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

TARIFF AUTHORITY FOR MAJOR PORTS

G.No. 641 **New Delhi,** **09 December 2021**

NOTIFICATION

This Authority, in exercise of the powers conferred by Section 49 of the Major Port Trusts Act, 1963 (38 of 1963), had disposed of the proposal received received from Mumbai Port Trust (MBPT) for fixation of Schedule of Rates and revision of rent / compensation for the period 01.10.2017 to 30.09.2022 for non-home occupations in Township Areas of MBPT on 01 November 2021**.** However, considering the time involved for notifying the (Speaking Order) along with the Rent Schedule prescribing Lease rentals for the 07 Ready Reckoner Zones for non-home occupations in Township Areas of MBPT for the period 01 October 2017 to 30 September 2022, approved by this Authority, this Authority decided to notify only the Rent Schedule for the 07 Ready Reckoner Zones for non-home occupations in Township Areas of MBPT for the period 01 October 2017 to 30 September 2022 immediately. Accordingly, the Rent Schedule for MBPT prescribing Lease rentals for the 07 Ready Reckoner Zones for non-home occupations in Township Areas of MBPT for the period 01 October 2017 to 30 September 2022, approved by this Authority on 01 November 2021 was notified in the Gazeetee of India on 12 November 2021 vide Gazette no. 552. It was stated in the said Notification that this Authority will notify the Speaking Order, in due couse of time. Accordingly, this Authority hereby notifies the Speaking order connected with disposal of the proposal of MBPT for fixation of Schedule of Rates and revision of rent / compensation for the period 01 October 2017 to 30 September 2022 for non-home occupations in Township Areas of MBPT as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/42/2021-MBPT

Mumbai 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 01st day of November 2021)

This case relates to a proposal received from Mumbai Port Trust (MBPT) vide its letter No. FA/OEA-L38(21)/Gen/166 dated 03 August 2021 for fixation of Schedule of Rates and revision of rent / compensation for the period 01.10.2017 to 30.09.2022 for non-home occupations in Township Areas of MBPT.

1.2. Subsequently, the MBPT vide its letter dated 21 August 2021 has rectified some typographical errors in its proposal dated 03 August 2021.

2.1. The submissions made by MBPT in its proposal dated 03 August 2021 and 21 August 2021 are as follows:

(i). Government has issued Policy Guidelines on Land Management (PGLM 2015) for all Major Ports vide letter No. PD-13017/2/2014/PD.IV dated 17.07.2015. By clarification circular No. 1 of 2018 dated 14.05.2018, and clarification circular No.1 of 2019-20 dated 29.04.2019, the Ministry of Shipping extended the applicability of the PGLM 2015 to the non-home occupation/ commercial areas of the township areas of Mumbai, Kolkata and Kandla Port. Clause 13 (c) of PGLM 2015 requires the Port to re-fix the SOR once in five years and obtain TAMP's approval thereto.

(ii). As provided in clause 13 of PGLM, LAC has recommended rates for various Ready Reckoner Zones. Same have been approved by the MBPT Board.

(iii). In this backdrop, the MBPT has come up with the subject proposal.

2.2. The other main points made by the MBPT in its proposal dated 03 August 2021 and 21 August 2021 are summarized below:

(i). Mumbai Port Trust owns about 944 Ha of land in Mumbai City. The land in the Mumbai city limits falls under the jurisdiction of A, B, C, M, G-North, E, F-North and F-South Wards. The said land stretches from Colaba to Wadala, Mahim, Govandi, Pir Pau, Mahul, Titwala etc. and is divided into 15 administrative units for management of these estates. The landed estate are divided into 2 main categories, viz. (i) lettable land and (ii) non-lettable land. Non-lettable land includes area occupied by offices of sister department, administrative offices of Mumbai Port Trust, Port Trust quarters, Port Trust hospital, etc. The lettable category includes areas let out on long term leases, 15 monthly leases, monthly tenancies and licenses. There are also a few plots which are vacant and can be let out. The present proposal is for approval of schedule of Rates (SOR) for the period 01.10.2017-30.09.2022.

(ii). The Land Management Policy Guidelines for Major Ports, 2010 issued by the Ministry was adopted by the board vide TR No.21 of 2011 read with Supreme Court judgement. The Ministry subsequently, with the approval of the cabinet, issued Land Policy Guidelines for Land Management by Major Ports 2014 (PFLM), which was applicable to all ports except for the land relating to the township area of Kandla, Mumbai and Kolkata Port, for which it was stated that separate policy will be formulated. The amended policy Guidelines were issued in 2015.

(iii). The Ministry vide Clarification Circular (Land Management) No.1 of 2018 dated 14.05.2018, Clarification No.2 of 09.03.2019 and Clarification No.1 of 2019-20 dated 29.04.2019 issued clarification circular on various issues of PGLM 2014/15 extending the applicability of the PGLM 2015 to the non-home occupation/commercial areas of the township areas of Mumbai, Kolkata and Kandla Port upto 31.03.2020 with the sunset clause. The PGLM 2015 has thus become applicable to the township areas of Mumbai Port Trust. The Ministry vide further letter dated 27.01.2021 has clarified that "since PGLM 2014 has been approved by the Cabinet, it is valid until it is revised by the Cabinet. Hence, compiled PGLM, 2015 issued on 29.04.2019 will be applicable for both land of major port trust and the township area subject to the condition mentioned in the letter dated 29.04.2019".

(iv). TAMP had vide notification No. TAMP/10/98-Misc of 28.03.2000 issued Order dated 15.03.2000 on its jurisdiction for framing scale of rates and statement of condition on the issue of applicability of SOR to all lands of all Major Ports. The said notification was challenged by the Mumbai Port by Writ Petition 1153 of 2000. In the Writ Petition, by interim order dated 02.05.2000, the Bombay high court have stayed the applicability of TAMP's order to the area not falling within Port limit and Port approaches. The issue of the withdrawal of writ Petition and necessary advice for the same was taken up with the Ministry in the light of PGLM 2015. TAMP has since by letter dated 15 July 2019 intimated that TAMP is required to fix the SOR for all areas of Mumbai Port including Township areas with effect from 01.10.2012 onwards in terms of advisory from the Ministry of Shipping and therefore notification dated 28 March 2000 may be seen to have become infructuous.

(v). In terms of the PGLM, 2015, SOR has to be recommended by LAC and approved by the Board and notified by the TAMP. The Board vide TR 146 of 2014 had constituted Land Allotment Committee headed by Dy.Chairman of Traffic Manager, FA &CAO, and Estate Manager as members to recommend new Schedule of Rates for estate letting.

(vi). As per the PGLM-2015, Land Allotment Committee is required to consider the following factors for determining the market value of the Port land:

"*a). State Government's Ready Reckoner of land values in the areas, if available for similar classification/activities.*

b). Highest rate of actual relevant transactions registered in the last 3 years in the ports vicinity (the vicinity of the Port is to be decided by the respective Port Trust Boards) with an appropriate annual escalation rate to be approved by the Port Trust Board.

c). Highest accepted tender-cum auction rate of Port Land for similar transaction updated on the basis of the annual escalation rate approved by the Port Trust Board.

d). Rate arrived at by an approved valuer appointed for the purpose by the Port.

e). *Other relevant factor as may be identified by the Port.*

The Land Allotment Committee shall, while recommending the latest market value for any Land would normally take into account the highest of factors mentioned in Para 13(a) above. Reserve price in terms of the annual lease rent would be latest SoR determined in accordance with Para 13(a) and 13(c) and would in no case be less than 6% of the latest value recommended by the Port Trust.

The Port Trust would make a proposal as outlined in Para 13(a) of TAMP for Fixing the latest SoR of the land. The TAMP would notify the latest SoR of the land after following due process of consultation with the stake holders within 45 days of the receipt of the proposal. The Port trust board will fix a rate of annual escalation which would not be less than 2 % Sor would be refixed once in every 5 years by the TAMP."

(vii). In terms of Para 13 of PGLM 2015, Valuers were appointed for carrying out valuation of various plots including vacant plots falling in the Ready Reckoner Zone/Division 14/101(Dadar-Naigaum), 90/419 (Mahul), 10/79 (Mazgaon), 10/80 (Mazgaon), 2/13(Fort), 2/22(Fort) and 17/119 & 17/116 (Mahim) for determining the SOR for the period from 01.10.2017 to 30.09.2022.

(viii). Based on the valuation carried out by the valuers, the land Allotment Committee after deliberation prepared its report recommending the new SOR with effect from 01.10.2017 to 30.09.2022. In each of the cases, the Land Allotment Committee has taken into account the Fair Market Value (FMV) of land based on highest of the 5 factors as per PGLM for base rate for FSI 1.00 for the period from 01.10.2017 and the rate of return adopted for arriving at the SOR is 6% per annum which rate will increase by 4% annually every October over the rate for the previous year. In case the FSI utilization is above 1.00, the said rate will increase proportionately. The SOR as recommended will be applicable to all the expired leases, Fifteen Monthly leases, Monthly tenancies and Licenses along with vacant plots (for calculation of upfront premium for allotment) falling under the respective Ready Reckoner Zones.

(ix). The recommendations of LAC on revision of SOR 2017-22 at 6% return p.a. on fair market value (FMV) of land for base rate for FSI = 1.0, based on Valuer's report for various Ready Reckoner Zones for the year 2017-18 and worked out as per five factors provided in Para 13 of PGLM 2015 policy guidelines, have been accepted by the Board by various Trustees' Resolutions. LAC has recommended 4% increase every year in October and the same was accepted by Board vide various Trustees Resolutions.

(x). The zone-wise details of the land values with the rate of return (SOR) in terms of PGLM as recommended by the LAC and approved by the Board is as follows:

Sr.No	**Ready Reckoner Zone**	**Unit No.**	**Division**	**Division Rates for Land per Sq.Mtr. as on 01.10.2017 (in ₹.)**
A.	B	C	D	F
1.	14/101	Unit 1	Dadar-Naigaum	1,15,000/-
2.	90/419	Unit 1	Mahul	53,820/-
3	10/79	Unit 2,6,7	Mazgoan	1,71,310/-

4	10/80	Unit 4,7,8,9,13	Mazgoan	1,87,700/-
5	2/13	Unit 9,11,15	Fort	2,52,500/-
6	2/22	Unit 11	Fort	1,91,040/-
7	17/119, 17/116	Unit 14	Mahim	1,90,000/-

(All the rates for land values have been rounded off to the nearest 10 rupees)

(xi). It was decided in the HOD meeting held by the Chairman on 15.07.2021 that computation of rentals/ compensation based on FSI consumed and areas will be likely to be contentious issue even after base SoR rates for one sq. mtr. of land are approved by TAMP. Linking of SoR rates of land to FSI consumed of the buildings / structures have several repercussions and complexities such as how to compute FSI, exemption of fungible FSI as per DC rules and permissible FSI, etc. Therefore, it is necessary to study these aspects in detail by committee of experts consisting of a retired Chief Engineer / Director of Planning of MCGM, Retired High Court Judge and a group of MbPT officials comprising Advisor (Planning), Chief Engineer, CLO, FA&CAO, Secretary and Estate Manager (I/C) alongwith Govt. registered Valuers on MbPT panel. Committee will give its recommendations on above issues and the matter will be brought before the LAC and Board for computation of actual rents/compensation on factors recommended by the Committee.

2.3. Thus, MBPT has sought TAMP's approval to the SOR approved by the Board vide various resolutions for the period from 01.10.2017 to 30.09.2022, as given below:

" **Schedule of Rates for the period 01.10.2017 to 30.09.2022 for FSI = 1.00**

Sr.No	**Ready Reckoner Zone**	**Unit No.**	**Division**	**Division Rates for Land per Sq.Mtr. as on 01.10.2017 (in ₹.)**	**Rate per Sq.Mtr. per month @ 6% return per annum as on 01.10.2017 as per PGLM 2015 (in ₹.)**
A.	B	C	D	F	G
1.	14/101	Unit 1	Dadar-Naigaum	1,15,000/-	575.00
2.	90/419	Unit 1	Mahul	53,820/-	270.00
3	10/79	Unit 2,6,7	Mazgoan	1,71,310/-	856.55
4	10/80	Unit 4,7,,8,9,13	Mazgoan	1,87,700/-	938.50
5	2/13	Unit 9,11,15	Fort	2,52,500/-	1262.48
6	2/22	Unit 11	Fort	1,91,040/-	955.18
7	17/119, 17/116	Unit 14	Mahim	1,90,000/-	950.00

(All the rates for land values have been rounded off to the nearest 10 rupees)

<u>Notes:</u>

1. Rent will be worked out on the basis of actual built-Up Area, subject to minimum of FSI 1.00.

2. Above rates are exclusive of all Taxes(GST, Municipal Taxes,etc.), Service Charges, Penalties, and Interest etc. Same are separately payable by lessees/tenants/ licensees ,as may be applicable.
3. These rates are applicable for non-Home Occupations.
4. These rates are applicable to all the Expired Leases, Monthly Tenancies, Fifteen Monthly Leases and Licenses along with vacant plots (for calculation of upfront premium for allotment) falling in the respective Ready Reckoner Zones.
5. Interest would be chargeable beyond permissible period as per Board's Policy from time to time.
6. Whether demanded or not,rent/compensation/license fee for a month would have to be paid by the tenants/lessees/licensees/occupants on or before the 15th day of succeeding month.

"

2.4. The MBPT has stated that the proposal is formulated in terms of the Land Policy Guidelines for Land Management 2015. Further, the MBPT has stated that under Section 49 of MPT Act, 1963 and para 13 (c) of PGLM-2015, TAMP's approval to the SOR for the period from 01.10.2017 to 30.09.2022 will be applicable to all the expired leases, fifteen monthly leases, Monthly Tenancies and Licenses along with vacant plots (for calculation of upfront premium for allotment) falling under the respective ready reckoner zones.

3.1 On perusal of the LAC report submitted by the MBPT along with proposal, the following summary of estimation of Land value on the five factors of Land Policy Guidelines:

Sr. No.	**SUMMARY**							
	Factors	Ready Reckoner Zone 14/101 Unit 1 Dadar-Naigaum	Ready Reckoner Zone 90/419 Unit 1 Mahul	Ready Reckoner Zone 10/79 Units 2,6,7 Mazgaon	Ready Reckoner Zone 10/80 Units 4,7,8,9,13 Mazgaon	Ready Reckoner Zone 2/13 Units 9,11,15 Fort	Ready Reckoner Zone 2/22 Units 11 Fort	Ready Reckoner Zone 17/119, 17/116 Units 14 Mahim
1	**State Govt. ready reckoner rate in year 2018-19**	₹.40200/ per sq.m	₹.19400/ per sq.m	₹.69700/- per sq.m	₹.21700/- per sq.m	₹.183100/- per sq.m	₹.101300/- per sq.m	₹.98600/- per sq.m
2	**Highest rate of actual relevant transactions in last 3 years in Port's vicinity**	₹. 115000/- per sq. m.	₹. 47318/- per sq. m.	No such transactions in last three years	No such transactions in last three years	No such transactions in last three years	₹.191036/- per sq.m	No such transactions in last three years
3	**Highest accepted tender cum action rate of port land**	NIL	NIL	NIL	NIL	NIL	₹.146514/- per sq.m	NIL
4	**Rate arrived by Approved Valuer**	₹. 115000/- per sq.m for Vegoil plot		₹. 171310/- per sq.m for RR 2036 (IVP land)	₹. 170240/- per sq.m for plot no. 61B			

		₹. 57500/- per sq.m for HPCL plot	₹.58213/- per sq.m	₹. 171310/- per sq.m for RR 1003 (Shree Ram Cotton & Pressing Factory Pvt. Ltd.)	₹. 170240/- per sq.m for Plot No. 144	₹.262595.84/- per sq.m	₹.143255/- per sq.m	₹.190000/- per sq.m
		₹. 57500/- per sq.m for Petrox plot		₹. 171310/- per sq.m for RR 1985 (Southern Electric Corp.)	₹. 170240/- per sq.m for Bay 1 of RR 772)			
5	**Any other relevant factor identified by Port**	NIL	NIL	NIL	NIL	NIL	NIL	NIL

3.2 **Summary of Conclusion derived by the LAC for each plot of land:**

(i). <u>Ready Reckoner Zone 14/101 - Unit 1 Dadar-Naigaum:</u>
MbPT land admeasuring 24023.05 sq.meters (RR No.1646), 42645.36 sq. meters. (RR No.1022 & 1776) and 1736.00 Sq.meters at Wadala Estate has been let out to Vegoil Industries Ltd, Hindustan Petroleum Corpn.Ltd. and Petrox Pvt.Ltd, respectively. All the three plots fall in Ready Reckonar Zone 14/101.The valuer appointed for the valuation of subject land has in his report considered five methods as per PGLM 2015

The Valuer has derived the rate of ₹ 1,15,000/- per sq.mtr. on the basis of average rate of scale and rental instances of industrial galas in the vicinity and has arrived at the land rate on the basis of Builders Method. The valuer in his recommendation has opined that for Vegoil plot rate per sq. for equal built up of ₹.115000/- is fair and reasonable and for plot used for tank farming viz. HPCL and for plot under CRZ II viz. Petrox rate per sq.mtr. for equal built up of ₹.57000/- is fair and reasonable. The highest rate based on five factors for all the three plots is ₹.115000/- per sq. mtr. for equal built up.

The LAC noted that in respect of HPCL plot, the rate being billed as on 01.10.2017 is ₹.59.24 per sq.mtr. per month in terms of TR 127 of 2006 with 4% annual increase, the rate in terms of TR No. 522 of 2015 with 4% annual increase would be ₹.146/- per sq.mtr. per month as on 01.10.2017 and the rate on the basis of the highest of the land value arrived at by the valuer would be ₹.575/- per sq.mtr. per month as on 01.10.2017 i.e. there would be a 971% jump in rate vis-à-vis the rate being billed as on 01.10.2017 and about 394% jump vis-à-vis the rate due as per TR No.227 of 2015.

The Fair Market Rate per sq. mtr. as recommended by Valuer for HPCL plot and Petrox Plot considering the restrictive usages is ₹.57000/- as against the highest rate of ₹.115000/- per sq.mtr. based on the actual instances of transaction.

The LAC has accepted Fair Market Value of ₹.115000/- per sq.mtr. based on the valuation report, which is the highest rate out of 5 factors.

(ii). <u>Ready Reckoner 90/419 Unit 1 Mahul:</u>

The LAC has considered the valuation report submitted by the Valuer. The Valuer in its report for the Pir Pau area has given the rate for the year 2019. The highest rate arrived at by the valuer is on the basis of income method by taking into consideration the storage charges being charges by the tank farm owners which has been ascertained by the Valuer through oral telephonic communication from the companies to be between Rs.350/- to Rs.400/- per KL per month. Based on the rate of Rs. 350/- per KL per month, the Valuer has arrived at the land value of 97,021/- per sq.mtr. The valuer has thereafter discounted the said rate by 40% after taking into consideration the occupancy of tank and development cost/expenses borrowed by lessee, etc. and recommended Rs.58213/- per sq. mtrs. as the highest rate for the subject plot as on April 2019.

The LAC has recommended to accept the land value per sq.mtr. at Rs.53,821/- for the year 2017-2018 on the basis of Valuation Report submitted by Patwardhan Consultant Pvt.Ltd. and SOR at 6% return as 3229/- per sq.mtr. which would increases by 4% per annum.

(iii). <u>Ready Reckoner Zone 10/79 Units 2,6,7 Mazgaon :</u>

The LAC has recommended to accept the Fair Market Rate of ₹.1,71,310/- per sq.mtr. For FSI= 1.00 for commercial use based on the Valuation Report submitted by Shri Avinash Pandse, which is the highest rate out of 5 factors.

Based on the above market rate of ₹.1,71,310/- per sq. mts, the rental @ 6% per annum on the market value in the proposed SOR would be Rs.856.55 per sq.mtr. per month. The said SOR would be applicable for the period from 01.10.2017 to 30.09.2022 which 4% annual increase every October for the land under the Ready Reckoner Zone 10/79 for commercial use.

(iv). <u>Ready Reckoner Zone 10/80 Units 4,7,8,9,13 Mazgaon :</u>

The subject three plots fall in Stamp Duty Ready Reckoner Zone 10/80 at Mazgaon Reclamation Estate, Mumbai-400010. The rate of said 3 plots works out to ₹.1,70,240 per sq.mtr. for FSI 1, as on 1.10.2017 for land as given by Valuer under their report dated 21.10.2019, 21.10.2019 and 7.11.2019.

It is however noted that as per the valuation report submitted by Patwardhan Consultants Pvt. Ltd. for the MbPT workshop area, the land value is ₹. 1,95,204 per sq.mtr.as on June 2018. The said land also falls in Ready Reckoner Zone 10/80. The said valuation report has been accepted by the Board vide TR No. 98 dated 2.8.2018. If the said land value rate is reduced by 4% the rate per sq.mtr. for land in Ready Reckoner Zone 10/80 works out to ₹. 1,87,696 per sq.mtr., which is higher than the rate arrived by the present Valuer. Based on the said land value for determination of SoR @ 6% p.a., the rate works out to ₹. 11,261.76 per sq.mtrs. p.a. for FSI 1 and the rate per per sq.mtr. p.m. works out to ₹. 938.48. The said rate shall be increased by 4% annually every October.

The LAC has recommended to adopt land rate derived based on the report of Patwardhan Consultants Pvt. Ltd. for the year 1.10.2017 to 30.9.2018 as ₹. 1,87,696 per sq.mtr. for FSI 1 for fixation of Schedule of Rate (SoR) being on the higher side. Based on the land rate the SoR at 6% p.a. return on land value would be ₹.11,261.76 per sq.mtr. p.a. for FSI 1 and ₹. 938.48 per sq.mtr. per month for FSI=1.

