copy of the proposal was circulated to the users / user organisations (as suggested by KOPT) for seeking their comments. The comments received from Coast Guard were forwarded to the KOPT. KOPT has not responded to the comments of Coast Guard till finalization of this case.

5. A joint hearing in this case was held on 25 January 2012 at the KOPT premises. At the joint hearing, the KOPT and the concerned users / organisation bodies have made their submissions.

6. The proceedings relating to consultation in this case are available on records at the office of this Authority. An excerpt of the comments received and arguments made by the concerned parties will be sent separately to the relevant parties. These details will also be made available at our website http://tariffauthority.gov.in.

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

(i). This Authority had passed an Order dated 19 January 2011 revising the Schedule of Rent for Land and Building at Kolkata and Haldia. It is with reference to the Schedule of Rent approved for the Land and Buildings of the port at Haldia that the port has filed the present proposal. The proposal of the KOPT is for reinstatement of certain provisions in the existing Rent Schedule applicable at Haldia, apart from fixation of license fee for structures in the Commercial Zone.

(ii). (a). Prior to the Order dated 19 January 2011, the levy of charges for the estates of KOPT at Haldia was governed by the Order dated 2 December 1999 passed by this Authority revising the rates for land and buildings at Haldia. The Schedule of rent charges, for bare land in particular, approved in December 1999 prescribed separate charges for Residential Zone, Industrial Zone, Dock Interior Zone, Dock Zone, Kukrahati, Panskura and Commercial Zone. The purposes for which land can be taken by the users in the commercial zone are as given hereinunder:

(i). Offices, Banks, Workshops, Repair Shops (excluding Automobiles), cold storage etc.

(ii). Shops, Markets, Nursing Homes, Medical Clinics, Hotels and Restaurants (without Bar), Service Stations, Repair Shops (Automobile), Weighbridge etc.

(iii). Cinema House, Hotel and Restaurant (with Bar) etc. Three differential rates were prescribed for licensing of land for the above said three purposes.

(b). If land is taken in a zone other than commercial zone for the purposes listed under commercial zone, the December 1999 Order stipulated that 50% of the difference in rent between that applicable for the respective zone and the commercial zone depending upon the usage shall be charged extra over land rent approved for the respective zone. Another conditionality prescribed in the same Order stipulated that if the land is taken for utilisation of mixed purposes (i.e. office-cum-residential), the rent chargeable shall be simple average of applicable rents for the specific usage. There was a third conditionality which stated that the rates prescribed for bare land and hard stand land in the Dock Interior Zone are not applicable in case of allotment of land on ship to ship basis for storage of cargo inside Dock Interior Zone.

(c). The KOPT in its proposal for revision of Rent Schedule for Land and Buildings at Kolkata and Haldia, which culminated into the Order dated 19 January 2011 had in fact proposed the above said three conditionalities. However, the said conditionalities were missed out inadvertently while framing the Rent Schedule in the Order dated 19 January 2011.

(d). Considering the position that the KOPT has brought out the need for restoration of the said conditionalities and keeping in view that it will be only reinstatement of the conditionalities approved in the earlier Order of December 1999 and none of the users consulted in this proceedings has expressed any objection, they are suitably included in the existing Schedule of Rent for Land and Buildings approved in the Order dated 19 January 2011.

(iii). (a). The Schedule of Rent for Land and Buildings of KOPT at Haldia approved in the Order dated 19 January 2011 prescribes rentals for Buildings. Buildings include "Pucca Roofed Structures" and "AC/CI Roofed structures". The rentals for these two categories of roofed structures are prescribed Zone-wise. The zones shown under each of the roofed structures are Residential Zone, Industrial Zone, Dock Interior Zone and Dock Zone. No rates are prescribed for buildings in Commercial Zone in the Order dated 19 January 2011 since no proposal was made by the KOPT in this regard.

(b). Rentals are prescribed in the Schedule of Rent and Buildings of KOPT at Haldia for bare lands at Commercial Zone. The KOPT has reported that it has taken over pucca roofed and AC/CI roofed structures in the Commercial Zone and has decided to allot these structures on license basis. Since no rates are presently available for the structures in the commercial Zone in the existing Rent Schedule, the KOPT has proposed rates for pucca roofed structures and AC/CI roofed structures in the Commercial Zone.

(c). As stated earlier, the Rent Schedule prescribes license fee for bare lands in Commercial Zone. Besides, the Rent Schedule also contains license fee for covered spaces in the Dock Zone. Accordingly, the KOPT has derived the license fee for pucca roofed structures and AC/CI roofed structures based on the rate of license fee already available in its Rent Schedule for bare lands in the Commercial Zone and covered space in the dock Zone.

(d). As far as computation of license fee for pucca roofed structures in the Commercial Zone is concerned, the existing license fee of ₹77 per sq.mtr per month prescribed for pucca roofed structures in the dock Zone is considered. The existing license fee for bare land in the Dock Zone prescribed at ₹12.23 per sq.mtr per month is adjusted in the rate of license fee of ₹77 and the rate of license fee for structure alone in the Dock Zone is arrived at ₹64.77. The rate of license fee prescribed at ₹23.09 per sq.mtr for bare land alone in the Commercial Zone for office purposes is added back to the rate of license fee for structures derived at ₹64.77.

Thus, the rate of license fee for pucca roofed structures in the Commercial Zone is arrived at by KOPT at ₹87.86 per sq.mtr per month. In short, the deduced amount (fee) for structure relevant for Dock Zone is taken into account to prescribe the consolidated license fee for land and structure at the Commercial Zone. Since the KOPT had reportedly considered the average of the capital cost of all structures to propose the existing rates of license fee for structures at the relevant point of time the consideration of the deduced fee of structure of Dock Zone to derive the fee for Commercial Zone appears to be logical. The same methodology is followed for calculation of license fee at ₹72.86 per sq.mtr per month for AC/CI roofed structures in the Commercial Zone.