(v). Ready Reckoner Zone 2/13 Units 9,11,15 Fort :

The Valuer has derived the Fair Market Value of the land of ₹.108,52,06255.00 (including depreciated cost of construction i.e ₹7,84,595/) which is ₹.2,62,595.85/- per Sq. Meter derived by using land and building method. The value of land have been provided for FSI I and Fair Market Value of the land will increase proportional with increase in FSI as finally noticed in the final Master plan and D.C. Regulation of MbPT. As per existing Development plan remarks the subject land comes under CRZ II with Industrial II zone.

The LAC has recommended to accept the fair Market Rate of ₹.262595.85/- per sq.mtr. for FSI=1.0 in industrial zone based on the valuation Report submitted by Avinash Pendse, Govt .Registered Valuer, which is highest rate out of 5 factors. This rate has been de-escalated by 4% so as to arrive at the value as of the year 2017 at ₹ 252092/- per sq.mtr.

Based on the rate above, the SOR at 6% per annum, return would be ₹15,125.52 per Sq.mtr for FSI 1 and ₹ 1262.48 per. sq.meter per month for the period from 01.10.2017 to 30.09.2022 with 4% annual increase every October for land under ready reckoner zone 2/13.

(vi). Ready Reckoner Zone 2/22 - Unit 11 Fort

The LAC has recommended the rate of fair Market Value of ₹.1,91,036/- per sq.,mtr of Built up Area for the Ready Reckoner zone 2/22 of Fort Division for the premises self-occupied by lessees & there is no subtenants in full /part of the building/ premises. The above SOR 2017-22 will be applicable to land only (not to MBPT Structures)

LAC has recommended the Schedule of Rates (SoR) in terms of rental at ₹11,463/- per sq.mtr per annum or ₹ 955.25/- per sqm per month considering 6% of market value i.e. ₹ 1,91,036/- per sq. mtr. The above SoR will be applicable from 01.10.2017 to 30.09.2022 with 4% annual escalation every October, first such increase will be on 01.10.2018.

(vii). Ready Reckoner Zone 17/119, 17/116 Units 14 Mahim:

The valuer has derived the rate of ₹ 2,25,000/- per sq. mtr. on for G+FSI 1.0, the basis of rent capitalization method on basis of three sale instances in vicinity of subject plot. The valuer has opined that the land under reference is under CRZ II and could be developed in terms of regulation no.59 of DC Regulations for Greater Bombay, 1991, hence 15% is to be reduced from the market value rate and valuation is to be done in terms of regulation no.35 of DC Regulations for Greater Bombay, 1991. The highest rate based on five factors for all the plot is ₹1,90,000/- per sq.mtr for FSI 1.0. The said Fair Market value is on entire land of Mahim Bunder.

The LAC has recommended to accept the fair Market Rate of ₹1,90,000/- per sq.mtr. based on the Valuation Report, submitted by Doulatani Consultants Pvt..Ltd. Consultants & Valuers, which is the highest rate out of 5 factors.

Based on the above rate, the SOR at 6% per annum return would be ₹.950/- per sq.mtr. per month. The said SOR would be applicable for the period from 01.10.2017 to 30.09.2022 with 4% annual increase every October for the land under the Ready Reckoner Zone 14/101 for industrial use. The said SOR will apply to all occupied let out land as well as vacant land in RR zone.

4.1. With regard to the proposal of the port, it may be recalled that, this Authority had passed an Order dated 15 March 2000 setting out the legal position about the Authority's jurisdiction in respect of framing scale of Rates and Statement of Conditions for use of port properties.

4.2. The Mumbai Port Trust (MBPT) filed a Writ Petition in the Bombay High Court in April 2000 challenging the Order dated 15 March 2000 and praying, *interalia*, that the Authority has no power to fix rates of those premises belonging to the MBPT and situated outside the port limits.

4.3. The Hon'ble Division Bench of Bombay High Court passed an interim order on 2 May 2000 restraining this Authority from giving effect to the Order dated 15 March 2000 to the extent that the decision taken therein shall not apply to any property or place not within the limits of the port or port approaches.

4.4. The efforts taken by TAMP in the past with the (then) Department of Shipping, Ministry of Surface Transport suggesting to settle the issue whether or not this Authority has jurisdiction over all the properties of a Port Trust through policy direction of the Government rather than by a judicial review did not yield result**.** Since the matter was in the final stage of hearing and there was no response from the Government in this regard, TAMP has engaged a legal counsel to defend the order of 15 March 2000 passed by TAMP in the High Court of Bombay based on the advice rendered by the Senior Counsel.

4.5. In this backdrop, the Ministry of Shipping (MOS) under cover of its letter no. Secy(S)/Visit-Mumbai/Land management/ 2018(333951) dated 25 March 2019 had forwarded a copy of the Minutes of the Meeting held on 21 August 2018 at Mumbai under the Chairmanship of Secretary, MOS with regard to clarifications on the Land Policy Guidelines, 2015. Forwarding the copy of the Minutes, the Way forward forming part of the Minutes indicated that MBPT will withdraw the Writ Petition and Ministry will advise TAMP that consequent to PGLM 2015 read with clarifications dated 14 May 2018, the SOR with effect from 01.10.2012 onwards be fixed by TAMP for all areas of Mumbai Port including Township area.

4.6. In response to MOS letter dated 25 March 2019, we had, vide our letter dated 28 March 2019 *interalia*, communicated to the MOS that TAMP will abide by the directions of the MOS in the matter in reference, with regard to fixation of lease rent/ license fee for the MBPT lands for the period from 01 October 2012 onwards, subject to MBPT withdrawing the Writ Petition.

4.7. In this backdrop, the MOS vide its e-mail dated 16 May 2019 had *interalia*, directed TAMP to fix the SOR for all areas of Mumbai Port including Township Areas with effect from 01.10.2012 onwards, consequent to the Policy Guidelines for Land Management, 2015 (PGLM 2015) read with clarification on PGLM dated 14.05.2018, only after the writ Petition is withdrawn by MBPT. Vide the said letter, MOS requested MBPT to withdraw the Writ Petition no. 1153 of 2000 from the Bombay High Court and intimate the same to the MOS and TAMP.

4.8. In this connection, the MBPT has withdrawn the Writ Petition and the Hon'ble Bombay High Court vide its Order dated 08 August 2019 has passed an Order disposing off the Writ Petition as withdrawn.

4.9. Thus, the MBPT has come up with a proposal seeking approval for schedule of rates and revision of rent / compensation for the period 01.10.2017 to 30.09.2022 for non-home occupations in Township Areas of MBPT. Simultaneously, the MBPT has also filed a proposal seeking approval for schedule of rates and revision of rent / compensation for the period 01.10.2012 to 30.09.2017 for non-home occupations in Township Areas of MBPT, which is dealt separately vide Order No. TAMP/43/2021-MBPT dated 22 October 2021.

5.1. Considering the huge list of registered tenant / lessees as suggested by the MBPT, the MBPT was requested vide letter dated 06 August 2021 to upload subject proposal in its website and intimate to all the registered tenant / lessees about hosting of the subject proposal in the MBPT website and give the designated email address of Port as well as TAMP for furnishing comments within 15 days' time.

5.2. Accordingly, the MBPT has hosted proposal in reference for comments/ opinion of the users/tanents/lessees and has intimated the Tenants/ Lessees about hosting of subject proposal in the website of MBPT.

6. In this connection, large numbers of submissions/ comments have been received from various lessees/ tenants. As intimated by MBPT in its Notice, a copy of the said comments have also been forwarded by the lessees/ tenants/ users to MBPT as well. Accordingly, the MBPT was requested vide letter dated 30 August 2021 to furnish its reply on the issues raised by various lessees / tenants.

7. On initial scrutiny of the proposal of MBPT, it was seen that some information/ clarification are required from MBPT. Accordingly, MBPT was requested vide letter dated 20 August 2021 to furnish some information/ clarification. The MBPT vide its letter No. FA/OEA-L/38(21)/Gen/212 dated 01 September 2021 has responded. The information/ clarification sought and the response of the MBPT thereon is tabulated below:

Sl. No.	information/ clarification sought	Response of MBPT
(i)	As already requested vide letter dated 06.08.2021, the MBPT to furnish a comparative position of the zonewise prevailing/ existing lease rent that is being levied by the MBPT at present to various registered tenant / lessees, vis-à-vis the lease rent that has been proposed by the Port in its subject proposal.	No response furnished by MBPT.
(ii)	In respect of RR Zone nos. 14/101 and 2/22 the separate Valuation Reports as furnished by the MBPT are as of April 2019. In respect of RR Zone no. 17/119, the Valuation Report as furnished by the MBPT is as of June 2019. As such, applying the valuation pertaining to the year 2019, so to determine the lease rent for the period 2017-2022 in respect of the above referred Zones, to be justified. It is noteworthy that in respect of RR Zone 90/419, the valuation pertaining to the year 2019 has been reduced by 4% per annum twice by MBPT, so as to determine the value of land as of the year 2017-18.	a) Valuers were appointed to work out the valuation of plots falling in township areas in different RR zones and they were given two types of tasks to ascertain the market value of vacant plot which can be reserved in the open market and valuation of plot occupied by lessees/tenants or where leases are expired or monthly/15 monthly tenancies or licensees who are occupying this let out land unauthorisedly without any valid extension and such revision in the SoR was due from 01.10.2017 onwards for all occupied lands wherever valuers have given specific reports based on the highest of 5 factors as provided in the para 13 of PGLM 2015 and the same was accepted by LAC and made applicable to all the let out land in the respective RR zones of the

		monthly/15 monthly in the said zones. b) In respect of RR zone 14/101, Dadar Division and RR zone 2/22 Ballard Estate the valuers have considered sales instances of 2017 & furnished SOR valuation to be adopted as on 01.10.2017. c) Port Trust has already adopted a standard format of revising Port Trust rent/ practice of annual increase by 4% in the SoR since 1992 onwards which is also permissible under PGLM 2015. Therefore, considering the same escalation factor, SoR for the year 2017 was worked out by giving reduction in the SoR every year retrospectively. LAC deliberated on this report and their recommendations of reduction in the FMV of the 2019 has been accepted by the Board. This 4% reduction is for every year and therefore for the year 2018-19 was reduced by 4% of the rate for the year 2019-20 and the same rate was further reduced by 4% to arrive at the rate of 2017-18. This has been specifically recommended by the LAC and approved by the Board by TR 87/13.08.2019. d) In respect of RR zone 90/419 Mahul Division the valuer Patwardhan Consultants Pvt. Ltd. was assigned to furnish FMV of one vacant plot admeasuring 7150.23 sq.mtrs vacated by RCF and the said valuer had considered sale instances prevailing in 2019 and vide his report dated 20.12.2019 furnished FMV of Land of ₹.1,30,000/- per sq.mtr. To arrive at the Land Value effective from 01.10.2017 on the analogy as stated above, the FMV of 2019 was reduced by 4% (since yearly escalation is 4%) and thus the value effective from 01.10.2017 worked out to 1,20,192.31 [i.e. 1,30,000 /{(1.04) X (1.04)}].
(iii)	In respect of RR Zone 2/13, the LAC Report pertaining to the said Zone indicates that the LAC has recommended the market value of the said land at ₹ 262895.85 per sq.m and has proposed the lease rent at 6% of the market value of the land at ₹ 1313/- per sq.m per month. The recommendation of LAC has been approved by the Board of MBPT. However, the MBPT in its proposal has proposed a lease rent of ₹ 1262.48 for Zone 2/13 (based on the market value of the land at ₹ 252500/- per sq.m). The reason for proposing a different lease rent in the SOR	Board vide TR 269 of 2019-20 has approved the fair market rate of Rs.2,62,595.85 per sq.mtr. and based on that SOR of Rs.1313/- per sq.m. for the period from 01.10.2018 to 30.09.2022 with 4% annual increase every October was approved for land under RR zone 2/13. The SOR 2017-2022 is applicable from 01.10.2017. Therefore, the SOR as on 01.10.2018 (Rs.1313/- per sq.mtr.p.m. bsed on market rate of Rs.2,62,895.85 per sq.m.) was reduced by 4% in October to arrive at the SoR as on 01.10.2017 (Rs.1262.48/-

	for Zone 2/13 to be explained.	per sq.mtr.p.m. based on market rate of Rs.2,52,500/- per sq.m.).
(iv)	Though a common lease rent has been proposed in respect of RR Zone 17/116 and 17/119, the LAC Report, Board approval and the Valuation Report seen attached to the MBPT proposal are found to be only with respect to the land at RR zone 17/119. The LAC Report, Board approval and the Valuation Report pertaining to RR Zone 17/116 to be furnished.	This pertains to Mahim Division and facts of the case are as under: a). The major portion of Mahim bunder land falls under RR zone 17/119 & a very small portion/one plot having CS no 1392 of land is shown in the RR Zone 17/116 in RR booklet. b) Land rate of RR of zone 17/119 (Rs.121700/-) is more than land rate of the RR Zone 17/116 (Rs.98600/-). No separate valuation report, LAC report & Board approval for RR Zone 17/116 is obtained. The valuer was asked to carry out the valuation of entire land of MbPT at Mahim Bunder and valuer in his report has considered the Mahim Bunder land under RR zone 17/119. Accordingly, Board vide TR 268 of 2019-20 has approved Fair Market Rate of Rs.1,90,000/- per sqm as on 01.10.2017 for the entire land of Mahim Bunder, which includes part of RR zone 17/116. However, inadvertently the said RR zone 17/116 was not covered in the SOR 2012-17 proposal submitted to TAMP for Non-Home Occupation. c) In view of above, to clarify and to avoid any ambiguity/unclarity of land rate/SoR to the plot/area falling under RR Zone 17/116, the land rate/SoR approved by Board for RR zone 17/119 is also applicable to the RR Zone 17/116 & mentioned in proposal submitted to TAMP, as the LAC/Board has approved the land rate of Rs.1,90,000/ for entire land of Mahim Bunder. It is to state that the RR Zone 17/116 of Mahim Division remained to be mentioned in the proposal for SOR 2012-17 submitted to TAMP for Non-Home Occupation. This was brought to the notice of LAC/Board & Board in its meeting dated 24.08.2021 has approved the LAC's recommendations of proposed SOR for Non-Home Occupations for all remaining RR zones not covered in earlier proposal submitted to TAMP for period 2012-2017 (as approved in Para 8 alongwith Annexure-VIII to the Board Note) (Copy enclosed).
(v)	The MBPT has proposed revision of rentals for the period from 01.10.2017 to 30.09.2022 in respect of all the expired leases, 15	a) The proposed revision of rentals w.e.f. 01.10.2017 to 30.09.2022 will be made applicable to only monthly tenancies, 15

	monthly leases, monthly tenancies and licenses falling under the respective Ready Reckoner Zones. In this regard, the MBPT to confirm that the concerned lease / licence agreements entered into by MBPT with the respective lessees / licensees permit / authorize revision of lease / licence fees with retrospective effect. MBPT to also confirm that the lessees/ licensees had been well aware that the lease rent / licence fees was due for revision retrospectively.	monthly leases, expired leases and licenses, with retrospective effect. These parties were made aware by Circular No.EM/ASG/F-361/5873 dated 28.12.2012 whereby it was informed to all the lessees, tenants and occupants that revision of compensation / rent in respect of all the leases / tenancies excepting subsisting long term leases of Port Trust premises is due from 01.10.2012 onwards. They were also informed that the lessees, tenants and occupants will be informed about the revised letting rates, rates of compensation, in due course of time. Also, all the monthly tenants/fifteen monthly leases and expired lessees and tenants are billed as provisional compensation rates with footnote clearly indicating as follows – “THIS BILL IS PROVISIONAL AND WITHOUT PREJUDICE TO THE BOARD’S RIGHTS AND CONTENTIONS TO REVISE RENT/COMPENSATION w.e.f. 01/10/2012” (Sample copies of bills for each Monthly Tenancy, Fifteen Monthly Lease and Long Lease with footnote is furnished.) b) However, since all the running leases, i.e. leases which are not yet expired & where there are no breaches, such cases are excluded from the application of proposed revision of SoR for rental / compensation since the existing agreement / terms & conditions do not permit such revision in the subsisting period of the lease. In case of monthly tenancies, 15 monthly leases, expired leases and licenses, since the original lease term has already been expired and the parties have continued & unauthorisedly occupied Port Trust land without any valid extension of their occupation. Therefore, all such parties are liable to pay compensation for renewal use of the premises as per the letting rates / compensation rates as determined by the Port or as per the applicable policy laid down by the Ministry of Shipping, GoI for the Ports, i.e., PGLM 2014/2015 w.e.f. 01.10.2012 date, when the Wadia Judgment Rates cease to apply. Therefore, this revision has been effected to all the monthly tenancies, 15 monthly leases, expired leases and licenses from 01.10.2012 onwards. For all prior period from 01.10.2012, Wadia Judgement rates have been applicable and are already billed.

		c) In terms of Clause 13(c) of PGLM 2015 the SOR would be refixed once in every 5 years by TAMP. Therefore, the revision of SOR 2012-2017 was due for revision w.e.f. 01.10.2017 for the period 01.10.2017 to 30.09.2022 & therefore the SOR as may be approved by the TAMP for respective period will be applicable.

8. 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 03 September 2021 through Video Conferencing. The MBPT makes a power point presentation of its proposal. At the joint hearing, the MBPT and the users/ tenents/ lesees have made their submissions.

9.1. As decided during the Joint Hearing, the MBPT was requested vide letter dated 9 September 2021 to host the powerpoint presentation in its website and inform all the concerned tenants/ lessees/ users about hosting of power point presentation in its website and also request them to furnish their comments/ submissions/ additional submissions on MBPT proposal/ presentations in reference, to TAMP as well as to MBPT.

9.2. The MBPT has hosted its presentation on its website on 08 September 2021 and has also intimated to all the concerned tenants / lessees/ users about hosting of power point presentation in its website.

9.3. In this connection, we have received large numbers of submissions/ comments from various lessees/ tenants/ users on the subject proposals/ power point presentations. As intimated by MBPT in its Notice, a copy of the said comments have also been forwarded by the users to MBPT as well. In the instances, where the comments were sent to TAMP only, the said comments were forwarded to MBPT for its feedback information vide our letter dated 24 September 2021.

9.4. As such, the MBPT was requested vide letter dated 24 September 2021 to furnish its comments on the comments received from the lessees/ tenants/ users directly. The MBPT was intimated that where the individual lessees/ tenants/ users have made same / similar comments and raised similar issues, a common reply on such similar issues may be furnished by MBPT. However, in the instances, where the users/ tenants/ lessees have given specific comments, then such comments are to be specifically addressed by MBPT. Thus, the MBPT was requested to ensure that none of the users/ tenants/ lessees comments remain unaddressed.

9.5. In response, the MBPT vide its letters/emails dated 11 October 2021, 13 October 2021 and 14 October 2021 has responded to the comments/ observations of the lessees/ tenants/ users. The MBPT has further stated that the replies are without prejudice to its rights and contentions in the pending litigation and terminations notices served and MbPT's rights to take legal action against breaches /violations under the applicable laws/lease/Tenancy terms and to take further action as per applicable laws stipulated under PGLM Guidelines / directives issued by Ministry and as may be decided by the Board of Trustees of Port of Mumbai from time to time.

10.1. During the consultation process relating to the case in reference as well as during the joint hearing, all the tenants / lessees/users have raised serious concerns on the following major grounds and have vehemently objected to the proposal of MBPT for increasing the rentals during the period from 01.10.2017 to 30.09.2022:

(i). the revision of rent are exorbitantly high when compared to the rentals based on the Supreme Court judgement.

(ii). Fair Market Value arrived by the MBPT Valuer is not on scientific basis.

(iii). Enhanced rent should not be collected retrospectively as the delay in revision of SOR is on account of MBPT.

(iv). Due to the COVID-19 pandemic and the lockdowns, all business have gradually decreased. Hence, the lessees are not in a position to make payment of the proposed revision of SOR.

10.2. In light of the above observations of the users/tenants/lessees and since the rentals based on the Valuer's Report has been vehemently objected by all the lessees, the MBPT was requested vide letter dated 29 September 2021 to have a relook of its proposal, so as to explore other factor (i.e. Ready Reckoner Rate, being the only other factor adopted by MBPT) to determine the rentals for the said areas and to convey its decision on the matter. This was followed by a reminder dated 04 October 2021**.**

10.3. In this regard, the MBPT vide its letter dated 07 October 2021 has conveyed that due to paucity of time and delay in taking approval of the Board of MBPT, it is difficult for MBPT to take a reasoned review of the proposal submitted to TAMP. Accordingly, the MBPT has conveyed that the TAMP is at liberty to take appropriate decision on the matter. The MBPT has also furnished its summarized response on the common issues raised by the lessees/tenants/stakeholders, which are given below:

(i). Present monthly rental are as per valuation report of 1980's which are no way comparable with present market rate.

(ii). SC judgment rates were valid only for 20 years i.e. from 01.10.1992 to 30.09.2012.

(iii). From 01.10.2012 onwards PGLM 2010, 2014-15 guidelines issued by Mos GOI are applicable to MbPT and MbPT is free to revise the rentals on the SOR based on PGLM guidelines. Thus the SOR proposed by MbPT at 6% per annum is fair, reasonable and MbPT is well within its rights to revise the rents/ compantation w.e.f. 01.10.2017 onwards as per the proposed SOR.

(iv). Zone wise Comparative Statement shows the land values as of 1980's as considered by the Kirloskar consultant in their valuation report and approved by the Board vis-à-vis land values as on 2017. Average Kirloskar land values of ₹.1406/- per sqm for FSI 1.33 has increased to Rs.1,75,718/- per sqm for FSI 1.00 as on 2017, i.e. increase of almost 125 times of the land values of 1980's.

(v). Rentals as per Supreme Court Judgement dt. 13.01.2004 as on 01.10.2017 was on an average of ₹.35/- per sqm per month for FSI 1.00 which will be revised to on an average of Rs.878 per sqm per month (175178*06/12) for FSI 1.00 i.e. increase by almost 25 times.

(vi). The land values in the Ready Reckoner Zones of MbPT lands are varying from Rs.19,400 to Rs.2,80,000 and average value works out to ₹.1,50,000, whereas land rates of Ready Reckoner Zones outside MbPT lands varies between ₹.19,400 to Rs. 3,77,200 and average value works out to ₹.1,98,000 Considering the mean value (RR 2017) of is ₹.1,74,000 for lands in MbPT area and outside MbPT area. The MbPT valuers have recommended FMV which are average of ₹.1,75,718 for lands which ranges between ₹.53,820 to ₹.3,31,600.

(vii). In fact, MbPT had fixed rent as 10% return on Kirloskar land values with 4% every year from 01.10.1994 onwards in terms of Supreme Court Wadia Judgment. However, the rental returns from 01.10.2017 onwards will be just 6% of the FMV given by valuer in MbPT estate areas.

(viii). For determining SoR for 2017-2022 MbPT had engaged Govt. approved valuers on panel and entrusted the work of valuation of MbPT land as per the jurisdiction of RR zones. The SoR rates are based on the laid down procedure under para 13 of PGLM 2015, and the same is recommended by the LAC and approved by the Board and further submitted to TAMP for approval.

(ix). The para 13 of PGLM 2014 clearly states that the highest of 5 factors for determination of rentals on Major Port Trust land i.e.(i) State Gove. RR (ii) Average rate of actual transactions registered in last 3 years in the Port vicinity (iii) Highest accepted tender of Port land for similar transactions (iv) Rate Arrived at by an approved Valuer appointed for the purpose of the Port (v) Any other factor.

(x). Based on LAC recommendations Board approved the said revision of SoR rates for respective zones for Monthly, Fifteen Monthly Lease (FML), Expired Leased, licenses and vacant plots (for fresh allotment) falling in the respective RR Zones.

(xi). Exiting low rentals based on Wadia judgments and very high market rentals leading to profiteering and exploitation of MbPT land by unauthorized subletting/s constructions, u/a change of users/a transfers in violations of the tenancy/lease terms. Thus it is the lessees and tenants who have committed the violation of SC judgment and the tenancy terms are taking shelter under Wadia judgment.

(xii). SC judgement is not a license in perpetuating or allowing lessees tenants to go on committing breaches indefinitely but restricting the MbPT rights to charge rentals based on 1980's land values. This is unfair and absurd proposition and thus MbPT has not violated SC judgment but have followed the guidelines issued by MoS, GoI which are mandatory and binding MbPT under section 111 of MPT act 1963.

(xiii). In cases of subletting, assignment etc., by the tenants of the Port Trust ought not to be allowed to profiteer at the cost of the public exchequer and any tenant who has sublet or assigned his premises does not in any event, deserve any sympathy from this Honourable Authority.

(xiv). The lessees/ tenants are occupying MbPT land without any authorization from MbPT and even after expiry of the leases/termination of tenancies/lease.

(xv). Bills are sent along with footnote "THIS BILL IS PROVISIONAL AND WITHOUT PREJUDICE TO BOARDS RIGHTS AND CONTENTION TO REVISE THE RENT/COMPENSION W.E.F 01.10.2012.

(xvi). Circular No.EM/ASG/F-361/5873 dated 28.12.2012 vide which it was informed to all the lessees, tenants and occupants that revision of compensation/ rent in respect of all the expired leases, monthly tenancies and fifteen monthly tenancies and licenses/tenancies expecting subsisting long term leases of Port Trust premises is due from 01.10.2012 onwards. Delay in submission of SOR proposal to TAMP was on account of the fact that PGLM 2014/15 were not applicable to Township area of Mumbai Port Trust.

(xvii). Vide clarification no 1 of 2018 dated 14.06.2018 issued under sec 111 of MoS, GoI extended the PGLM 2015 guidelines to the Township area. As per the said guideline SoR was to be determined as per the highest of five factors and TAMP has to notify the SoR for the Township areas. Matter was taken up with the Ministry for withdrawal of notification dt.15.03.2000. MoS, GoI vide their letter no secy(s)/visit-Mumbai/land management/2018 (333915) dated 15.05.2019 directed TAMP to fix the SoR for Mumbai port Trust w.e.f. 01.10.2012 onwards. Accordingly TAMP vide their letter dated 15.07.2019 issued a clarification that in view of PGLM 2015 guideline the TAMP notification 28.03.2000 has become infructuous so far as MbPT is concerned and it is not applicable for MbPT for period prior to 01.10.2012 and same may be treated as withdrawn by the TAMP. High Court Writ petition no 1153 of 2000 filed by MbPT challenging TAMP notification was withdrawn vide HC order dated 08.08.2019. Accordingly immediately after Board approval the said proposal was submitted to TAMP on 04.08.2021.

(xviii). Revision of SoR was due from 01.10.2017 which was prior to Covid-19 pandemic. No legal provision or directions from government of India for granting concessions and relaxations during pandemic time. Delhi high court judgment dated 21.05.2020 states for no excuse in Payment of rental and no concession in rental charges. RAMANAND & ORS… Appellants versus DR.GIRISH SONI & ANR…. Respondents, JUSTICE PRATHIBA M.SINGH on CM APPL.10848/2020.

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

12. Further, vide the above referred letter dated 29 September 2021, the MBPT was also requested to furnish some clarification on few points. The MBPT vide its letter No. EM/ASG/F-382/1346 dated 07 October 2021 has responded. The information sought from MBPT and the response of MBPT thereon is tabulated below:

Sr. no	Additional clarification / observations made by us	Response of MBPT
(i)	The MBPT vide its letter No.FA/OEA-L/14(17)/Gen/176 dated 06 August 2021 has filed a proposal for fixation of Schedule of Rates and revision of rent / compensation for the period 01.10.2012 to 30.09.2017 for non-home occupations in Township Areas of MBPT for 23 RR Zones. Out of 23 RR Zones, the MBPT has sought revision for 19 RR Zones for a period of 2017-2022 vide its proposals dated 03 August 2021 and 22 September 2021. As such, the MBPT has not sought revision of SOR for the period 2017-22 for 4 RR Zones viz.16/110, 1/6, 96/436 and 26/81. With regard to 4 RR Zones covered in the proposal for fixation of SOR for the period 2012-17 and not proposed for revision for the period 2017-22, the MBPT to clarify the reasons for not proposing the revision of SOR for the period 2017-22 for the said 4 RR Zones.	(a) Regarding Zone No.16/110, 1/6 and 96/436: LAC and Board's approval has not yet been obtained for SoR 2017-2022 and the same shall be submitted after approval of LAC / Board. (b) Regarding Zone No.26/81 (Titwala): This is vacant land without any tenancy. TAMP has already approved the SoR vide TAMP order dated 16.03.2021 notified in the Gazette of India No.165 dated 12.04.2021 for the period 01.10.2020 to 30.09.2022. Therefore, it is not included in the present proposal SoR 2017-2022 and the same shall be submitted after approval of LAC/Board.
(ii)	Further, the MBPT has also sought for fixation for SOR for additional 7 RR Zones viz.2/13, 14/101A, 11/84A, 10/78A, 3/33B, 1/4 and 1/3A in its proposals dated 03 August 2021 and 22 September 2021 which are not included in the proposal for fixation of SOR for the period 2012-17. In this regard, the MBPT to confirm that no lease/ tenancy has been granted during the period from 01.10.2012 to 30.09.2017 for the additional 7 RR Zones covered by MBPT in the proposals dated 03 August 2021 and 22 September 2021.	(a). Out of the seven zones mentioned therein, the RR Zone No.14/101A and 1/3A were not in existence in the RR 2012 Government Maharashtra Publication and, therefore, was not included in SoR 2012-17 proposal. However, the leasehold/tenancy plot covered in these zones were included in RR Zone 14/101 and 1/3 respectively of the SoR 2012-17. (b). Regarding RR Zone No.2/13: SoR Proposal for 2012-2017 was approved by LAC and Board vide TR No.153 of 2021, was submitted to TAMP on 23.09.2021. The said proposal No.1 regarding left out RR Zones are included viz: 17/116, 1/5 & 2/13. (c). Regarding RR Zone No.11/84A, 10/78A, 3?33B (3)/33B RR Zone needs to

		be corrected as 3/35B instead of 3/33B), 1/4; Covering existing leases and tenancies remained to be included in both SOR 2012-17 & 2017-22 & same shall be submitted after approval from LAC/Board. (d). Also 11/84B, 11/84E, 13/97, 7/64, 7/66 whose valuation was left out (2012-17 and 2017-22) is also being submitted for approval of LAC & Board.

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

(i). The Mumbai Port Trust (MBPT) has large portions of land in the City of Mumbai. It is to state that the lease rentals for the Port estates was last fixed by the MBPT in the year 1982 i.e. more than a decade and a half, before this Authority had come into existence in the year 1997. From the submissions made by MBPT, it is understood that the revision of lease rentals carried out by the MBPT in the year 1982, gave rise to litigations, which eventually culminated in the Supreme Court passing an Order, wherein the lease rentals approved by the Board of Trustees for the lands of MBPT for the period from 1982 upto 30 September 2012 as per the Compromise formula, had been upheld by the Hon'ble Supreme Court of India. As such, the Government has advised the MBPT in May 2019 to fix the SOR for all areas of Mumbai Port including Township areas with effect from 01 October 2012 onwards. It is in this backdrop that the MBPT has come up with two different proposals seeking retrospective fixation of lease rentals for Schedule of Rates and revision of rent/ compensation for non-home occupations in Township Areas of MBPT for the quinquennial period from 01 October 2012 to 30 September 2017 and for the period from 01 October 2017 to 30 September 2022. The subject proposal deals with the quinquennial period from 01 October 2017 to 30 September 2022.

(ii). In this connection, we have received numerous representations from various individual tenants/ lessees strongly objecting to the fixation of the lease rentals from 01 October 2017 to 30 September 2022, on the ground that there is no provision under the Major Port Trusts Act, 1963, permitting MBPT to charge the rent retrospectively. It has also been stated that retrospective revision will be highly destructive for all the occupants and it is likely that the same may be challenged in Court of law. Some lessee/ tenants have also stated that the retrospective revision would act as a financial shock to their business and it will be very difficult for them to sustain it financially. Further, considering the adverse impact that the COVID-19 pandemic had on the business, it has been stated that the retrospective revision and the payment of arrears thereon, would further strain the financial condition of the lessees/ tenants.

As pointed out by the lessees/ tenants, there is no provision under Major Port Trust Act, 1963, permitting MBPT to charge the rent retrospectively. But, at the same time, it is to be noted that the Major Port Trust Act, 1963, also does not prohibit retrospective revision of rates. In this context, it is noteworthy that this Authority also does not ordinarily give retrospective effect to the Order. But, in cases governed by special circumstances, it does require retrospective application of its Order. There are various instances, where this Authority has fixed the rates retrospectively.

To quote some few instances, in a case relating to an agreement between New Mangalore Port Trust and the Kudremukh Iron Ore Company Ltd., on the advice of Ministry of Law, the (then) Ministry of Surface Transport had vide its Communication No. PR-14011/5197-P4 dated 16 March 1998 advised this Authority to give retrospective effect. Similarly, based on a proposal received from MBPT, retrospective effect was given for recovery of way leave charges leviable as per the agreement between ONGC and MBPT. Also, based on a proposal received from MBPT, this Authority vide its Order no. TAMP/62/2019-MBPT dated 08 September 2020 has retrospectively approved levy of way leave charges for the pipelines for a period of 5 years from 01 October 2012 and upto 30 September 2017.

Further, it is to state that this Authority had passed an Order no. TAMP/15/2007-NMPT dated 16 June 2010 revising the lease rentals/ licence fee of the lands of New Mangalore Port Trust (NMPT), retrospectively with effect from 20 February 2007 i.e. on expiry of 5 years from the effective date of the implementation of the previously revised rates. The said Order was notified in the Gazette of India on 23 July 2010 vide Gazette no. 184. A batch of Writ Petitions were filed in the Hon'ble High Court of Karnataka by various parties mainly challenging the retrospective revision of the lease rentals. The Hon'ble High Court of Karnataka vide its Order dated 28 June 2013 has disposed of all the Writ Petitions. The Hon'ble High Court at paragraph no. 16 of the Order has stated the following:

"*There cannot be any dispute that collection of enhanced licence fee with retrospective effect is illegal as held by the Apex Court in the case of LALA RAM (D) by L.R. & ORS. – vs – UNION OF INDIA & ANOTHER reported in 2013 SAR (Civil) 347. But if the authority at the inception itself has made it clear to the licensees that what is being charged is only a provisional licence fee after approval by the TAMP, the action of the NMPT cannot be said to be illegal. At the time of issuing the licence itself as well as the time of renewal of licence, it has been made clear by the NMPT that it has proposed revision of licence fee to the TAMP and till such time only provisional licence fee will be charged and that licensees will have to pay the revised licence fee after approval of the TAMP. The licensees having agreed for the said conditions, entered into the contract. Therefore it is not open for the licensees to go against the terms of the contract and contend that it is not open for the authorities to charge licensees revisional licence fee from 20.2.2007. In view of the above, the challenge to the Circular pertaining to revision of licence fee w.e.f. 20.2.2007 vide Annexure-H fails.***"**

In this context, in the proceedings relating to the case in reference, the MBPT has categorically stated that it had intimated all the stakeholders by way of a Circular issued in December 2012 itself that the way leave charges are due for revision from 01 October 2012 onwards. The MBPT has also stated that even in the bills raised by the MBPT for the tenants/ lessees, it has been indicated by way of a footnote that the bill raised by MBPT is provisional and is subject to revision with effect from 01 October 2012.

Incidentally, reference is also drawn to the Order passed by the Gujarat High Court in March 2017, wherein the Hon'ble High Court of Gujarat has taken a view and held that TAMP would consider the proposal and follow the prescribed procedure including inviting suggestions and comments from stakeholders. The determination of Scale of Rates would take place thereafter and that because of very nature of this exercise, when the actual demand would be raised, it would relate to past period. It is the retroactiveness and not retrospectiveness. A retroactive operation of demand would not make it unsustainable in the given set of facts. Thus, the Gujarat High Court had held a view that the ground that the demand is retrospective is, therefore, prima facie not tenable.

Under these circumstances and for the reasons given in the earlier paragraphs, the proposal of the MBPT for recovery of Lease rentals for the 07 Ready Reckoner Zones for non-home occupations in Township Areas of MBPT for the period 01 October 2017 to 30 September 2022, is taken up for consideration.

(iii). It has been repeatedly brought out by various tenants/ lessees that the revision as proposed by MBPT is contrary to the guidelines passed by the Hon'ble Supreme Court in the matter of Jamshed Hormusji Wadia vs. The Board of Trustees of the Port of Bombay, on the ground that the Hon'ble Supreme Court had upheld the "Compromise Proposals" mooted by MBPT themselves and considerably reduced the rent and interest burden on the lessees. The lessees have also stated regarding MBPT reportedly not adhering to the Compromise proposal and resultantly some Writ Petitions being still pending before the Hon'ble High Court of Bombay. Considering that the matter is subjudice, the tenants/ lessees are of the view that the question of proposed revision of SOR for the period of 2012 to 2017 and beyond, does not arise.

In this regard, it is to state that, based on the Order passed by the Hon'ble Supreme Court in the matter of Jamshed Hormusji Wadia vs. The Board of Trustees of the Port of Bombay in January 2004, the compromise proposal covered the revision for two period spans i.e. one for the period from 01 October 1982 to 30 September 1992 and the other for the period from 01 October 1992 to 30 September 2012. Thereafter, as rightly brought by the MBPT, the MBPT has the liberty to fix the lease rentals, albeit based on the Land Policy Guidelines issued by the Government. Infact, it is relevant to mention here that the 'Compromise formula' as upheld by the Hon'ble Supreme Court allowed the port to review and revise the letting rates after 20 years (i.e. from 01 October 1992 to 30 September 2012), for good and sufficient reasons. As such, the Government has advised the MBPT in May 2019 to fix the SOR for all areas of Mumbai Port including Township areas with effect from 01 October 2012 onwards. The MBPT in its proposal has brought out in detail, the chronology of the events, which eventually has led to the submission of the present proposal under reference. Nevertheless, as a measure of abundant caution, it can be presumed that the MBPT, as a statutory body, would have kept in view the pending litigations and would have carried out due diligence on its part, before approaching this Authority with the subject proposal. Thus, the proposal filed by MBPT now for revision of rent / compensation for the period 01 October 2017 to 30 September 2022 for non-home occupations in Township Areas of MBPT, is being treated in isolation, without getting influenced by the past revision of lease rentals or the pending writ petitions.

(iv). During the proceedings, numerous requests have been received from the various tenants/ lessees seeking more time for submitting the comments. In this regard, it is to state that Clause 18(c) of the land policy guidelines of 2014 stipulates a time period of 45 days for notifying the market value of land based on the proposal filed by the concerned port trust after following the usual consultation process. Considering the timeline as stipulated in the Land Policy Guidelines, a time period of two weeks was given to all the lessees/ tenants to submit their comments. Also, even after the joint hearing, keeping the interest of lessees/ tenants, they were again given two weeks time to make their submissions. In this backdrop, it is to state that sufficient time has been given to the users/ tenants to make their submissions/ give their comments.

(v). A joint hearing on the case in reference was held on 03 September 2021. Subsequent to the joint hearing, we have received numerous references wherein the tenants/ lessees have made a request for another personal hearing to be accorded to them, on the ground that they were not able to make their submissions during the joint hearing. In this regard, as already stated above, Clause 18(c) of the land policy guidelines of 2014 stipulates a time period of 45 days for notifying the market value of land based on the proposal filed by the concerned port trust after following the usual consultation process. Considering the timeline as stipulated in the Land Policy Guidelines, it needs to be appreciated that it was not feasible to grant individual personal hearing to all the large number of lessees/ tenants, as requested by them. Nevertheless, even after the joint hearing, an additional opportunity was given to all the lessees to make their written submissions within two weeks, during which numerous lessees/ tenants have given their written submissions and which have been duly brought to the notice of this Authority. Thus, it is to state that the proposal of MBPT has not been dealt in a hasty manner and the decision of this Authority has been taken, after following the due consultation process and after following the principles of natural justice.

(vi). Many of the tenants/ lessees have brought out issues relating to their particular tenancies viz., non-renewal of lease agreements, non-transfer of lease in the name of heirs, non-issuance of bills/ invoices by MBPT to lessees/ tenants etc. Even the MBPT has highlighted issues about the tenants committing breaches in their properties/ sub-letting without knowledge of MBPT and pocketing the sub-let rentals/ depriving MBPT of its rightful share/ encroachments/ carrying unauthorized constructions etc. In this regard, it is to state that this Authority is mandated under Section 49 of the Major Port Trusts Act, 1963, to frame Scale of Rates (SOR) at which, and the statement of conditions under which any property belonging to, or in possession or occupation of the Board or any place within the limits of the port approaches may be used for the purposes specified u/s 49 of the Act. As such, this Authority is required by the Act to fix the lease rentals for the port estates. Matters relating to tenancies are in the domain of the Port. This Authority has no role to play on the said matters. As such, the tenants/ lessees are advised to approach the MBPT in matters relating to their tenancies. The MBPT is also advised to look into the grievances of the tenants/ lessees and take earnest steps to sort out the issues amicably.

(vii). The MBPT has filed its proposal in August 2021. The said proposal alongwith the submissions made by the tenants/ lessees and the information/ clarification furnished by MBPT during the processing of the case, is considered in this analysis.

(viii). The lessees/ tenants have extensively quoted the observations made by the Hon'ble Supreme Court in the case of Dwarkada Marfatia & Sons v/s Board of Trustees of Port of Bombay, Baburao Shantaram More v/s The Bombay Housing Board, Ratti Ji Kapadia v/s State of Maharashtra etc., so as to put forth their point that the MBPT is not expected to behave like an ordinary landlord with arbitrariness or capriciousness and indulge in rack renting, profiteering and indulging in whimsical or unreasonable bargains but is expected to behave fairly and in a reasonable manner, so as to determine the rentals.

In this regard, it is to state that 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 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 of Shipping has issued amended Land Policy Guidelines, 2014 under Section 111 of the MPT Act, 1963 for implementation with effect from 17 July 2015. The subject proposal of MBPT seeking revision of lease rentals for the period from 01 October 2017 to 30 September 2022 is based on the provisions of the amended Land Policy Guidelines for Major Port Trusts, 2015, as issued by the Government of India in the then Ministry of Shipping (MOS).

(ix). 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). Accordingly, the MBPT has reported about constitution of a Land Allotment Committee (LAC) headed by the Dy. Chairman of the Port and the Heads of Departments of Finance, Traffic and Estate being the other members.

(x). (a). 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 may normally take into account the highest of the factors mentioned therein, viz. (i). State Government ready reckoner of land values in the area if available for similar classification/ activities, (ii). Highest rate of actual relevant transactions registered in the last three years in the Port's vicinity 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 may be 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.

(b). In connection with the Valuation as per various methods as stipulated in the Guidelines, the LAC based on the Valuation Report has analysed the market value of the lands based on the factors as listed in the Land Policy Guidelines and has recommended to choose the highest amongst all the market values of land so determined for all the 07 Ready Reckoner (RR) Zones forming part of the subject proposal.

(c). 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 MBPT at 6% of the market value of the land i.e. highest of the market value amongst all the factors as for the year 2017 for all the 07 Ready Reckoner (RR) Zones forming part of the subject proposal.