Incidentally, the Rent Schedule for Haldia prescribes license fee for lands and buildings separately for Industrial Zone, apart from the license fee for the respective category in the Dock Zone. The rates of license fee prescribed for Industrial Zone for the respective category is lower than the rates of license fee prescribed for the respective category in the Dock Zone. As stated earlier, the KOPT has considered the rates of license fee prescribed for the respective category in the Dock Zone to derive the license fee which is more beneficial.

(e). The statement for fixing license fee for pucca roofed structures and AC/CI roofed structures in the Commercial Zone prepared in line with the above analysis is attached as **Annex - I**. Incidentally, no users consulted in this proceedings has objected to the approach adopted to derive the proposed rates.

(iv). The submissions made by Coast Guard that land used by it should not be classified under commercial purpose and the tenure of lease should be atleast 99 years in their case are beyond the regulatory jurisdiction of this Authority. Therefore, this Authority does not like to go into the submissions made by the Coast Guard.

(v). In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves the following:

(a). Inclusion of the following provisions at the end of Clause (I) LANDS of Annex-II forming part of the Order dated 19 January 2011.

“ **Note:**

(1) If land is taken in a zone other than Commercial Zone for the purposes as mentioned in (e), (f) & (g) above, 50% of the difference in rent between that applicable for the respective zone and commercial zone depending upon the usage, shall be charged extra over the land rent for the respective zone as per approved Rent Schedule.

(2) In the event of utilisation of land for mixed purpose i.e. office-cum-residential, the rent chargeable shall be simple average of applicable rents for the specific usage.

(3) The rates prescribed for Dock Interior Zone (Inside custom bonded area) (bare land) and Dock Interior Zone (Inside custom

bonded area) (Hard Stand Land) at Serial No. c (i) and (ii) respectively are not applicable in case of allotment on ship-to-ship basis for storage of import/export goods inside Dock Interior Zone."

(b). Inclusion of the following new entry suitably at Serial No.(a)(v) after the existing Serial No.(a)(iv) under Clause (II) (BUILDINGS) of Annex-II forming part of Order dated 19 January 2011:

"Commercial Zone 87.86"

(c). Inclusion of the following new entry suitably at Serial No.(b)(v) after the existing Serial No.(b)(iv) under Clause (II) (BUILDINGS) of Annex-II forming part of Order dated 19 January 2011:

"Commercial Zone 72.86"

(Rani Jadhav)
Chairperson

Annex - I

Calculation for fixation of license fee for Pucca Roofed Structures and AC/CI Roofed Strucutres in the Commercial Zone

Pucca Roofed Strctures

Item No.	Reference to Rent Schedule	Tariff Item	Rate of license fee per sq. mtr per month (In ₹)
1.	Serial No. (iv) under "II Buildings".	Scheduled license fee of pucca roofed structure in the Dock Zone	77.00
2.	Serial No. (d) under "I lands".	Scheduled license fee of bare land in the Dock Zone.	12.23
3.	-	License fee for structures alone (Difference between tariff items 1 and 2)	64.77
4.	Serial No. (e) under "I lands".	Scheduled license fee for bare land in the Commercial Zone for office purposes.	23.09
5.	-	License fee for Pucca roofed structures (Item 3 + 4)	87.86

AC/CI Roofed Strctures

Item No.	Reference to Rent Schedule	Tariff Item	Rate of license fee per sq. mtr per month (In ₹)
1.	Serial No. (iv) under "II Buildings".	Scheduled license fee of AC/CI roofed structure in the Dock Zone	62.00
2.	Serial No. (d) under "I lands".	Scheduled license fee of AC/CI roofed structures in the Dock Zone	12.23
3.	-	License fee for structures alone (Difference between tariff items 1 and 2)	49.77
4.	Serial No. (e) under "I lands".	Scheduled license fee for bare land in the Commercial Zone for office purposes.	23.09
5.	-	License fee for AC/CI roofed structures (Item 3 + 4)	72.86

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

TAMP/62/2011-KOPT - **Proposal from the Kolkata Port Trust (KOPT) to incorporate some provisions in the existing Rent Schedule for Land and Buildings of KOPT at Haldia.**

A summary of comments received from Coast Guard are tabulated below:

Sl. No.	Comments of Coast Guard (**page no.79- 80/c**)
(i).	The Indian Coast Guard is not a commercial organisation but an armed force of the Union providing security to the ports and safety to the sea farers. As Coast Guard is not a commercial organisation and it is not earning any revenue or profit, leased land to the Indian Coast Guard may be provided at very nominal rate. It is also requested that lease period for holding land for Coast Guard may be increased to 99 years. This will help the Coast Guard in planning infrastructure development in a comprehensive manner.

2. A joint hearing in this case was held on 25 January 2012 at the KOPT premises. At the joint hearing, the KOPT and the concerned users / organisation bodies have made their submissions.

Kolkata Port Trust (KOPT)

(i). Briefly explains the proposed amendment.

(ii). The proposed amendment is for reinstatement of the provision which existed in the pre revised schedule.

(iii). Capital cost of all structures is taken at average earlier and the prevalent rates were fixed. We have proposed to extend the same to commercial zone where no rate is presently available.

Coast Gaurd

(i). Land used by Coast guard should not be classified as use for commercial purposes.

(ii). Lease tenure for us should be atleast 99 years.