(d). A summary of the market value of the lands determined under various factors for all the RR Zones and the lease rentals at the rate of 6% per annum as proposed by the MBPT thereon is tabulated below:

Sr.No	Ready Reckoner Zone	Market Value of land as per State Government Ready Reckoner per Sq.Mtr. (in ₹.)	Market value based on highest sale transaction per Sq.Mtr. (in ₹.)	Market value based on Tender cum Auction per Sq.Mtr. (in ₹.)	Market Value as determined by Valuer per Sq.Mtr. (in ₹.)	Market Value as recommended by LAC and approved by board of MBPT as on 01.10.2017 per Sq.Mtr. (in ₹.)	Lease rent @ 6% return per annum as on 01.10.2017 per Sq.Mtr. per month (in ₹.)
A.	B	C	D	E	F	G	H = G x 6% / 12
1.	14/101	40,200/-	1,15,000/-	-	1,15,000/-	1,15,000/-	575.00
2.	90/419	19,400/-	47,318/-	-	58,213/-	53,820/-*****	270.00
3	10/79	69,700/-	-	-	1,71,310/-	1,71,310/-	856.55
4	10/80	27,100/-	-	-	1,70,240/-	1,87,700/- ******	938.50
5	2/13	1,83,100/-	-	-	2,62,596/-	2,52,500/-*******	1262.48
6	2/22	1,01,300/-	1,91,036/-	1,46,514/-	1,43,277/-	1,91,040/-	955.18
7	17/119, 17/116	98,600/-	-	-	1,90,000/-	1,90,000/-	950.00

***** Market value as derived by Valuer as of the year 2019 at ₹ 58,213/- per sq.m has been de-escalated twice by 4% per annum by the LAC, to arrive at the market value of ₹ 53,820/- per sq.m. as of the year 2017.
****** Instead of the Market value as determined by the Valuer at ₹ 1,70,240/- per sq.m, the LAC has decided to adopt the market value of the land at ₹ 1,95,204/- per sq.m., as determined by the Valuer then in the year 2018 relating to the proceedings relating to the Order No. TAMP/72/2018-MBPT for the workshop area to be allotted to MDL and de-escalate it once by 4% per annum, to arrive at the market value of ₹ 1,87,700/- per sq.m. as of the year 2017.
******* Market value as derived by Valuer as of the year 2018 at ₹ 2,62,595/- per sq.m has been de-escalated once by 4% per annum by the MBPT, to arrive at the market value of ₹. 2,52,500/- per sq.m. as of the year 2017.
# All the rates for land values have been rounded off to the nearest 10 rupees.

As brought out above, the LAC for the reasons as documented in its Report has recommended to determine the market value of the land, based on the highest of the market value determined based on the various factors as listed in the Land Policy Guidelines and has recommended lease rentals thereon. The Board of Trustees of MBPT has also approved the lease rentals as per the recommendations of the LAC and the same has been proposed by the Port in its proposal.

(xi). In this connection, all the individual tenants/ lessees who have been taken on consultation in the case in reference have strongly objected to the lease rentals proposed by the port on the ground that the proposed rentals are manifold times higher than the current rentals that are being paid by the tenants/ lessees. The tenants/ lessees have also questioned the Valuation undertaken by the Valuer/(s), based on which the subject proposal has been formulated by MBPT. Further, given that the rentals is being fixed retrospectively, the tenants/ lessees fear for the arrears that would get accumulated on account of the proposed revision. Also, given that post the COVID-19 pandemic, the global economy is just struggling back to normalcy, any retrospective revision is stated to cause a huge financial shock to the tenants/ lessees. The tenants/ lessees have also submitted that they have been duly paying their rentals and taxes on time and as such, they should not be subjected to the increase in rentals as proposed by the MBPT. The tenants have also stated that since the land allotted by MBPT lacks basic facilities/ necessities, the MBPT should not go ahead with increasing the rentals and that the port should continue with the rentals based on the 'Compromise formula' as upheld by the Hon'ble Supreme Court.

In this context, it is relevant here to mention that the Land Policy Guidelines issued by the Government, requires the lease rentals to be revised every five years based on the prevailing market value of the land. The 'Compromise formula' as upheld by the Hon'ble Supreme Court allowed the port to review and revise the letting rates after 20 years (i.e. from 01 October 1992 to 30 September 2012), for good and sufficient reasons. The market value of the land is bound to go up particularly in a metropolis, with the passage of time. Moreover, in a city like Mumbai, where land is an extremely scarce resource, the rentals show an increasing trend on a year on year basis. Further, it is noteworthy that the rentals which had been paid by the tenants/ lessees during the years 2017 till date is based on the 'Compromise formula' as upheld by the Hon'ble Supreme Court. This 'Compromise formula' was not based on the then prevailing market value of the land, but was fixed at a lower level. Given that the base of the rentals fixed then was lower, even with the 4% increase in rentals per annum, the resultant rental that prevailed in the year 2017 (and based on which the tenants/ lessees have paid rentals to MBPT) is substantially lower than the rental that has been determined for the year 2017 now based on the market value of the land. Given that the rentals for the estates of MBPT is being determined based on the market value of the land following the stipulations contained in the Land Policy Guidelines, the lease rentals are bound to go up, when compared to the existing lease rentals being paid by the tenants/ lessees, which are not based on market value of the lands. It is noteworthy that the MBPT has framed its proposal following the Land Policy Guidelines and thus, the hike in the lease rentals is inevitable.

As regards objection to the Valuation of the port land as carried out by the Valuer, it is noteworthy that Valuation of the port land is in the domain of the port and as such not within the purview of this Authority. This Authority does not have the technical expertise to delve deep into the Valuation aspects. The Land Policy Guidelines requires this Authority to fix the rentals based on the proposal filed by the port.

As regards the quantum of increase proposed by MBPT, owing to the huge objections made by the tenants/ lessees vide their written submissions as well as during the joint hearing, the MBPT was given an opportunity, subsequent to the joint hearing, to review its proposed rentals. But, the MBPT has expressed its inability to review the rentals.

Given that the proposal of the port for fixation of lease rentals is based on taking into account the Fair Market Value (FMV) of land based on highest of the 5 factors (for base rate for FSI 1.00) based on the stipulations contained in the Land Policy Guidelines 2015, and has been recommended by the LAC and also has been approved by the Board of Trustees, and also as this Authority is bound by the Land Policy Guidelines, 2015, this Authority approves prescription of the lease rentals for 07 Ready Reckoner Zones for non-home occupations in Township Areas of MBPT for the period 01 October 2017 to 30 September 2022, as proposed by the port.

Some tenants/ lessees have put forth an argument that given that the MBPT has been increasing the rentals at the rate of 4% per annum, the question of MBPT now proposing increase in rentals does not arise. In this regard, it is to state that, like any other products, increase in rentals per annum is to meet the rising inflationary costs. But in the case in reference, the base of the rental is being reviewed, so as to bring it to the level of market value of land that had prevailed in the year 2017.

Given that the lease rentals are being enhanced for MBPT, the MBPT, in consultation with the tenants/ lessees, is advised to look into the requirements of the basic amenities/ infrastructure/ facilities in the leased/ licensed plots, and take steps to make them available to the lessees/ tenants.

Further, considering that the lessees/ tenants will have to pay the arrears for the period 2017 till date and given that the economy is just coming back to normalcy, after it was hit by the COVID-19 pandemic, the MBPT is advised to grant a longer period of time to the lessees/ tenants, to pay the arrears of rent pertaining to the period beginning from the year 2017.

(xii). 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%. Accordingly, the MBPT in its proposal has indicated that the lease rental as fixed for the year 2017-18 will be subject to 4% annual escalation. However, no note is seen to have proposed by the port in the matter. Thus, a note is, therefore, prescribed in the Schedule stating that the lease rent is subject to an increase @ 4% p.a. and that first such increase shall be effective from 01 October 2018.

(xiii). Clause 13 (C) of the amended Land Policy Guidelines, 2014 stipulates that the rates will be revised once in every five years by the Authority. Since the rental is being prescribed with effect from 01 October 2017, accordingly, a note is being prescribed in the Rent Schedule that the annual lease rentals may remain in force for a period of five years thereon.

(xiv). The MBPT has proposed a note to the effect that rent will be worked out on the basis of actual Built- Up Area, subject to minimum of FSI 1.00. Given that the base lease rent approved by this Authority shall remain intact and would be only proportionately increased based on the FSI, this Authority is inclined to approve the note as proposed by MBPT in this regard.

(xv). The MBPT has proposed another note to the effect that the rates are exclusive of all Taxes (GST, Municipal Taxes, etc.), Service Charges, Penalties, and Interest etc. and that the same are separately payable by lessees/ tenants/ licensees, as may be applicable. In this regard, it is to state that the tariff approved by this Authority is exclusive of any taxes and statutory duties. The taxes and statutory duties are to be levied by the Port at the applicable rates on the tariff so approved by this Authority. In view of this position, the note as proposed by the Port is approved.

(xvi). The MBPT has proposed notes to the effect that the rates are applicable for non – Home Occupations and are applicable to all the Expired Leases, Monthly Tenancies, Fifteen Monthly Leases and Licenses falling in the respective Ready Reckoner Zones. Since the proposed notes gives clarity on the categories of lessees/ tenants, who would be covered from the lease rentals approved vide the subject proposal, the proposed notes are approved.

(xvii). The MBPT has also proposed notes to the effect that Interest would be chargeable beyond permissible period as per Board's policy from time to time and that whether demanded or not, rent/ compensation/ license fee for a month would have to be paid by the tenants/ lessees/ licensees/ occupants on or before the 15th day of each succeeding month. Since the proposed notes give clarity and would avoid ambiguity and would instill discipline amongst the tenants/ lessees in the payment of rentals, the proposed notes are approved.

14. In the result, and for the resaons given above, and based on a collective application of mind, this Authority approves, the Rent Schedule for MBPT prescribing Lease rentals for the 07 Ready Reckoner Zones for non-home occupations in Township Areas of MBPT for the period 01 October 2017 to 30 September 2022, which has been notified separately, vide Gazette No. 552 dated 12 November 2021.

(T.S. Balasubramanian)
Member (Finance)

<u>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.</u>

TAMP/42/2021-MBPT	**:**	**Proposal received from the Mumbai Port Trust (MBPT) for fixation of Schedule of Rates and revision of rent / compensation for the period 01.10.2017 to 30.09.2022 for non-home occupations in Township Areas of MBPT.**

1. The large numbers of submissions/ comments have been received from various lessees/ tenants. A copy of the said comments have also been forwarded by the lessees/ tenants/ users to MBPT as well. Accordingly, the MBPT has responded to the comments of lessees/ tenants.

2. The comments which were similar in nature have been grouped together. A summary of the comments received from various tenants/ lessees and the response of MBPT thereon is tabulated below:

Sr. no	Comments of various Tenants / Lessees	Response of MBPT.
1.	**Similar Representations received from Individual Tenants/ Lessees – Group – 1**	
(i).	Nothing stated in MBPT notices and the proposal for revision of SOR for the period from 01.10.2012 to 30.09.2017 and 01.10.2017 to 30.09.2022, as per the Ready Reckoner Zones shall be deemed to be admitted (unless specifically admitted herein), merely for want of a specific traverse. It is stated that the proposed revision is contrary to the guidelines passed by the Hon'ble Supreme Court in the matter of Jamshed Hormusji Wadia vs. The Board of Trustees of the Port of Bombay 2004 (3) SCC. Since, the facts of both notices are identical, common representation is being filed for both the notices mentioned hereinabove.	Contentions are incorrect and denied.
(ii)	The Policy Guidelines for Land Management for Major Ports (PGLM), 2015 has not been uploaded on the website of MBPT although it has been referred to repeatedly in the documents uploaded. In fact, the Clarification 1 of 2018, Clarification 1 of 19-20 and Clarification 2 of 19-20 also could not be seen on the website. MBPT is requested to upload these documents so as to facilitate comments.	14.08.2021 15 days time granted after uploading the proposal on MbPT website i.e, upto 28.08.2021 as per directions of the TAMP Following documents uploaded along with DA supporting relevant TR's and LAC reports , comparative statement of SOR,
(iii)	Further, considering the complexities involved and in face of a recent corrigendum issued, the time of 15 days for inviting comments seems to be very short and unreasonable. MBPT is requested to kindly upload all the documents and thereafter, provide a time of at least 3 months to make comments. It may be appreciated that in the absence of such documents being uploaded it would not be possible to properly deal with the matter and make comments. For the purpose of assimilating inputs from our legal advisors/ consultants, it would also be advisable to hold physical meetings to	Notices to intimation of uploading the proposal and also dates of hearing were send to all the registered lessees and tenants whom proposal is applicable i,e. 1813 non home occupation plots falling in 23 ready reckoner zones. So far 836 no. of comments received. No extension recommended and it will delay the process PGLM 2014 and 2015 with its clarifications uploaded on MbPT website https://www.mumbaiport.gov.in

(iv)	understand the problems involved and the difficulties. The present representation/comments has been prepared on the basis of the limited time available and for the limited purpose to object the implementation of the revision of Schedule of Rates for the period from 01.10.2012 to 30.09.2017 and 01.10.2017 to 30.09.2022 of MBPT Estate Land. Hence, a detailed narration of the facts has not been provided. We reserve our rights to file more detailed representation/comments, if so advised under the guidance of our Counsel.	
(v). (a).	<u>Facts</u>: We are in continuous possession, use and occupation of the premises since past several years under and pursuant to the lease granted by the Board of Trustees of the Port of Mumbai to the original Lessee. We have been duly and regularly paying all the rent, charges and taxes to the MBPT who are accepting the same without any protest and that there are no outstanding or pending dues. MBPT is issuing Bills/ Invoices.	a) Mere occupation and continuous possession of the premises do not constitute legal rights of the parties unless there is a lease agreement entered with party by MbPT by extending the expired leases / extension of tenancy rights by agreement clearly stating that the total period lease granted. As pointed out by MbPT in the proposal and PPT, the proposal for revision of SoR is only limited MT, FML , Expired Leases and valid running leases which are yet to expired are kept out of proposed SoR revisions. MbPT, it is to place on record that , the MbPT has been sending the invoices to all MT, FML, Expired leases and licenses as a compensation for wrongful use of the premises, without prejudice to MbPT rights to take legal action against breaches and also without prejudice to revised SoR for compensation w.e.f 01.10.2012 onwards as per applicable polices. All the payments made by the parties are accepted by the MbPT as compensation for wrongful use of the premises by parties with provisional acknowledgement. Thus , there is no written commitment of MbPT for extending the leases or protecting and allowing the occupations of defaulters of FML / MT/ Expired Leases / licences. Since, the revision of SoR is pending MbPT has not raised / sending demand notices for differential arrears which is due from 01.10.2012 onwards.
(b)	As MBPT is aware, the Hon'ble Supreme Court in the judgment of Jamshed Hormusji Wadia vs Board of Trustees, Port of Mumbai and Ors. [2004(3) SCC 214] upheld "Compromise Proposals" mooted by MBPT and considerably reduced the rent and interest burden on the lessees. It was also directed that pending cases be settled (despite any breaches – which were to be remedied); by the grant of fresh leases or renewals as provided in the "Compromise Proposals". However, our case has not been settled in terms of the "Compromise Proposals" as	(b)Analysis of the RR rates 2012 is given in the said analysis in Annexure-1 would show that the RR Rates for 2012 which is the basis of the SoR (letting rates) are amongst the lowest rates (in comparison with adjoining RR zones to MbPT lands). It is further submitted that a rate of return of 6% is a very reasonable rate. TR 127/2006 is challenged by 47 Writ petition s and matter is still subjudice in High Court, Not relevant to the present proposal

(c). (vi). (a).	modified and upheld by the Hon'ble Supreme Court of India in the judgment of Jamshed Wadia vs. Board of Trustees of the Port of Mumbai & Anr. (2004 (3) SCC 214). Instead of following the orders of the Hon'ble Supreme Court and settling the matters as directed, MBPT has approved a resolution (TR. 127 of 2006) which are contrary to the directions of the Hon'ble Supreme Court. The said TR 127 of 2006 was challenged by Jamshed Hormusji Wadia by way of Writ Petition No. 2085 of 2009 before the Hon'ble Bombay High Court. The record shows that the said Writ Petition is pending for hearing. The proposed revision of SOR, as per Ready Reckoner value is not acceptable for the following reasons: Revision of SOR is contrary to the Judgment passed by the Hon'ble Supreme Court in the matter of Jamshed Hormusji Wadia vs. The Board of Trustees of the Port of Bombay 2004 (3) SCC 214 i) As MBPT is well aware that the Hon'ble Supreme Court in the case of Jamshed Hormusji Wadia vs. The Board of Trustees of the Port of Bombay 2004 (3) SCC 214; upheld certain "Compromise Proposals" mooted by MbPT themselves, and considerably reduced the rent and interest burden on the lessees. It was also directed that pending cases be settled (despite any breaches – which were to be remedied); by the grant of fresh leases or renewals as provided in the "Compromise Proposals". The Hon'ble Supreme Court also held that Public Authorities such as the MbPT cannot be seen to be indulging in rack renting, profiteering or indulging in whimsical or unreasonable evictions or bargains. ii) Instead of following the directions passed by the Hon'ble Supreme Court and settling the matters as directed, MBPT has approved a resolution being T.R. 127 of 2006, which is contrary to the directions of the Hon'ble Supreme Court. The said TR 127 of 2006 was challenged by Jamshed Hormusji Wadia by of Writ Petition No. 2085 of 2009 before the Hon'ble Bombay High Court. iii) The issue of revision of rent for the period of 30 years from 1st April, 1994 is subjudice before the Hon'ble High Court in Writ Petition No. 2085 of 2009. In view of the pendency of the said Writ Petition, the question of proposed revision of SOR from the period of 2012 to 2017 and 2017 to 2022, does not and ought not to arise. The revision of SOR ought not be retrospective. There is no provision under Major Port Trust Act,	(c) Maharashtra Rent Control Act does not apply to the lettings by the Port Trust. Above contentions are incorrect as rent act is not applicable to MbPT Whereas average land values for 23 MbPT zones increased to Rs 51714 per sqm for FSI 1 as per RR 2012 which is almost 37 times of land values of 1980's • Whereas the average monthly rents/compensation is Rs. 28.44 per sqm per month for FSI 1 and the same will be revised to an average of Rs. 259 per sqm per month for FSI 1 of the base rate i.e, rents increased only by 9 times compared with wadia judgment rates. • Ready reckoner rates abutting land values RR zones of outside MbPT land are on an average Rs. 81147 per sqm for FSI 1.00 (182% higher than MbPT land). statement 1 • MbPT had fixed rent as 10% return on Kirloskar land values with 4% increase every year from 01.10.1994 onwards in terms of Supreme Court Wadia Judgment. • The returns on 6% of the ready reckoner values (FMV is prescribe under PGLM 2014/2015 by Mos GOI and approved by the board TR 222/2015 TR 105/2018 and TR 122/2021. • SC judgment rates were valid only for 20 yrs i.,e from 01.10.1992 to 30.09.2012 • From 01.10.2012 onwards PGLM 2010,2014-15 guidelines issued by Mos GOI are applicable to MbPT and MbPT is free to revise the rentals on the SOR based on PGLM guidelines • Thus the SOR proposed by MbPT at 6% per annum is fair reasonable and MbPT is well within its rights to revise the rents/compantation w.e.f. 01.10.2012 onwards as per the proposed SOR. SC judgment rates were valid only for 20 years i.e from 01.10.1992 to 30.09.2012 . • From 01.10.2012 onwards PGLM 2010,2014-15 guidelines issued by Mos GOI are applicable to MbPT and MbPT is free to revise the rentals on the SOR based on PGLM guidelines. • Thus the SOR proposed by MbPT at 6% per annum is fair reasonable and MbPT is well within its rights to revise the rents/compantation

(b). (c) (d)	1963, permitting MBPT to charge the rent retrospectively. Since, in absence of the provision, the question of claiming retrospective rent and/ or interest does not arise. Ready Reckoner value is very high than the amount which we are currently paying. i) We have never erred in making timely payments of rent in respect of the premises. I have been regularly paying lease rentals and all statutory taxes based on the lease rentals as adjudicated by the Hon'ble Supreme Court. **[Some of individual lessees have furnished a table indicating the payment of lease rent paid by them till date and also the difference between the current lease rent and the proposed lease rent pursuant to revised SOR]** ii) The proposed revision of SOR amount is **43** times higher than the current rent which is being paid. iii) It is pertinent to note that the intention of the Hon'ble Supreme Court while passing the order categorically held that Public Authorities such as the MbPT cannot be seen to be indulging in rack renting, profiteering or indulging in whimsical or unreasonable evictions or bargains. However, by way of the present proposal for revision of SOR, MBPT is charging more than **43** times of the rent which I am currently paying. Such increase is contrary to the Supreme Court Judgment. Hence, the same is not acceptable to me. (iv). The charges as calculated based on the SOR proposed by MBPT would be unreasonable and horrendously high. The schedule of rates is based on arbitrary calculations unsubstantiated by any material and are even higher than the "market rates" i.e. the current ready reckoner values. The SOR for 2017-22 goes on an ad-hoc valuation which isn't even substantiated by any material. This is without prejudice to the fact that such market valuation reports cannot be made the basis of the rent fixed. Further, the SOR 2012-17 takes rent on the basis of 6% return on market value. When worked at using this factor, the rates would be exponentially higher than the amounts the tenants were paying under the original contract. Due to the COVID-19 pandemic and the lockdowns, business has gradually decreased. Hence, we will not be in a position to make payment of the proposed revision of SOR, as it is 43 times higher than the current rent which we are paying pursuant to Supreme Court Judgment.	w.e.f. 01.10.2012 onwards as per the proposed SOR. • Port trust land is divided in to 23 sub zones as per ready reckoner zones and board accepted the rates given in RR zones 2012 being most authentic reliable and scientific data available and SOR was at 6% per annum for non home occupation was approved by the Board. • Following five factors were considered by LAC i.e. (i) Rentals as on 30.09.2012 as per SC rules, (ii) Based on 6% returns on RR Value 2006 with 4% increase upto 30.09.2012, (iii) Kirloskar land value with 6%, (iv) average market rates per sqm as on 2012 based on index II property transactions within outside MbPT properties and BKC areas and (v) 6% of RR 2012 market value obtained. • Comparative statement of Kirloskar land values of 1980's and RR land values of 2012 for MbPT land. The statement also show RR land values of abutting RR zones outside MbPT land is shown in Wadia judgment rentals were based on MbPT land values as on 1980 which was Rs. 1406 per sqm for FSI 1.33 • Whereas land values increase to Rs 51714 per sqm for FSI 1 as per RR 2012 which is almost 37 times of land values of 1980's Statement 1 • Whereas the average monthly rents/compensation is Rs. 28.44 per sqm per month for FSI 1 and the same will be revised to Rs. 259 per sqm per month for FSI 1 of the base rate i.e. rents increased only by 9 times compared with wadia judgment rates • Existing low rentals are based on Wadia judgments and very high market rentals leading to profiteering rent racking and exploitation of MbPT land by unauthorized subletting u/a constructions, u/a change of users/a transfers in violations of the tenancy/lease terms and collecting very high rental. (Cases) • As per the data available on record almost 79% of the lessees tenants committed the measure breaches and continuing their unauthorized occupation even after expiry of the term or termination of lease. • Thus it is the lessees and tenants who have committed the violation of SC judgment and the tenancy terms taking shelter under Wadia judgment • SC judgment is not a licenses in perpetuating allowing lessees tenants to go on commuting breaches indefinitely but restricting the MbPT rights to charge rentals based on 1980's land values. This is unfair and absurd proposition and thus MbPT has not violated SC judgment and have followed the guidelines issued by Mos GOI which are mandatory and binding MbPT under section 111 of MPT act 1963.

(vii). (viii) (ix). (x).	It is further stated that the Schedule of rent/lease charges has to be decided in accordance with the Compromise Proposal sanctioned by The Hon'ble Supreme Court in case of Jamshed Hormusji Wadia vs. The Board of Trustees of the Port of Bombay 2004 (3) SCC 214 and based on the principles of the said judgement, the rates need to be decided now by working out a fresh compromise proposal by and between the tenants/ lessees on the one hand and the Port Trust on the other. As of recently, MBPT is increasing 4% of the rent in every year, which is reasonable. The Port Trust ought to be conscious of the fact that there are tenants who are occupying properties since 80-100 years and there are complete eco systems and markets thriving on such properties. Rack renting would totally finish and eradicate running eco – systems which is against the public policy and is neither desirable nor possible. We are providing employment to lot of peoples. We are also adding to the tax exchequer. Therefore, we are not just directly but also indirectly contributing to the nation in the form of taxes and revenue and employment MBPT cannot enhance the SOR from 2012-2017 retrospectively, as the same is opposed to the constitutional scheme. The legal opinions obtained by the Port Trust which have been referred to in the proposals are not shared on the website and hence in the interest of transparency, equity and fair play, the Port Trust is requested to put up all the relevant material on the official website of the Port Trust. It is not legally possible for the port trust to enhance rates and levy them retrospectively. The aspects of issuance of valid commercial invoices shall also have to be examined and the liability of MBPT as regards Goods and Service Tax (GST) etc. also has to be worked out. All this is only possible through physical meetings in a participatory manner by inviting representatives of stakeholder groups to sit and negotiate with the authorities of the Port Trust and the Shipping Ministry. In order to decide the further road map, the Port Trust is requested to hold meetings so as to workout Compromise Proposals as has been done successfully earlier in the 1994. TAMP is requested to kindly fix up workable rates through participatory process. A win-win situation in the form of compromise proposal by and between the Port trust on the one hand and the Tenants on the other hand is the only way going forward and a second compromise formula can be arrived at taking the Supreme Court's formula of 2004 as a benchmark and guiding force.	1. Market real estate sale transaction are very high as compare to MbPT rentals as per compromise formula. 2. 80% of lessee/ tenants are unauthorizedly occupying the premises even after the expiry of the lease and unauthorizedly sub-letted /assigned and thus profiteering and rack renting at cost of MbPT low rentals based on 1980s land values. CASE STUDY 3. MT, FML and expired leases have no running contracts with MbPT and hence are liable to revision of rates as per PGLM 15 . 4. Thus MbPT proposed SOR rates are fair and reasonable. There is no provision of compromise proposal in PGLM 2015 issued by MoSP&W, GoI The SoR was due from 01.10.2012 and 30.09.2017 when there was no pandemic. Covid-19 pandemic started from March 2020 and as per present circumstances there has been substantial relaxation given by the Govt. to the trade and general public and most of the premises have been operational. Further (a) any relaxation which the Govt. of India extends under any special circumstances in the case would be applicable to the tenants/lessees, though presently there are no such directions and even in any clarification from MoPS&W, Govt. of India on giving any concession, relaxation, compensation and assistance during pandemic time. In this connection, attention is invited to Delhi High Court Judgement, Ramanad and others V/s. Dr. Girish Soni and others dated 21.05.2020 has held that the period of lockdown on account of Covid-19 does not excuse in payment of rental amounts (copy enclosed) and no concession in rental charges is admissible. b) As the parties have continued to occupy the premises and MbPT being Public body which continued to provide its services in COVID period and rendered the monthly invoices of compensation and also paid the GST on the invoice for the period there is no question of granting any relief. MbPT's expenditure on infrastructure and also liability towards salary/wages, maintainance etc. have continued even in COVID pandemic period. Since rentals from MbPT landed assets is important part of MbPT revenue which is essential for sustenance of MbPT, no such concessions are admissible on this ground in the proposed SoR w.e.f. 01.10.2012.

(xi).	In order to avoid GST liability, the Port Trust has been reluctant in raising commercial invoices. Therefore, no interest nor liability can be fastened upon the tenants in the absence of any debit note/ commercial invoice raised by the MbPT. Without prejudice to what has been stated above, we would like to submit that if 2012 is taken as a benchmark, the revision in rent from 2012 to 2013 should be reasonable and cannot be arbitrary. The rent suggested in 2013 cannot be exponentially higher than the rent of 2012. Taking ready reckoner calculations leads to preposterous results. In our opinion, the basis should be the Supreme Court compromise proposal and not ready reckoner rates/ ad-hoc market valuations.	Pending approval of SoR 2012-17 by TAMP MbPT has not raised invoices /demand notices. 2. After approval of the TAMP to the proposed SOR demand notices will be conveyed for the differential arears giving 3 months time to the parties for payment. 3. As per TR 122/2021, no interest will be levied for differential arrears till 3 months from the date of raising of the demand notice after approval of the TAMP. 4. The demand notices will be issued after approval of TAMP and any delay in the payment after 3 months, interest will be charged as per the said TR/ Board's policy.
(xii).	In the circumstances stated hereinabove, it is requested to kindly upload the relevant material on the website of the Port Trust and work out the Schedule of rates based on the rents paid in 2012 and not based on ready reckoner values and then seek proposals from the Tenants. Without prejudice to the above, it is also requested that pending the negotiation and decision making process, no coercive steps be taken based on new proposed rates in the interest of equity, justice and fair play.	
(xiii)	We request a physical meeting with the officers of the TAMP, the Shipping Ministry and the Port Trust so as to try to arrive at a win- win situation. For the purpose of records, the Schedule of Rates proposed for 2012-17 and 2017-22 are not acceptable to us for the reasons stated hereinabove and for other reasons that we shall argue in person or through our counsel if a personal hearing is provided by TAMP. In view of what is stated hereinabove, the following is pleaded -	1. MbPT is bound by PGLM 2015 issued by MoPSW,GoI and accordingly SoR 2017-2022 as per para 13 is computed. 2. Comparison with practices followed by PSU, Collector of Mumbai are irrelevant. As MbPT is under MoPSW, GoI and not under state govt and therefore state govt policies and BMC policies are not applicable to MbPT There is no provision of compromise proposal in PGLM 2015 issued by MoSP&W, GoI.
(xiv)	Not to implement the revision of Schedule of Rates for the period from 01.10.2012 to 30.09.2017 and 01.10.2017 to 30.09.2022 of MbPT Estate Land in term of MBPT's notices nos. EM/AS(G)/F-361/ dated 14th August, 2021 and EM/AS(G)/F-382/ dated 12th August, 2021 and the Corrigendum thereto dated 20th August, 2021, as they being unacceptable, arbitrary and without any substantial basis;	The suggestions are not acceptable and contentions are denied. There is not provision of compromise proposal in the PGLM 2015 and its clarifications issued by MoPSW and MbPT is bound to implement PGLM 2015 Guidelines issued by MoPSW, GoI which are mandatory directions to MbPT under section (III) of MPA Act 1963. Rates under SCJ 2004, is no more valid and applicable to MbPT and MbPT is well within the rights to revise SoR from w.e.f 01.10.2012 (i.e.) post validity of SCJ rates.
(xv)	Not to implement/issue any TR on the basis of the revisions of Schedule of Rates, as proposed in MBPT's notices nos. EM/AS(G)/F-361/ dated 14th August, 2021 and EM/AS(G)/F-382/dated 12th August, 2021 and the Corrigendum thereto dated 20th August, 2021, as the same is not acceptable being capricious, arbitrary and without any basis;	

(a). (b). (c). (d). (xvi)	Implement the Schedule of Rates, as directed by the Hon'ble Supreme Court in the matter of Jamshed Hormusji Wadia vs. The Board of Trustees of the Port of Bombay 2004 (3) SCC 214; Implement the directions passed by the Hon'ble Supreme Court in the letter and spirit and in the interest of all affected parties. This comments are without prejudice to any and all the rights and remedies that I have in law and equity and nothing stated herein should be construed or interpreted as a waiver of such rights. I have with limited resources, material information and have tried my best to submit the information that was required and called for, with a shorter notice, if, however, MBPT was to seek further information on my status as tenant/lessee I would urge MBPT to peruse its digital records. Needless to say, should the port trust seek to arbitrarily impose the schedule of rates suggested without paying heed to any of the inputs received from tenant groups, leading to horrendously high unreasonable rents, we shall be left with no other option but to seek judicial recourse at the sole risks, costs and consequences of the Port Trust which please note. We anticipate MBPT's favourable response in view of the long term relationship enjoyed between us and MbPT, to recognise me as tenants and accepting rents on a periodical basis without any dispute, demur or protest.	MbPT is bound by TAMPs final order in the matter and directives given under PGLM 2015 issued by MoPSW
2.	**Similar Representations received from Individual Tenants/ Lessees – Group – 2**	
(i).	We have no objection in revising rent as mutually agreed but you should have stated exact amount of increment plot wise in the year 2011 itself. Now MBPT is revising it with back dated for period 2012-17. This liability will be big and will affect in business rolling in post pandemic period.	SC judgment rates were valid only for 20 yrs i.,e from 01.10.1992 to 30.09.2012 From 01.10.2012 onwards PGLM 2010,2014-15 guidelines issued by Mos GOI are applicable to MbPT and MbPT is free to revise the rentals on the SOR based on PGLM guidelines. The SOR is applicable to only MTs, FML ,expired leases and Licenses for the period 01.10.2012 onwards for 5 years that is up to 30.09.2017. That is the period beyond applicability of SC judgement rates. These occupations are occupying MbPT land without any authorization from MbPT and even after expiry of the leases/termination of tenancies/lease. Bills are sent along with footnote (THIS BILL IS PROVISIONAL AND WITHOUT PREJUDICE TO BOARDS RIGHTS AND CONTENTION TO REVISE THE RENT/COMPENSION W.E.F 01.10.2012).

		Circular No.EM/ASG/F-361/5873 dated 28.12.2012 vide which it was informed to all the lessees, tenants and occupants that revision of compensation / rent in respect of all the expired leases, monthly tenancies and fifteen monthly tenancies and licences / tenancies excepting subsisting long term leases of Port Trust premises is due from 01.10.2012 onwards. Delay in submission of SOR proposal to TAMP was on account of the fact that PGLM 2014/15 were not applicable to Township area of Mumbai Port Trust. Vide clarification no 1 of 2018 dated 14.06.2018 issued under sec 111 of MoS, GoI extended the PGLM 2015 guidelines to the Township area. Matter was taken up with Ministry for withdrawal of notification dtd 15.03.2000. MoS,GoI vide their no secy(s)/visit-Mumbai/land management/2018(333915) letter dated 15.05.2019 directed TAMP to fix the SoR for Mumbai port Trust land w.e.f. 01.10.2012 onwards. Accordingly TAMP vide Their letter dated 15.07.2019 issued a clarification that in view of PGLM 2015 guideline the TAMP notification 28.03.2000 has become infructuous so far as MbPT is concerned and it is not applicable for MbPT for period prior to 01.10.2012 and same may be treated as withdrawn by the TAMP. High Court writ petition no 1153 of 2000 filed by MbPT challenging TAMP notification was withdrawn vide HC order dated 08.08.2019. The LAC recommendation dated 13.08.2019 was placed before the Board , however same was deferred by Board by TR 114 of 20.08.2019, TR 149 dated 24.09.2019 and TR 169 dated 01.11.2019.Finally Board gave approval to submit the proposal of SoR 2012-17 to TAMP vide TR 122 dated 03.08.2021. Accordingly immediately after Board approval the said proposal was submitted to TAMP on 06.08.2021
(ii).	Our long lease was expired long back. We requested you to grant us fresh renew of long lease and we have paid all dues to you as per circular issued to us regarding rent revision and compromise the matter as per supreme court judgement dated 13/01/2004. Accordingly, since then there is no reply from MBPT side till date.	Those lessees / tenats who do not come forwards for settlement as per Wadia Judgment/ as per TR 127 of 2006 have not paid charges for regularization of breaches for all the past arrears/ dues interest etc, such leases could not be renewed.
(iii).	Again we request you to grant us long lease at least of 30 years or more. Long lease renewal is our top priority as it is required to be	For renewal of leases, MbPT bound by provisional of PGLM 2015 and MbPT's Master plan. Those leases which are not affected by Master Plan, may be considered subject to liquidation of all dues as per applicable SoR ad penalties if any in terms of Para 11& 12 of PGLM 2015

(iv).	produced every time while renewing our trade license, other license and power permit renewal. We need bank funding in the form of working capital loan for smooth running of business. But due to expired lease Bank do not sanction funding. General services like street light, regular cleaning of road, water supply, should be provided on uninterrupted basis around all lessee's premises. Water logging is common issue faced by us. Proper drainage of water is not provided to our lease premises. We hereby request you kindly consider all major issues mentioned above while deciding increase in rent.	Mbpt has already prepared a Master Plan for redevelopment of certain areas of MbpT under which new infrastructure will be counterploted.
3.	**Similar Representations received from Individual Tenants/ Lessees – Group – 3**	
(i). (ii). (a).	We have been regularly paying MbPT rent as per the bills received from time to time. For the following amongst other reasons (which are without prejudice to and independent of each other), and without admitting any applicability and/ or liability whatsoever and / or howsoever based thereon; kindly note our serious and anxious objections to MbPT's retrospective, steep, arbitrary, unreasonable and unlawful proposal/s under reply. At the very outset, we are most shocked and surprised that such onerous, retrospective, steep and arbitrary proposal/s are being forwarded by MbPT for consideration by TAMP amidst a worldwide and on-going pandemic of COVID-19, which has so heavily impacted the entire world, our country, our people and our economy to such an extent that many have lost their lives, lost their loved ones, and also their livelihood, their homes, leaving many unemployed & depleted of cash to sustain themselves. Pertinently, several businesses have been tremendously affected and have either shut-down, or are on the verge of shutting down. Instead of being sensitive, sympathetic and considerate in these trying times; proposals have been framed by MbPT (which is an Instrumentality of the State) seeking to exponentially and retrospectively increase/ hike and attempt to impose the Scale of Rates of rent to such an extent that, if given effect to;- it will be impossible for any commercial enterprise to survive. Even private landlords have, in most cases, shown a lot of benevolence and forbearance towards their tenants/ licensees/ lessees etc. in these trying times.	Factual no comments to offer The proposed revision of rentals w.e.f. 01.102017 to 30.09.2022 will be made applicable to only monthly tenancies, 15 monthly leases, expired leases and licenses with retrospective effect. All parties were made aware by Circular No.EM/ASG/F-361/5873 dated 28.12.2012 whereby it was informed to all the lessees, tenants and occupants that revision of compensation / rent in respect of The SoR was due from 01.10.2012 and 30.09.2017 when there was no pandemic. Covid-19 pandemic started from March 2020 and as per present circumstances there has been substantial relaxation given by the Govt. to the trade and general public and most of the premises have been operational. Further (a) any relaxation which the Govt. of India extends under any special circumstances in the case would be applicable to the tenants/lessees, though presently there are no such directions and even in any clarification from MoS&W, Govt. of India on giving any concession, relaxation, compensation and assistance during pandemic time. In this connection, attention is invited to Delhi High Court Judgement, Ramanad and others V/s. Dr. Girish Soni and others dated 21.05.2020 has held that the period of lockdown on account of Covid-19 does not excuse in payment of rental amounts (copy enclosed) and no concession in rental charges is admissible. b) As the parties have continued to occupy the premises and MbPT being Public body which continued to provide its services in COVID period and rendered the monthly invoices of compensation and also paid the GST on the invoice for the period there is no question of granting any relief. MbPT's expenditure on infrastructure and also liability towards salary/wages, maintainance

(b).	(i). we submit that the issue of rent revision by MbPT (which finds its roots since the early 1980's) has plagued its lessees/ tenants/ occupants for decades; and the same was finally set to rest and adjudicated upon (after more than 20 years) by the Hon'ble Supreme Court in its judgement dated 13.01.2004 in the matter of *Jamshed Hormusji Wadia Vs. The Board of Trustees of the Port of Mumbai*, *(2004) 3 SCC 214* ("**Wadia's Case**"); wherein, the Hon'ble Supreme Court has *inter alia* upheld with (downward revision in rent and interest) MbPT's own "Compromise Proposals", further holding that the said "Compromise Proposals" would be applicable to all the lessees of MbPT even if they were not parties to the proceedings. (ii). Under the said judgement, the Hon'ble Supreme Court whilst examining the question (@ para 13 thereof), viz. *"What is the status of BPT as landlord? Is it free to charge any rent from its lessees as it pleases in view of its having been exempted from the operation of rent control law or is it only to act in a fair and reasonable manner in the matter of dealing with its lessees and charging rent from them? "* - has in express terms, and whilst upholding a catena of earlier judgments, categorically held that the position of law is well settled, viz. that State and its authorities including instrumentalities of State (such as MbPT) have to be *just, fair and reasonable* in all their activities, including those in the field of contract. Even whilst playing the role of landlord and tenant, the State and its authorities continue to remain so and cannot be heard or even seen causing displeasure or discomfort to Article 14 of the Constitution of India. (iii). It is pertinent that MbPT themselves by their own T. R. No. 31 dated 10th March 2004 (**"T.R. 31 of 2004"**) had *inter alia* resolved to implement the aforesaid judgment of the	etc. have continued even in COVID pandemic period. Since rentals from MbPT landed assets is important part of MbPT revenue which is essential for sustenance of MbPT, no such concessions are admissible on this ground in the proposed SoR w.e.f. 01.10.2012. The letting rates under the Compromise Proposal had been fixed taking into account the market values of the land rates prevailing in the year 1980. Apart from the fact that the Port Trust tenancies have never been covered by the Rent Control Legislation that all the entities that have now been exempted under Section 3(1)(b)of the Maharashtra Rent Control Act 1999 would otherwise have been covered by and enjoyed the protection of the Rent Control Legislation then in force ,even if the quondam Rent Act had applied to the Port Trust tenancies . The important factor to be considered is that the tenants of the Port Trust who have been exempted from the Maharashtra Rent Control Act are legislatively mandated, inter alia, not to have any statutory or other limitations or constraints in the fixation of payment of rents . It is further submitted that to continue to insist on levy of letting rates frozen on the basis of land values of 1980 in the year 2006-2007 or such exempted persons despite the fact such persons do not any longer enjoy even the protection of the Rent Act would be extremely unfair to the Port Trust and would be in effect be contrary to the principle laid down by the Supreme Court in the Wadia Judgement. (b) Even though the Maharashtra Rent Control Act (and the old Bombay Rent Act) would not and does not apply to the lettings by the Port Trust, the fact that such entities have lost the protection of the Rent Act and are now legislatively mandated to face the open market in land and rentals ,such revise the letting rates for such categories of tenants. (a) Jamshedji Wadia judgement is the Hon'ble Supreme Court Judgement dated 13.01.2004 by which Hon'ble Supreme Court upheld the Board compromise policy rates which were valid for 20 years w.e.f. 01.10.1992 to 30.09.2012. Though the SC concluded the dispute with regard to rates only for the period upto 31.03.2020, the Board decided to continue the said rate for the period upto 30.09.2012. Further the said facts have been confirmed by Attorney General's of India (AG) Shri Mukul Rohatgi by opinion dated 29.07.2016 wherein AG stated that MbPT is legally empowered to fix revised rates w.e.f. 01.10.2012 and also as per guidelines issued by MoS&W&W, GoI, and rates

	Hon'ble Supreme Court in Wadia's case (supra); and had expressly accepted therein that the rates fixed under their own Compromise Proposals as upheld in Wadia's case; would be applicable to their landed estates from 1.04.1994 **upto 31st March 2024,** with 4% annual increases *"thereby extending the application of the proposals to 2024"*. By not settling cases in terms thereof, and by seeking approval of the above referred Proposal/s under reply, it seems that MbPT is attempting to circumvent the directions and ratios of the Hon'ble Supreme Court in Wadia's Case (supra), and is also going back on its promises for settlement of matters under its own said "Compromise Proposals". These were the very proposals propounded by MbPT before the Hon'ble Bombay High Court, and thereafter, before the Hon'ble Supreme Court, under several sworn Affidavits of its own officers. (iv).Further, it is shocking that MbPT has only made a passing reference to its said T.R. No. 31 of 2004 in the said Proposal for SOR 2012-2017, and has not even referred to the same in its Proposal of SOR 2017 – 2022. TAMP may kindly examine (in letter and spirit);- the content, purport and the true effect of MbPT's said T.R. 31 of 2004, as also all of the sworn Affidavits of the MbPT's officers before the Hon'ble Supreme Court and the Hon'ble Bombay High Court – filed in the matter of its General Rent Revision litigation. (v). Pertinently, under the MbPT's own T. R. 105 of 2018 (which is referred to in the said Proposals); it has been recorded that the Shipping Ministry vide its letter dated 18.02.2014 (bearing reference No. PD-11020/34/2013.MbPT), had: *"conveyed the opinion of the Ministry of Legal Affairs that the order of the Hon'ble Supreme Court dated 13.01.2004 should be implemented in letter and spirit and also clarified that the matter being an important public issue, any interpretational issue arising out of the Apex Court judgement the Administrative Department should seek clarification from Supreme Court to avoid any legal complications";* and that : *"The Shipping Ministry has further directed that Mumbai Port Trust to initiate necessary steps for immediate implementation of the order of the Hon'ble Supreme Court dated 13.01.2004 without any further delay.";* and further that :	are to be approved by TAMP. The TAMP is authorised to approve the SoR retrospectively w.e.f. 01.10.2012, subject to withdrawal of Writ Petiton 1153 of 2000 filed by MbPT against TAMP, which is withdrawn on 08.08.2019. These facts were rightly pointed out in para 3 of proposal for SoR 2012-17. Thus there is no violation of S. C. Judgement dt. 13.01.2004 and MbPT is legally within its rights and empowered to revise the rates w.e.f. 01.10.2012 onwards. There is no provision of compromise proposal in PGLM 2015 issued by MoS&W, GoI. The validity of rates under S.C. judgement was upto 30.09.2012 and therafterf MbPT is bound to follow the guidelines as per PGLM, 2015 issued by MoS&W, GoI. TAMP is given power for framing the rate/ rectify the rates. As per PGLM's guidelines of 2014, MbPT has adopted highest value among the 5 factors.

	"the Port should also seek clarification from the Hon'ble Supreme Court in respect of any interpretational issues such as <u>as re-fixing the letting rates after 30.09.2012</u> arising out of the said judgement" I submit that despite the clear direction from the Ministry in the year 2014; MbPT appears not to have taken heed of the aforesaid directions, but has (on the contrary) now sought TAMP's approval to its Proposal/s (under reply) which are not only in the teeth of the Hon'ble Supreme Court's judgement in Wadia's case, and also in teeth of the clear directions of the Ministry of Shipping/ Ministry of Legal Affairs;- but also are patently unlawful, illegal, retrospective, steep, exorbitant, arbitrary and capricious. (vi). On a thorough reading of the said Proposal/s under reply, it is apparent that MbPT has overlooked the very directions, ratios, dictates and guiding principles set out in the said judgment Wadia's Case; and has completely summersaulted on its promises made under the said "Compromise Proposals" as were upheld with modifications by the Hon'ble Supreme Court in Wadia's Case, and as admitted (and approved for implementation) in its own T.R. 31 of 2004.	Pending Writ Petitions are not relevant to SoR revision.
	(vii). It may be appreciated that on account of the failure of MbPT to abide by the said judgement in Wadia's Case and by its own promises under its own said "Compromise Proposals"; no less than 41 Writ Petitions (Writ Petition No. 2085 of 2009 being the lead Petition) have been filed before the Hon'ble Bombay High Court challenging:- a) MbPT's failure to settle matters as directed by the Hon'ble Supreme Court in Wadia's Case, and b) MbPT's T.R. 127 dated 22.08.2006 (**"T.R. 127 of 2006"**) attempting to wrongfully modify the terms of the said "Compromise Proposals", and thereby seeking to levy higher rates of rent (on sitting tenants/ lessees), based on hypothetical market values of lands, viz. *the very action that the Hon'ble Supreme Court, and the Courts below prohibited MbPT from doing*. (viii). In the abovementioned Writ Petitions, the Hon'ble Bombay High Court has been pleased to issue Notice under Order 1 Rule 8 of the Code of Civil Procedure, 1908, making the outcome of the aforesaid 41 Writ Petitions applicable to all lessees/ tenants/ occupants of MbPT, whether they were/ are before the Hon'ble Bombay High Court or not. Further,	The contentions are irrational. Pending Writ Petitions are not relevant to SoR revision. The revision of rates are strictly in accordance with the provision of PGLM 2014-2015.

	these Petitions, including the Writ Petitions filed by several obstructionists, and by lessees/ tenants not on record with the MbPT; have all been admitted by the Hon'ble High Court, and are to come up for final hearing. For this and other several reasons set out herein;- the objections (though invited only from registered lessees/ tenants), would also impact obstructionists and occupants of MbPT Lands, whose cases ought to have already been settled by MbPT under their own said "Compromise Proposals" (as upheld by the Hon'ble Supreme Court). Hence, they are also entitled to submit their comments/ objections on the said Proposal/s and be heard by TAMP. It would be highly unfair to call for objections only from registered lessees. MbPT cannot take advantage of its own wrongs.	The rates are arrived at by the Govt. approved Valuer on the basis of transactions taken place in vicinity of Port Trust land.
	(ix). It may be further appreciated that MbPT had filed its **Cross-Objections** before the Hon'ble Supreme Court in Civil Appeal No. 5559 of 2001 (viz. the aforesaid Wadia's Case) and the other connected Appeals before it. In the said Cross-Objections, MbPT had *(at the very first ground (A) thereof)* sought to contend that *"there is no legal bar on the Port Trust to charging rent which may be necessary even equal to market rent"*; and had also sought to resile from the said "Compromise Proposals". The Hon'ble Supreme Court in its said judgement in Wadia's Case not only dismissed MbPT's said cross-objections as being *"not maintainable"*, but also expressly held them to be *"devoid of merit"*. Thus, as is well and clearly cemented by the Hon'ble Supreme Court;- there is no question of any increase in rents by MbPT (much less retrospectively) w.e.f. 2012 and onwards based on any hypothetical and exploitative increases in market values of land, and or otherwise till 31.03.2024.	The rates are arrived at by the Govt. approved Valuer on the basis of transactions taken place in vicinity of Port Trust land.
	(x). In fact, in most of the cases, there is no necessity for framing of any Proposal/s whatsoever for any SOR right up to 31st March 2024. This is because as per MbPT's own understanding of the Hon'ble Supreme Court's judgement in Wadia's case and the rents chargeable (right upto 2024) under their own T.R. 31 of 2004; *had the MbPT settled cases* and granted fresh lease of 30 years; then the rents chargeable by MbPT in terms of the said "Compromise Proposals" would continue right up to 2024 with 4% increases over the previous year. MbPT's failure to do so is a manifest wrong, which does not entitle them to take any advantage thereof, much less by framing proposal/s for fresh SOR retrospectively w.e.f.	The contention are denied and the SoR as proposed needs to be approved.

	2012 and beyond. In fact, as already stated hereinabove, this failure to abide by the directions of the Hon'ble Supreme Court to settle the cases has been challenged in the aforestated batch of 41 Writ Petitions. Thus, in light of the aforesaid, it is reiterated that **MbPT cannot and ought not be permitted to propose any such new SORs and that too with retrospective application w.e.f. 2012.** (xi). In light of the aforesaid, these Proposal/s under reply, therefore, *warrant **immediate and outright rejection** by TAMP*.	The contentions are incorrect.The letting rates under the Compromise Proposal had been fixed taking into account the market values of the land rates prevailing in the year 1980. Apart from the fact that the Port Trust tenancies have never been covered by the Rent Control Legislation that all the entities that have now been exempted under Section 3(1)(b)of the Maharashtra Rent Control Act 1999 would otherwise have been covered by and enjoyed the protection of the Rent Control Legislation then in force ,even if the quondam Rent Act had applied to the Port Trust tenancies . The important factor to be considered is that the tenants of the Port Trust who have been exempted from the Maharashtra Rent Control Act are legislatively mandated, inter alia, not to have any statutory or other limitations or constraints in the fixation of payment of rents . It is further submitted that to continue to insist on levy of letting rates frozen on the basis of land values of 1980 in the year 2006-2007 or such exempted persons despite the fact such persons do not any longer enjoy even the protection of the Rent Act would be extremely unfair to the Port Trust and would be in effect be contrary to the principle laid down by the Supreme Court in the Wadia Judgement. (b) Even though the Maharashtra Rent Control Act (and the old Bombay Rent Act) would not and does not apply to the lettings by the Port Trust, the fact that such entities have lost the protection of the Rent Act and are now legislatively mandated to face the open market in land and rentals ,such revise the letting rates for such categories of tenants.
(c).	Without prejudice to aforesaid contentions/ objections, it is pointed out that under Section 49 of the Major Port Trust Act, 1963 ("**MPT Act**"), it is the TAMP who has the power to, from time to time, by notification in the Official Gazette to '*frame'* SORs, and a statement of conditions for any property belonging to, or in the possession or occupation of the Board or any place within the limits of the Port or the Port approaches. From a bare perusal of the Proposal/s under reply and its enclosures thereto, it appears that it is the LAC who has "formulated" the Proposal/s in terms of PGLM 2015 and has forwarded the same for MbPT's Board's approval, who in turn have forwarded the same to TAMP for its "approval for fixation of SORs". Thus, in the present case, the *statutory obligation* of **"framing"** of *SOR by TAMP*, under the MPT Act, 1963, - appears to be only hollow and illusory.	
(d)	Assuming, whilst emphatically denying, that MbPT (through LAC) may be entitled to, or frame of any fresh SOR *other than* in consonance with the directions and within the principles and ratio of the judgment of the Hon'ble Supreme Court in Wadia's Case, and other than under the umbrella of the "Compromise Proposals" as upheld with downward modifications by the Hon'ble Supreme Court, we strongly oppose to, and place on record our strong objections in respect to MbPT's Proposal/s under reply, as follows:- i). Any attempt, as contained in the Proposal/s under reply to frame such steep and exorbitant SORs from 2012 (retrospectively), and based on hypothetical market values of lands; would not only be unlawful, but violative of Article 14 of the Constitution of India. ii). There is no provision in the MPT Act, 1963 or the Rules thereunder, or under any	Though the SC concluded the dispute with regard to rates only for the period upto 31.03.2020, the Board decided to continue the said rate for the period upto 30.09.2012. Further the said facts have been confirmed by Attorney General's of India (AG) Shri Mukul Rohatgi by opinion dated 29.07.2016 wherein AG stated that MbPT is legally empowered to fix revised rates w.e.f. 01.10.2012 and also as per guidelines issued by MoS&W&W, GoI, and rates are to be approved by TAMP. The TAMP is authorised to approve the SoR retrospectively w.e.f. 01.10.2012, subject to withdrawal of Writ Petiton 1153 of 2000 filed by MbPT against TAMP, which is withdrawn on 08.08.2019 The MPA Act 2021 is yet to be notified for its implementation and hence not relevant to present proposal

	delegated/ subordinate legislation thereunder; enabling the framing/ fixation of the SORs retrospectivity. iii). A perusal of MbPT's T.R. 122 of 2021 would reveal that the MbPT is well aware that TAMP would cease to function after coming into force/ effect of the Major Ports Authorities Act, 2021 - on the appointed date. It is public knowledge that the MPA Act 2021 has received Presidential assent on 17th February 2021 and has been published, for general information in the official gazette on 18th February, 2021. Thus, it is a matter of time before its effective date would be notified. There appears to be an *undue haste* even in seeking TAMP's approval of MbPT's proposals when Parliament has (under the said MPA Act, 2021); expressly *inter alia* provided (under the proviso to Sec. 27 thereof) that fixation and implementation of scale of rates, fees shall be in consonance with the norms as may be prescribed, and that the same shall *not be with retrospective effect*, and also shall *not be inconsistent with the provisions of any other law for the time being in force.* The legislative intent of the Parliament is thus manifest and clear in this regard; and clearly not only frowns upon but also bars any retrospective effect. iv). A Division Bench of the Hon'ble Bombay High Court in *Ratti Pallonji Kapadia Vs. State of Maharashtra & Ors.,* (1992 Mh. L.J. 1356) – (whilst examining the revision of lease Rent in cases of renewals of leases of Govt. Land) has held that: *"22. What is worse, although the leases have expired on 1-1-1981, they were not renewed till 1986 or later and the increased rent is being charged retrospectively from 1-1-1981. This in our view is also unfair."* v).The said judgment in Ratti Pallonji's Case has been cited with approval by the Hon'ble Supreme Court in the said Wadia's case (supra). The Hon'ble Supreme Court at para 17 therein specifically holds in respect thereof that: *"A Division Bench of the Bombay High Court presided over by Mrs. Sujata Manohar J. (as her Lordship then was) held in Ratti Pallonji Kapadia v. State of Maharashtra that the exemption from the provisions of the rent control casts an obligation on the State and its instrumentalities and authorities to comply with public policy of ensuring a fair return of*	The SoR was due from 01.10.2012 and 30.09.2017 when there was no pandemic. Covid-19 pandemic started from March 2020 and as per present

(d).	*investments without charging exorbitant rates <u>based on the prevalent market prices of land…</u>".* vi). Further, it may be appreciated that the rationale behind enacting the Taxation Laws Amendment Act, 2021 (which has been Gazetted on 13th August 2021 after receiving Presidential assent on the same day), was also that retrospective effect given to amendments militate against the principles of tax certainty and damage India's reputation as an attractive destination, and that the Country today stands at a juncture when quick recovery of the Country after the COVID-19 pandemic is the need of the hour to promote faster economic growth and employment. Trite to say that the same principle applies vis-à-vis the said Proposal/s under reply which are also retrospective, and would have the very same effect that Parliament is now consistent in not only frowning upon, but even legislatively barring any such effects. In the light of the aforestated objections/ comments, it is humbly requested that **MbPT's Proposal/s under reply be outright rejected by TAMP.** I/we reserve my/our rights to alter, amend, add, modify and/or delete any and all of our reasons, comments and/or objections. I/we crave leave for a personal hearing in the matter before any final decision is taken in respect of the Proposal/s under reply.	circumstances there has been substantial relaxation given by the Govt. to the trade and general public and most of the premises have been operational. Further (a) any relaxation which the Govt. of India extends under any special circumstances in the case would be applicable to the tenants/lessees, though presently there are no such directions and even in any clarification from MoS&W, Govt. of India on giving any concession, relaxation, compensation and assistance during pandemic time. In this connection, attention is invited to Delhi High Court Judgement, Ramanad and others V/s. Dr. Girish Soni and others dated 21.05.2020 has held that the period of lockdown on account of Covid-19 does not excuse in payment of rental amounts (copy enclosed) and no concession in rental charges is admissible. b) As the parties have continued to occupy the premises and MbPT being Public body which continued to provide its services in COVID period and rendered the monthly invoices of compensation and also paid the GST on the invoice for the period there is no question of granting any relief. MbPT's expenditure on infrastructure and also liability towards salary/wages, maintainance etc. have continued even in COVID pandemic period. Since rentals from MbPT landed assets is important part of MbPT revenue which is essential for sustenance of MbPT, no such concessions are admissible on this ground in the proposed SoR w.e.f. 01.10.2012 The contention are denied and the SoR as proposed needs to be approved. It doesn't pertains to MbPT It doesn't pertains to MbPT None of the comments/replies to common comments posted on the website/in the presentation should be deemed to amount to an admission to any of the contentions of the applicants which are contrary to the comments and the facts posted by MbPT. Nothing contained in the representations shall be deemed to be admitted for want of specific traverse.
(e).	Nothing contained in the Proposal/s under reply (including the documents annexed thereto and/ or referred to therein, and/ or uploaded on the MbPT	

(f). (g). (h).	Website in connection thereto, and/or their content/s thereof, - shall be deemed have admitted by me/ us or accepted as applicable in my/ our case for want of specific traverse.	
4.	**Similar Representations received from Individual Tenants/ Lessees – Group – 4**	
(i). (ii). (iii). (iv**).**	The SOR for 2017-22 goes on an ad-hoc valuation which isn't even substantiated by any material. This is without prejudice to the fact that such market valuation reports cannot be made the basis of rent fixed. Further the SOR 2102-17 takes rent on the basis of 6% return on market value which we strongly oppose. This is in violation of order issued by Honorable Supreme Court of India. The fair market value in the area of Darukhana substantially less than the reckoned value. Therefore levying the said rates is absolutely unjustified and unsustainable. However we understand the increase of 4% p.a. in the month of October is in accordance with the rules. We also fear that incase of levying such exorbitantly high rate as reckoner, MCGM will also start levying property taxes which will also create a huge burden on tenants. Hence we are requesting you to look in the matter with practical approach and take into consideration the burden it would take on tenants who has been trying to earn their livelihood for so many year.	The SoR rates are based on the laid down procedure under para 13 of PGLM 2015, and the same is recommended by the LAC and approved by the Board and further submitted to TAMP for approval. The para 13 of PGLM 2014 clearly states that the highest of 5 factors for determination of rentals on Major Port Trust land i.e. (i) State Govt. RR (ii) Average rate of actual transactions registered in last 3 years in the Port vicinity (iii) Highest accepted tender of Port land for similar transactions (iv) Rate arrived at by an approved Valuer appointed for the purpose of the Port (v) Any other factor. The land values in the Ready Reckoner Zones of MbPT lands are varying from Rs. 19,400 to Rs. 2,80,000 and average value works out to Rs. 1,50,000, whereas land rates of Ready Reckoner Zones outside MbPT lands varies between Rs. 19,400 to Rs. 3,77,200 and average value works out to Rs. 1,98,000. Considering the mean value (RR 2017) of is Rs. 1,74,000 for lands in MbPT area and outside MbPT area. The MbPT valuers have recommended FMV which are average of Rs. 1,75,718 for lands which ranges between Rs. 53,820 to Rs. 3,31,600 SC judgment rates were valid only for 20 years i.,e from 01.10.1992 to 30.09.2012 No comments to offer, since it doesn't pertains to MbPT MbPT is bound by PGLM 2015 issued by MoPSW,GoI and accordingly SoR 2017-2022 as per para 13 is computed.
5.	**Specific Comments by Khatau Industries Pvt. Limited.**	
(i).	Khatau Industries Indenture of Lease dated 02.03.1920 was for a term of 99 years commencing from 26.03.1917, till 26.03.2016.	Lease is expired and hence revision of rent is applicable as per PGLM 2015

	THUS NO REVISION OF LEASE RENT CAN BE APPLICABLE ON KHATAU INDUSTRIES' PLOT OF LAND TILL 26.03.2016 as the Original Lease was subsisting till then.	
(ii).	The PROPOSAL DOCUMENT also states in para 7 that the actual rentals / compensation will be worked out for each plot on the basis of factor approved by the Committee and the Board for higher or lower FSI as per permissible or consumed as may be applicable. Thus, it can be seen that the minimum increase proposed is nearly 180 times of the existing rent, with retrospective effect.	The earlier lease rent was fixed 99 years before and there is no question of comparison of that low lease rent with the proposed revision of rent which is as per the PGLM 2015.
(iii).	The ANNEXURE-A to the PROPOSAL DOCUMENT in *Note No.1}* for 2017-2022 also states that the rent will be worked out on the basis of actual Built-up Area, subject to minimum of FSI of 1.0. Thus, it can be seen that the minimum increase proposed is nearly 600 to 700 times of the existing rent, with retrospective effect.	
(iv).	The Proposal erroneously envisages charging of rent on the Total Built-up area of the building, which is simply not legally tenable, for the reasons more particularly set out in the succeeding paragraphs.	
(v).	The Proposal envisages charging of monthly rent at a notional 6% return, which is simply not the existing market rate of return prevailing at any place in Mumbai, where the returns are not more than 1% to 2% p.a. on the market value.	Contentions are not correct. The rate of land in Mumbai is very high
(vi).	In our case, the original lease deed was executed for a vacant plot of land and <u>a building was constructed on the said plot by the original lessee Mulraj Khatau under the Indenture of Lease dated 02.03.1920 {with *a further floor added by the current fee:see Khatau Indu:stries Ltd.).* At the time of lease deed, there was no structure.</u> The lease deed mentioned about the plot and the structure therein. It is an admitted position that the structure <u>was constructed by Mulraj Khatau (our predecessor in title) and one floor was added by the current lessee Khatau Industries Ltd.</u> Despite this, the lease deed declares that the lease was granted of the land with structure. But for all purposes the ownership of the said structure belonged to our predecessor in title and thereafter to us.	After expiry of lease it is the responsibility of the lessee to remove the structure as clearly mentioned in the lease deed and hand over the vacant plot to lessor. However lessee failed to remove the structure after expiry of the lease and to hand over the vacant possession of the land to lessor i.e. MbPT

(vii)	The building constructed on the said land at all times belonged to us as it was constructed by the original lessee of the said property *(our predecessor* in title, with one *floor* being *constructed by* use under an Agreement for Lease and the Deed of Variation.	
(viii).	MBPT being an organ of the State is bound to act in a fair and reasonable manner and not act in an arbitrary manner and actions of the MBPT are to be supported by reason and it is not expected to act as a private landlord and make profits. An authority like BPT cannot act like a private landlord & whatever actions are taken by BPT should be in public interest & in the present case surely increase in the rent is not in the public interest.	Lessee was allowed to construct the building on land let out to him which he has enjoyed for 99 years by paying very small rent to MbPT only for land and now when lease is expired, lessee has no right to continue with possession of the said building and surrender the land to Port Trust by removing structure over it. There are judgements of Supreme Court which clearly states that, lessor can take over the structure constructed by lessee after expiry of the lease. However, it is total discretionary power of lessor to grant fresh lease as per PGLM and rates decided thereby. If lessee disagrees, he has every option to surrender the vacant possession. Validity of Supreme Court Judgement rates were upto 2012.
(ix).	The basic difference between the lease in the present case is the occupancy by the tenants/persons in case of other govt. Organizations like LIC, Nationalized banks etc. needs to be seen carefully. While in majority of the cases of insurance companies & nationalized banks, the buildings have been constructed by the respective insurance companies / banks and these insurance/ banking companies have allowed other persons to occupy a certain portion of the building, in the present case, the lease was of the land only by MBPT and the building was constructed by our predecessor in title and ourselves. As such, the structure always belonged to our predecessor in title and ourselves, and not to the MBPT. This is also clear from the rent bill raised by MBPT on us which clearly shows that rent has been charged on 478.26 sq. mt. of land area & not the building area.	
(x).	In the case of Jamshed Wadia v s Board of Trustees it was held by the Hon'ble Supreme Court that "in any case the BPT could not afford to behave like a private landlord indulging into rack renting by correlating the rates of rent with market rates". It was also observed that : "The Bombay Port Trust is an instrumentality of State and hence, an authority within the meaning of Article 12 of the Constitution" **Dwarkada Marfatia & Sons v/s Board of Trustees of port of Bombay - 1989] 3 fiCC 293]** It must be	Comparison of Port Trust organisation with state is totally wrong. State Government can get the funds from Central Government as and when there is shortage. State Govt. gets 50 % of GST on every transaction whereby Port Trust has to pay 18% GST on every bill raised by it. In fact Port Trust charges very few amount on import export which is original business of the Port Trust and thereby make the raw material and finished goods to public at very cheaper rate by investing huge amount of funds in construction of berth, jetties and for the security of material of importer / exporter to match with the norms of international safety and dock operation by

	governed by Article 14 of the Constitution. It cannot afford to act with arbitrariness or capriciousness. All its actions must be for the public good, achieving the objects for which it exists and accompanied by reason and not whim or caprice. "The State and its instrumentalities as the landlords have the liberty of revising the rates of rent so as to compensate themselves against loss caused by inflationary tendencies. They can and rather must also save themselves from negative balances caused by the cost of maintenance. However, the State cannot be seemed to be indulging in rack renting, profiteering and indulging in whimsical or unreasonable bargains."	employing CISF and giving them free medical facilities and accommodation.
(xi).	In Baburao Shantaram More v/sThe Bombay Housing Board - 1954] ECJ 210, it was observed by the Supreme Court as under :- 'It is not to be expected that the Government or local authority or the Board would be actuated by any profit making motive so as to unduly enhance the rents as private landlords are or are likely be." In Ratti Ji Kapadia v/s State of Maharashtra, Maharashtra Law Journal 1356 it was observed as under: - Para no. 13 - The State Government is not expected to behave like an ordinary landlord but is expected to behave fairly and in a reasonable manner. State Government must comply with the public policy of ensuring basically fair return on investments and without charging exorbitant charges based on the prevailing market prices of the land". Para 18. "Bombay Port Trust was not expected to behave like ordinary landlord. The ordinary landlord tries to extract best possible prorits which he can. BPT would however be entitled to get protection against the erosion in the rental as a result of inflationary trends. An increase in rent by adopting such standards of comparison would be contrary to the government policy.'	Mumbai Port Trust is facing great difficulty to meet overall expenditures of the organisation because of the non-paying attitude of rent / compensation of lessees and tenants by taking the undue advantage of the various legal means and making Port Trust to invest huge amounts of money in the litigation. Because of this attitude the Port Trust is in huge loss. There is no question of any profit in the scenario as contended in this para. There are about 5000 employees and 35000 pensioners to whom port trust has to pay every month, thereby MbPT has to carry responsibilities of about 40,000 families. Port Trust is providing pre-medical facility to all the family members of these families. Even Port Trust is giving concession to the Government Organisations like BEST, MGCM, Defence, Police etc. and most of the land of the MbPT is occupied by them.
(xii)	The rate of the land at Rs.54,700 per Sq. m for 2012-17 and Rs.1,91,036/ - per Sq. mt. for 2017-22 taken in the schedule of rates, is far above the market rate of developed land as per Stamp Duty Ready reckoner for the year 2012 and 2017, for Mumbai. As is well known, the rates as per	The rate arrived by the valuer based on the transaction involved in the said area in the vicinity / zone, therefore, the contention raised in this para is not correct as the said rate is arrived by considering the transactions in last three years.

(xiii).	the Ready Reckoner are used to arrive at the market value of the property and the levy of stamp duty thereon. It is also used as a base by the Income Tax Department while taxing the gains on the transfer of property [S.56 (2) (x) (b)] below the stamp duty value. Art.25 of Maharashtra Stamp Act, 1958 also talks about market value of the property and in The Maharashtra Stamp (Determination of True Market Value of Property) Rules., 1995 R. 2 (F) talks about valuation guidelines as per Annual Statements of rates. Thus, it is clear that the proposed land rate adopted by MBPT is the highest possible market rate of land, which is far in excess of the Ready Reckoner rate of the land. But in our humble submission, that should not be the base for determining the monthly rentals in view of the observation of the Supreme Court in various judgments cited hereinbefore. The hundreds of times increase in the rental will not only be disastrous for the lessees but will also amount to an absolute injustice at the hands of a State authority and result in unconscionable profiteering by the MBPT. This is in view of the fact that the MBPT has not valued the land as per the basic land valuation in the relevant Ready Reckoner, but has proceeded to value the entire building value, and that too at the highest market rate and has then arrived at the land value, based upon such valuation, which is apparent from the Valuation Report annexed to the Proposal. It is humbly submitted that when the MBPT started its exercise of valuation, it relied upon the Ready Reckoner rate *(a:s per* the Minutes *of* the *Committee for framing ISOR).* However, in due course, the entire basis for arriving at the FOR was changed to the highest possible and market rate calculations, which is erroneous. Furthermore, the 6% return on market rate that MBPT has fixed is absolutely erroneous since no property in Mumbai fetches 1% or 2% return on market rate, which has been correctly acknowledged by the MBPT for residential premises, wherein the rate of return has been fixed by MBPT at 1.8% p.a. It is respectfully submitted that even the Ready Reckoner of the Government of Maharashtra for Fort division fixes the	Earlier rates were too low in comparison the prevailing Ready Reckoner rate, however as per PGLM Port Trust is bound to adopt five factors method of valuation and thereby is arrived at the rates given by the valuer thoroughly considering all the factors. In view of above the request can not be accepted as Port Trust is bound to adopt PGLM-2015 as per the direction of Ministry.

(xiv)	difference between a residential property and a commercial property at a maximum of 65% more, for ground floor commercial property or 31% more for a non-ground floor property. Therefore it is not understood as to on what basis MBPT, a State organization, wants to adopt a 333% increase in its expected return (1.8% vs. 6%) for commercial properties, as compared to residential properties. It is humbly submitted that such an act on part of the MBPT is arbitrary, non-justifiab1e and not based upon any commercial return in Mumbai, and shall result in unconscionable profiteering by the MBPT in violation of all the precedents passed by the Hon'ble Courts from time to time *(:some of* which *are referred to* herein-above).	
(xv)	In our humble submissions, in our case, yearly increase of 5% in the existing rental *(based on* the land area *of 478.26* sq. m. and the *fact* thot the *building* ur*as* constructed by *our predecessor* in *title* rind as rind not by *MBPT}* should be fair enough. The proposed increase in rental with retrospective effective will be highly destructive for all the occupants and it is likely that the same may be challenged in Court of law. Lastly the rent should only be charged as per FSI of 1:1 and not on the total built up area, as the MBPT has not constructed the building, but it has been constructed by the Lessees.	
6.	**Specific Comments by National Union of Seafarers of India**	
(i).	With regard to MBPT email notice no EM/AS(G)F-361/ dated 14th August, 2021 regarding comments on Revision of Schedule of Rates for the period 01.10.2012 to 30.09.2017 of MbPT Estate lands, it is to state that our lease terms and conditions are valid and subsisting upto 31st March, 2024. As such, we are out of the purview of such revision of SOR till subsistence of the lease bearing Plot No. RR. No. 1704 at Mody Bay Estate.	The rates given are applicable as and when there are the request for the additional construction, subletting/ assignments etc. or to the breaches committed by the lessee. In view of the above there is no question of withdrawal of notice
(ii).	The premises are used for the activities for benefit of the seafarer members of National Union of Seafarers of India (NUSI). There is no commercial use of the existing premises in any nature and, therefore Board of Trustees of Mumbai Port Trust had kindly granted concessional rent of Rs. 350/- per month for the entire premises and the same has been paid regularly.	

iii).	Further, we also submit that whenever any such revision of rent is made applicable to us in the future after expiry of our Lease, all the concessions as per the applicable policies may kindly be extended to us. Therefore, we request you to withdraw the Notice.	MbPT is duty bound to implement Policy Guidelines issued by MoPS&W, GoI.
7.	**Specific Comments of Adv. Ishan Srivastava on behalf of R.P. Thakkar**	
(i)	That in pursuance to the Charge Certificate issued by the Asst. Estate Manager Jr./ Southern Division, Bombay Port Trust, the subject Plot of land i.e. Plot No.78 admeasuring 53.51 sq. mtrs. or thereabouts of the Elphinstone Estate, Mumbai ("***said Plot***") came to be allotted on the terms and conditions as stated thereto.	Following MbPT reply are without prejudice to MbPT rights and contentions in the pending litigations and termination notices served on the lesses/ tenants and the MbPT rights to take legal action against the breaches and violation of tenancy terms and conditions under the applicable laws and the policy/ guidelines and issued by the ministry. The TAMP notice for approval of SoR 2012-17 was sent to Shri R P Thakkar who is registered tenant of MbPT for plot 78.
(ii)	That till date the aforesaid Allotment is subsisting without any willful breaches and/ or Default on part of my client.	The lessee had undertaken breaches of change of user, subletting and unauthorised construction and hence the statement made is incorrect.
(iii)	That further it is pertinent to mention herein that the said Plot of land has been in continuous use of the Applicants for the purpose as stated therein, although for the business purpose the Allottee herein occasionally travels (*to and fro*) nationally in and around the Country.	EO/E (251)/2018 under PPE Act was filed against the lessee in estate office court on account of breaches and defautlt of arrears. Hence the applicant is a unauthorised occupant and TAMP is requested not to entertain the request.
(iv)	That further it is hereby brought to my client's notice that you the addressee have notified the "*Proposal For Approval Scale Of Rates From 01.10.2012 To 30.09.2017 for Lands Letout For Non-Home Occupations in Outside Custom Bond Area Of Mumbai Port Trust*" and whereby the below – mentioned Revision of SOR for the Period from 01.10.2012 to 30.09.2017 has been proposed with respect to the subject Plot of land :- My client states that after perusing the aforesaid Revision with respect to the subject Plot of land, my client states that such revision as proposed is per-se illegal and further is based on incorrect factual matrix with respect to the prevailing market conditions and rates. **I crave leave to set forth certain necessary, relevant and material facts and circumstances with respect to the Circumstances / situation of my client :-**	The SoR was due from 01.10.2012 which was prior to pandemic. Covid-19 pandemic started from March 2020 and in the present circumstances most of the premises had been operational prior to 2012.
	a) That MBPT is aware that my client is engaged in the business as stated therein. ("***said Business***") and further is conducting the aforesaid business from the subject plot of land since inception;	There are no such directions from MoSP&W, Govt. of India on giving any concession, relaxation, compensation and assistance during pandemic time. In this connection, attention is invited to Delhi High Court Judgement, Ramanad and others V/s. Dr. Girish Soni and others dated 21.05.2020 which has held that the period of lockdown on

	b) That further my client had acquired good reputation and status in the aforesaid business circle and further ever since the last decade has been in continues financial instability on account of the fluctuation in the market condition and competition thereto;	account of Covid-19 does not excuse in payment of rental amounts (copy enclosed) and no concession in rental charges is admissible. As the parties have continued to occupy the premises and MbPT being Public body had continued to provide its services during COVID period. MbPT had also rendered the monthly invoices of compensation and paid the GST on the invoice for this period. Thus there is no question of granting any relief. MbPT's expenditure on infrastructure and also liability for salary wages, maintenance etc. had continued even in COVID pandemic period. Since rentals from MbPT land assets is one of the important part of MbPT revenue, no such concessions are admissible on this ground in the proposed SoR w.e.f. 01.10.2012. The present rentals are billed as compensation as per S. C. Judgement 2004 (Wadia Judgement) rate which was based on valuation report of MbPT land by Kirloskar Consultants in 1980s which were 41 years back and hence no way comparable with present real estate market condition and present land value in Mumbai city which are almost 36 times in comparison with 1980's land values. Please find enclosed herewith zone wise comparative statement in Annexure-1 showing the land values as of 1980's as considered by the Kirloskar consultant in their valuation report and approved by the Board vis-à-vis land values as on 2012 adopted by Board under TR 122 of 2021, which shows that on an average Kirloskar land values of Rs. 1406/- per sqm for FSI 1.33 has increased to Rs. 51,714/- per sqm for FSI 1.00 as on 2012, i.e. increase of almost 37 times of the Land values of 1980's. Whereas in the comparison of rentals as per Supreme Cout Judment dt. 13.01.2004 as on 01.10.2012 was on an average of Rs. 28.44/- per sqm per month for FSI 1.00 which will be revised to on an average of Rs. 259 per sqm per month for FSI 1.00 i.e. increase by almost 9 times. It may be seen that the land values have increased by 36 times but MbPT rental have increased only by 9 times over the SC Judgments (1980 values). Infact, MbPT had fixed rent as 10% return on Kirloskar land values with 4% every year from 01.10.1994 onwards in terms of Supreme Court Wadia Judgment. However, the rental returns from 01.10.2012 onwards will be just 6% of the Ready Reckoner Land values in MbPT estate areas, the RR values of MbPT are less as compared to abutting non-MbPT lands. Thus, it may be seen that the SoR proposed by MbPT is infact lesser than the prevailing market

	c) That even after the aforesaid financial instability, my client was functioning his business on huge losses and further in view of the subsequent policies of the Government of Maharashtra and the economy slowdown thereto, the business of my client came to standstill and the same being a cause of ***"force majeure"*** and ever since then my client is in every effort to revive its business. d) That further ever since the Lock-down being imposed on account of the Pandemic of Coronavirus, there has been complete Stand-Still in the Business. e) That in view of the aforesaid and further in view of the Policy of the Government of Maharashtra, the source of income of my client is impacted and my client is in process to revive its business. f) That my client states he has time and again called upon officers/ representatives to look into the	value. Therefore, the SoR rates are fair and reasonable and justifiable. Further it may be observed that, the Ready Reckoner land values of abutting zones which are outside MbPT are higher by average of 182% which is Rs. 81,147/- average for 1 Sqm for FSI 1.00 which are having similar infrastructure, development potential and land use. The Ready Reckoner rates are itself lower than the prevailing actual market values of land and particularly so with respect to Port Trust Properties. One of the reasons for such disparity is that the Port Trust properties not being saleable or transferable are being valued much less that the freehold lands in the open market. It is generally estimated and believed that the ready reckoner rates even for freehold land are above 50% of the actual market rates of lands in the open market. In respect of the Port Trust properties, the Ready Reckoner rates, by that reasoning, would be almost 30% of the actual market rates of land of comparable properties. Hence, a return of 6% only on the Ready Reckoner rates for Port Trust Properties is still far lower than the prevailing actual market rentals of comparable properties. In this connection attention is invited to para E of LAC report dated 29.12.2014 approved by the Board under TR 222/2015 and as further approved vide TR 105/2018 and TR 122/2021. In the said LAC report it has been clearly brought out that there is exploitation of MbPT properties by way of unauthorised subletting, unauthorised transfer and unauthorised assignment due to wide variation in the existing rentals based on Supreme Court Judgement and the very high market rentals. As may also be seen that LAC collected data of the 5 factors and presented their analysis in para F (i) to (v) and (a) to (f) pages 5 to 11 as enumerated LAC report dated 23.12.2014. Accordingly, LAC recommended SoR w.e.f 01.10.2012 based on Ready Reckoner 2012 land values with 6% return per annum and 4% annual escalation. As already brought out in the LAC report dated 29.12.2014 and approved by TR 222 of 2015, it has been categorically brought out in Para (E) as below a).The historical rent value charged by MbPT is so low as compared to the existing market rates, difference in actual rent recovered by lessees/tenants from ultimate users and rental paid to MbPT has leads to unauthorised subletting and unauthorised transfers etc. The Hon'ble Supreme Court has held that Port can't act as a private landlord but it can't be

	aforesaid issues and further to either grant time to my client to pay the Outstanding dues towards the rent and further is been shocked to receive the Statement of pending dues of rent along with other charges as imposed thereto, wherein you have raised demand as mentioned thereto, which is quite unreasonable and thus shows malafide intention on MBPT's part and for which my client shall take the matter separately. g) That in view of the aforesaid Circumstances, the issue has been out of the reach of my client and further the Revision of Rent as proposed is against the interest of my client.	construed that the present absurd position may be adopted to satisfy the test of "Benevolent State". The State can't be deprived of its dues specifically related to natural resource. It may be appreciated that area in the vicinity is commanding a rental value of Rs.237/- to Rs.1296/- per sq.mtrs. whereas as per historical method the Port is charging Rs.18/- to Rs.39/- per sq.mtr. which is less than 10% of the actual rental rates paid by the trade/user. b).The data collected from BKC shows an exponential growth in rental value for the commercial property. The data collected from State Govt. authorities suggest a return of 9 to 12% on the value of the land. This fact gives an indication that trade can absorb this cost of rent to remain economical in the business. c).Before fixing up the rate it needs to be understood the grass root reason leading to these breaches. The huge difference in the rent paid to Port vis-à-vis the prevailing market rates has led to a situation in which tenants/lessees/allottees are finding it commercially viable to further sub-let the properties and earn substantial gains. The magnitude of profits can be imagined that port revives only 10% of the amount, which is paid by the final user. This profit is being made by the allottees/tenants/lessees at the cost of the Port. d). The Committee is of the considered view that unless the rent rates are not brought to some rational level, near to market rates, it would encourage the allottees to continue with the breaches and earn profits. Hence, some scientific basis needs to be adopted to regulate the rent management of the Port. e). The Port Trust land area is divided into 36 zones by Kirloskar Company and as per the Ready Reckoner is subdivided into 22 nos. of sub-zones in divisions. The basis of arriving at market rates of land and built up areas is "transaction values for receptive zones published in the list by the Dy. Registrar of Stamp duty and Registration of Government of Maharashtra's office for the year 2012. This data is prepared by taking mean /dues of sale transactions taken place in the respective areas and therefore this data is authentic and scientific on which most the Government Departments, MCGM and Other Authorities are relying upon. This data can also stand the judicial test since the sources are authentic and reliable and figures furnished by Government Departments and any element of Arbitrariness and business will not exists. Therefore, the Committee primarily relied upon the data furnished by Ready Reckoner in the

		year 2012 and arrived at rates of return at 6% of the land values mentioned in the respective zones in the year 2012. f). Further, the Hon'ble Supreme Court has held in the cases of coal block allocation and 2G spectrum sale that the procedure/manner of exploitation of natural resources must be transparent, fair and reasonable. Keeping these observations in consideration and the fact that land belonging to MbPT is a natural resource to fix the rentals to avoid any kind of manipulation, arbitrariness and unfair practice. The committee is of the considered view that ready reckoner date is most authentic, reliable and fair and reasonable. g). This will also help that the adopting an uniform procedure in fixing the rentals on a future data as ready reckoner rates fixed by the Government are revised from time to time as per actual real estate transactions.
(v)	My client further states that being a Sole bread winner of the family he has been finding it difficult to continue the business and further if the business is been shut-down, the same will also result in the loss of the Job for the employees who are working since years and will further complicate the issues.	It is further submitted that periodical revision every five years as mandated under PGLM 2014-15 is to ensure that concerned lessees/tenants do not evade payment of rentals. The Port Trust being a public body should not be deprived of its legitimate return from let out land of the Port. These revisions of SoR will be made applicable to MT, FML, Expired lese and Licenses whose period of occupation is over and lessee/tenants are continued to occupy the premises unauthorisedly beyond the leases period. In fact, the Port Trust is not seeking to charge market rents from such lessee/ tenants but only seeking to charge a revised reasonable rent in accordance with the balance propounded by the Supreme Court in the Wadia Judgement fixed on the basis of the market value of land which is nearly 4 decades old and merely because MbPT as a landlord, is an instrumentality of the State.
(vi)	My client states that the Unjustified Increase and Revision in the rent is against the Prevailing Actual Market condition and further in view of the Policies of the Govt. of Maharashtra and further the prevailing situation of Pandemic, any increase in the rent as proposed is against the interest of the Public at large. That further my client is the sole earner in his family and further is been living separately along with his wife, children and his mother and thus as of today there has been no other source of income of my client and further the Revision as Proposed is not viable to be proposed.	i. It is placed on record that all the 23 RR zones covering Port Trust land for SoR 2012-2017 and 36 zones covering SoR 2017-2022, it is observed that RR rates for adjoining MbPT land are 2-4 times more than the RR rate for MbPT land. Since there are no transactions rates available for MbPT area, hence the RR rate is less for the MbPT area when compared with the prevailing market value of the land in the surrounding area. Existing Ready Reckoner rate of 2012 and table showing RR rates in the MbPT land beside its adjoining land and also the land

(vii) (viii) (ix) (x)	Further my client hereby calls upon you to consider the case of my client separately as being a "*Sole Bread Winner of the family*" and further under financial instability on account of unforeseen circumstances beyond the control of my client. My client craves leave to refer to and rely upon the documents at the relevant period of time of the hearing. My client hereby also calls upon you to provide personal meeting in the aforesaid matter/ dispute, so that my client can meet the officers/ representatives/ concerned to explain in detail with respect to the subject matter of the issue. **MY CLIENT THUS PRAYS THAT:-** a. To review the "*Proposal For Approval Of Scale Of Rates From 01.10.2012 To 30.09.2017 for Lands Letout For Non-Home Occupations in Outside Custom Bond Area Of Mumbai Port Trust*" and whereby the Revision of SOR for the Period from 01.10.2012 to 30.09.2017 has been proposed with respect to the subject Plot of land i.e. Plot of land i.e. Plot No.78 admeasuring 53.51 sq. mtrs. at Sr. No. 13 and to charge Rent as the earlier prescribed rate and to consider the case of my client separately as being a "*Sole Bread Winner of the family*"; b. Such other reliefs as may be deem fit in the nature and circumstances of the case;	value recommended by the Valuer as on 2012 in Annexure -1. Please find attached table showing some examples of the rates of subletting etc. undertaken by some of the Port Trust's tenants inter alia, showing the huge disparity between the letting rates realized by the Port Trust and the rate at which such tenant has sublet / assigned the premises as on 2007 and 2008 and the similar disparity continued even today. (Annexure-2) It is therefore, submitted that in cases of subletting, assignment etc., by the tenants of the Port Trust ought not to be allowed to profiteer at the cost of the public exchequer and any tenant who has sublet or assigned his premises does not in any event, deserve any sympathy from this Honourable Authority. Thus there is no violation of SC Judgement 2004 by effecting the revision as per SOR w.e.f. 01.10.2012 as per applicability of para E of LAC report dated 29.12.2014 and PGLM 2010,14,15 issued by Ministry time to time which obligatory directives under Section 111 of MPT act and is bound by the said directives for implementation. The issues raised by applicant is not relevant to present proposal of revision of SoR. Therefore, contentions raised are incorrect. The MbPT has not arbitrarily imposed such high schedule of rates.
8.	**Specific comments of International Texprint Pvt. Ltd.**	
(i) (ii)	The existing MBPT layout of plot old RR No.1658 having Code No.31102249, situated at Mody Bay Estate, Mumbai Port Trust falls within MBPT's SPA limit of MBPT's jurisdiction bearing unit No.11 as appeared in Annexure – A sent by you which is forwarded to us for our information hence, from said letter as we understood that MBPT's SPA will be our Planning Authority and its DP will consider development permission of our occupied property. It appeared that MBPT proposed SOR is not based on hardship created due to new SPA-DP in lieu of MCGM DP (sanctioned) and ultimately our existing MbPT sanctioned user/activity is affected the land / plot areas based on its new development control rules as MBPT proposed SOR is related to it. The land rate which is considered for valuation report is not covering the lack of facilities available to us to run our existing business (non-confirming) such as and also further use	The TAMP notice for approval of SoR 2012-17 was sent to A.H. bhiwandiwalla who is registered tenant of MbPT for plot RR 1658 however reply was received from 3rd party who do not have any locus standi with MbPT and is neither lessee/tenant of MbPT. At the outset, it is submitted that the application from 3rd party with whom MbPT has no privity of contract and who is neither lessee under any such Law, agreement and T&C and is occupying the premises without consent of MbPT. No third party can occupy the premises without the written permission from MbPT. The applicant is therefore, unauthorised occupant of the premises and has no legal right on property and therefore, TAMP is requested not to entertain any such application from third party. The lessee had undertaken breaches on unauthorised construction. Termination notices dt. 13.11.1998 is issued for breaches and eviction..MbPT had given a detailed reply covering various issues raised by the

(iii).	of our land/plots & utilization of permissible FSI for the existing development / redevelopment of plot. The Repairs Adds / Alterations to the existing structures with or without use of permissible FSI are not permitted by you. As a common person in the capacity of MBPT's tenant we at least know that the value of MBPT's property to be ascertained for the rent revision which is let out to us cannot be materialized unless aforesaid points i.e. sr.no.1 to 3 are considered on legal basis & adverse effect of MBPT's development control rules. Therefore, MBPT pragmatic view is essential on the basis of existing site condition of unbuildable plot size & location etc. and applicability and its feasibility to be considered as per development control rules of MBPT's SPA to avail the compromise base for finalization of SOR.	stakeholders on the revision of SOR 2012-2017 and 2017-2022 to TAMP on 02.09.2021 and a detailed presentation has been uploaded on MbPT website covering all the issues raised by the stakeholders in this letter.
9.	**Specific comments of Volkart Foundation Indian Trust**	
	We are a public charitable institution. We are lessees under a Lease Deed dated 12 November 1918 covering a lease of 99 years from July 18 in respect of Plot No.19 containing 1018 square yards. The lease deed Stipulates a fixed rental for specified periods and does not contain any provision for revision of the rent. Without prejudice to the above, we wish to make the following submissions: <u>Proposed Rates</u> 1.1. The existing rate for our premises is ₹..4000.00 per month. The rate proposed is Rs.232794.96 i.e. an *increase* of 4819.87%, in 2012-13 and subject to an annual Increase of 4%. 1.2. The proposed rate is based on a return of 6% on the annual letting value of the land as per the Ready Reckoner of the year 2012. In this connection it may be noted: Currently the market rates of rent give a return on the value of commercial premises between 4% and 6%. Out of the rent collected, the lessor of the premises has to incur necessary expenses on maintenance and repairs of the premises, security and other staff, maintenance and electricity on lifts, insurance and many other expenses. Therefore the net return is much lower than as indicated above. 1.3. Consequently it should be obvious that the proposed increase is grossly unreasonable and violative of the guidelines indicated by the Supreme Court when approving the revised "compromise formula"	The Lease is expired having no renewal clause. After expiry of lease it is the responsibility of the lessee to remove the structure as clearly mentioned in the lease deed and hand over the vacant plot to lessor. Lessee was allowed to construct the building on land let out to him which he has enjoyed for 99 years by paying very small rent to MbPT only for land and now when lease is expired, lessee has no right to continue with possession of the said building and surrender the land to Port Trust by removing structure over it. There are judgements of Supreme Court which clearly states that, lessor can take over the structure constructed by lessee after expiry of the lease. However, it is total discretionary power of lessor to grant fresh lease as per PGLM and rates decided thereby. If lessee disagrees, he has every option to surrender the vacant possession. 1.1.2, 1.1.3 2.2 & 2.3 Earlier rates were too low in comparison the prevailing Ready Reckoner rate, however as per PGLM Port Trust is bound to adopt five factors method of valuation and thereby is arrived at the rates given by the valuer thoroughly considering all the factors. Even after expiry of the lease the lessee can participate into the tender cum auction method on clearing all past port trust dues as per the PGLM.

	that the increase should be fair and reasonable and that to compensate for inflation the rates can be increased by 4% per annum. (Ref: Supreme Court Cases 214 of 2004 in between Jamshed Hormusji Wadia versus Board of Trustees, Port Of Mumbai) 2.2 <u>Retrospective Application</u> It is proposed to increase the rates retrospectively from 1.10.2012. Even if the lease agreements give authority to the Port Trust to periodically revise rates, this can only be done prospectively and after due notice. This is essential because for many of the properties, parts or whole of the properties have been given out on "leave and licence basis" and a retrospective increase in rates after almost 20 years does not enable the licensor to recover the increase from the licensee, particularly when the licensee *has* changed in the meantime. 2.3. <u>Expired Leases</u> 2.3.1 Our lease expired on 5 July 2017. We had applied well in time for the renewal of the lease but we have had no response from the Port Trust. We are a charitable institution and dependent on the income we derive from the property by giving it out on "leave and licence" basis. Because of the lack of clarity regarding the renewal of the lease, we were unable to give out the premises on "leave and licence "basis even before the expiry of the lease and continue to be unable to do so after its expiry. It is unreasonable to expect us to pay this huge amount of rates retrospectively and particularly for the period when the lease has not been renewed when we derive no income from the property. *2.3.2* It is stated that the rates applicable when leases are renewed will be determined on the basis of a different formula. We would submit that it will be discriminatory if different formulas are applied to continuing leases and renewed *leases.*	
10	**Specific Comments by Summit Steels –**	
	I would like to point it out to you that the 6% rate that you intend on implementing is too high and gives us the feeling that we have rented the said property and not purchased it. Also, BPT wishes to implement these rates from the 2012 which we feel is unfair to us as any changes in the rates of any form is applicable after the first notice and not before that.	The SoR was due from 01.10.2012 and 30.09.2017 when there was no pandemic. Covid-19 pandemic started from March 2020 and as per present circumstances there has been substantial relaxation given by the Govt. to the trade and general public and most of the premises have been operational. Further (a) any relaxation which the Govt. of India extends under any special circumstances in the case would be applicable to the tenants/lessees, though

	That being said, we also do not feel that we are getting any facilities or services from BPT for these rates that are charged from us which include roads, drainage, uninterrupted power supply, sufficient toilets, water supply and adequate safety to name, amongst a few. I would also request you to consider the ongoing pandemic and frequent lockdowns that have hit us small time business owners the largest and are struggling to be in existence. With these high rental rates we would not be able to survive and many of us owners and daily wage earners would likely lose their livelihood. Therefore, MBPT is requested to be compassionate towards us and show some sympathy by not implementing these rates at all to help us contribute towards the growth of the small business fraternity and the country as a whole.	presently there are no such directions and even in any clarification from MoS&W, Govt. of India on giving any concession, relaxation, compensation and assistance during pandemic time. In this connection, attention is invited to Delhi High Court Judgment, Ramanad and others V/s. Dr. Girish Soni and others dated 21.05.2020 has held that the period of lockdown on account of Covid-19 does not excuse in payment of rental amounts and no concession in rental charges is admissible. b) As the parties have continued to occupy the premises and MbPT being Public body which continued to provide its services in COVID period and rendered the monthly invoices of compensation and also paid the GST on the invoice for the period there is no question of granting any relief. MbPT's expenditure on infrastructure and also liability towards salary/wages, maintenance etc. has continued even in COVID pandemic period. Since rentals from MbPT landed assets are important part of MbPT revenue which is essential for sustenance of MbPT, no such concessions are admissible on this ground in the proposed SoRw.e.f. 01.10.2012. The revision under SoR 2012-17 is by statutory guidelines issued under PGLM, 2015 and clarifications issued by Ministry from time to time and therefore mandatory and binding on all parties concerned. Every monthly Bills/invoices are sent along with footnote "THIS BILL IS PROVISIONAL AND WITHOUT PREJUDICE TO BOARDS RIGHTS AND CONTENTION TO REVISE THE RENT/COMPENSIONW.E.F 01.10.2012". The issue of renewal will be dealt with separately on case to case basis by Board of Trustees. The revision of rates are strictly in accordance with the provision of PGLM 2014-2015 The SoR rates are based on the laid down procedure under para 13 of PGLM 2015, and the same is recommended by the LAC and approved by the Board and further submitted to TAMP for approval. The para 13 of PGLM 2014 clearly states that the highest of 5 factors for determination of rentals on Major Port Trust land i.e. (i) State Govt. RR (ii) Average rate of actual transactions registered in last 3 years in the Port vicinity (iii) Highest accepted tender of Port land for similar transactions (iv) Rate arrived at by an approved Valuer appointed for the purpose of the Port (v) Any other factor. The land values in the Ready Reckoner Zones of MbPT lands are varying from Rs. 19,400 to Rs. 2,80,000 and average value works out to Rs. 1,50,000, whereas land rates of Ready Reckoner Zones outside MbPT lands varies between Rs. 19,400 to Rs. 3,77,200 and average value works out

		to Rs. 1,98,000. Considering the mean value (RR 2017) of is Rs. 1,74,000 for lands in MbPT area and outside MbPT area. The MbPTvaluers have recommended FMV which are average of Rs. 1,75,718 for lands which ranges between Rs. 53,820 to Rs. 3,31,600. The contention is blatantly incorrect. The rate as on 30.09.2017 is Rs 80.13 per SQM per month whereas the revised rate as on 01.10.2017 workes out to Rs 269 per SQM per month , which is 235 % increase and not 450% increase as contended. The contention raised in this para is not correct. Tender was called for appointment of Govt. Register Valuer in MbPT panel and different RR Zones were entrusted for valuation to different valuers. The Wadala RR zones 14/101, 11/86 and Mahul Division 90/419 was entrusted to M/s Patwardhan consultants Pvt. Ltd. The rates furnished by the valuer are strictly in accordance with the provision of PGLM 2014-2015 i.e. taking in to consideration 5 factors as stipulated in PGLM. At present MbPT is bound by PGLM 2014/15 and clarification issued by Ministry of Shipping. The contentions are not acceptable
11	**Jaiambe Forge Engineer s Private Limited**	
	It is morally wrong for a lessor to increase the rates and demand rent for the time that has already passed. The recent decision of our government to scrap all retrospective tax laws, although not directly related to our case, is a reflection of this belief. We have always paid our rent on time to MBPT and calculated our cost of doing business based on such rental expenses. For you to now demand such a high tariff retroactively would be a financial shock for our business and it will be very difficult for us to sustain it financially. Considering the adverse impact that the pandemic had on our business, this levy will further strain our financial condition. In the letter delivered to us, it is mentioned that we are falling in one of the 8 ready reckoner zones yet we never received any basic facilities like sewage/ drivable road or water supply etc. It has been a consent policy of our Government to increase the ease of doing business in our country. Yet, today I feel that despite our best efforts to be productive, responsible, tax paying and employment generating members of society, this action is undoing all of our hard work.	The SoR was due from 01.10.2012 and 30.09.2017 when there was no pandemic. Covid-19 pandemic started from March 2020 and as per present circumstances there has been substantial relaxation given by the Govt. to the trade and general public and most of the premises have been operational. Further (a) any relaxation which the Govt. of India extends under any special circumstances in the case would be applicable to the tenants/lessees, though presently there are no such directions and even in any clarification from MoS&W, Govt. of India on giving any concession, relaxation, compensation and assistance during pandemic time. In this connection, attention is invited to Delhi High Court Judgment, Ramanad and others V/s. Dr. Girish Soni and others dated 21.05.2020 has held that the period of lockdown on account of Covid-19 does not excuse in payment of rental amounts and no concession in rental charges is admissible. b) As the parties have continued to occupy the premises and MbPT being Public body which continued to provide its services in COVID period and rendered the monthly invoices of compensation and also paid the GST on the invoice for the period there is no question of granting any relief. MbPT's expenditure on infrastructure and also liability towards salary/wages, maintenance etc. has continued even in COVID pandemic period. Since rentals from MbPT landed assets are important part of MbPT revenue which is essential for sustenance of MbPT, no such concessions are admissible on this ground in the proposed SoRw.e.f. 01.10.2012.

		The revision under SoR 2012-17 is by statutory guidelines issued under PGLM, 2015 and clarifications issued by Ministry from time to time and therefore mandatory and binding on all parties concerned. Every monthly Bills/invoices are sent along with footnote "THIS BILL IS PROVISIONAL AND WITHOUT PREJUDICE TO BOARDS RIGHTS AND CONTENTION TO REVISE THE RENT/COMPENSIONW.E.F 01.10.2012". The issue of renewal will be dealt with separately on case to case basis by Board of Trustees. The revision of rates are strictly in accordance with the provision of PGLM 2014-2015 The SoR rates are based on the laid down procedure under para 13 of PGLM 2015, and the same is recommended by the LAC and approved by the Board and further submitted to TAMP for approval. The para 13 of PGLM 2014 clearly states that the highest of 5 factors for determination of rentals on Major Port Trust land i.e. (i) State Govt. RR (ii) Average rate of actual transactions registered in last 3 years in the Port vicinity (iii) Highest accepted tender of Port land for similar transactions (iv) Rate arrived at by an approved Valuer appointed for the purpose of the Port (v) Any other factor. The land values in the Ready Reckoner Zones of MbPT lands are varying from Rs. 19,400 to Rs. 2,80,000 and average value works out to Rs. 1,50,000, whereas land rates of Ready Reckoner Zones outside MbPT lands varies between Rs. 19,400 to Rs. 3,77,200 and average value works out to Rs. 1,98,000. Considering the mean value (RR 2017) of is Rs. 1,74,000 for lands in MbPT area and outside MbPT area. The MbPTvaluers have recommended FMV which are average of Rs. 1,75,718 for lands which ranges between Rs. 53,820 to Rs. 3,31,600. The contention is blatantly incorrect. The rate as on 30.09.2017 is Rs 80.13 per SQM per month whereas the revised rate as on 01.10.2017 workes out to Rs 269 per SQM per month , which is 235 % increase and not 450% increase as contended. The contention raised in this para is not correct. Tender was called for appointment of Govt. Register Valuer in MbPT panel and different RR Zones were entrusted for valuation to different valuers. The Wadala RR zones 14/101, 11/86 and Mahul Division 90/419 was entrusted to M/s Patwardhan consultants Pvt. Ltd. The rates furnished by the valuer are strictly in accordance with the provision of PGLM 2014-2015 i.e. taking in to consideration 5 factors as stipulated in PGLM. At present MbPT is bound by PGLM 2014/15 and clarification issued by Ministry of Shipping.

		The contentions are not acceptable
12.	**Specific Comments by AL Hadid Enterprise**	
	I express my disagreement and outrage over this. It is morally wrong for a lessor to increase the rates and demand rent for time that has already passed. The recent decision of our government to scrap all retrospective tax laws, although not directly related to our case, is a reflection of this belief. We have always paid our rent on time to MbPT, and calculated our cost of doing business based on that. For you to now demand such a high tariff retroactively would be a financial shock our business would not recover from. In the letter delivered to us, it is mentioned that we fall in 1 of 8 ready reckoner zones, yet we have never received any of the basic facilities from you in the form of water supply, sewage facilities or drivable roads. It has been a constant policy of our Government to increase the ease of doing business in our country. Yet, today I feel that despite our best efforts to be productive, responsible, tax paying and employment generating members of society, this action is undoing all of our hard work. Thank you.	The SoR was due from 01.10.2012 and 30.09.2017 when there was no pandemic. Covid-19 pandemic started from March 2020 and as per present circumstances there has been substantial relaxation given by the Govt. to the trade and general public and most of the premises have been operational. Further (a) any relaxation which the Govt. of India extends under any special circumstances in the case would be applicable to the tenants/lessees, though presently there are no such directions and even in any clarification from MoS&W, Govt. of India on giving any concession, relaxation, compensation and assistance during pandemic time. In this connection, attention is invited to Delhi High Court Judgment, Ramanad and others V/s. Dr. Girish Soni and others dated 21.05.2020 has held that the period of lockdown on account of Covid-19 does not excuse in payment of rental amounts and no concession in rental charges is admissible. b) As the parties have continued to occupy the premises and MbPT being Public body which continued to provide its services in COVID period and rendered the monthly invoices of compensation and also paid the GST on the invoice for the period there is no question of granting any relief. MbPT's expenditure on infrastructure and also liability towards salary/wages, maintenance etc. has continued even in COVID pandemic period. Since rentals from MbPT landed assets are important part of MbPT revenue which is essential for sustenance of MbPT, no such concessions are admissible on this ground in the proposed SoRw.e.f. 01.10.2012. The revision under SoR 2012-17 is by statutory guidelines issued under PGLM, 2015 and clarifications issued by Ministry from time to time and therefore mandatory and binding on all parties concerned. Every monthly Bills/invoices are sent along with footnote "THIS BILL IS PROVISIONAL AND WITHOUT PREJUDICE TO BOARDS RIGHTS AND CONTENTION TO REVISE THE RENT/COMPENSIONW.E.F 01.10.2012". The issue of renewal will be dealt with separately on case to case basis by Board of Trustees. The revision of rates are strictly in accordance with the provision of PGLM 2014-2015 The SoR rates are based on the laid down procedure under para 13 of PGLM 2015, and the same is recommended by the LAC and approved by the Board and further submitted to TAMP for approval. The para 13 of PGLM 2014 clearly states that the highest of 5 factors for determination of rentals on

		Major Port Trust land i.e. (i) State Govt. RR (ii) Average rate of actual transactions registered in last 3 years in the Port vicinity (iii) Highest accepted tender of Port land for similar transactions (iv) Rate arrived at by an approved Valuer appointed for the purpose of the Port (v) Any other factor. The land values in the Ready Reckoner Zones of MbPT lands are varying from Rs. 19,400 to Rs. 2,80,000 and average value works out to Rs. 1,50,000, whereas land rates of Ready Reckoner Zones outside MbPT lands varies between Rs. 19,400 to Rs. 3,77,200 and average value works out to Rs. 1,98,000. Considering the mean value (RR 2017) of is Rs. 1,74,000 for lands in MbPT area and outside MbPT area. The MbPTvaluers have recommended FMV which are average of Rs. 1,75,718 for lands which ranges between Rs. 53,820 to Rs. 3,31,600. The contention is blatantly incorrect. The rate as on 30.09.2017 is Rs 80.13 per SQM per month whereas the revised rate as on 01.10.2017 workes out to Rs 269 per SQM per month , which is 235 % increase and not 450% increase as contended. The contention raised in this para is not correct. Tender was called for appointment of Govt. Register Valuer in MbPT panel and different RR Zones were entrusted for valuation to different valuers. The Wadala RR zones 14/101, 11/86 and Mahul Division 90/419 was entrusted to M/s Patwardhan consultants Pvt. Ltd. The rates furnished by the valuer are strictly in accordance with the provision of PGLM 2014-2015 i.e. taking in to consideration 5 factors as stipulated in PGLM. At present MbPT is bound by PGLM 2014/15 and clarification issued by Ministry of Shipping. The contentions are not acceptable.
13	**Specific Comments from Mr.Janardhan P.Auti**	
	I am agree with rate revisions by concerned authorities time to time. I hereby request you to change tenancy to my name as I am in possession since 1998.	(i) No comments to offer (ii) It doesnot pertains to current proposal for revision of SoR and however, it will be done as per Board's Policy
14.	**Specific Comments by Motor Transport of India Private Limited**	
	Please note that 6% per annum SOR as per Ready Reckoner is very high, as generally the market trends for Government bodies is not more than 1-2% per annum and even in the compromise proposal of 2006, the Ready Reckoner is considered which should be taken care of. Hence request you to please consider lower rate of return to enable stake holders to sustain.	SCJ 2004 had provided annual escalation of 4% every year and the same is being continued by MbPT since, the growth of land values in Mumbai is very dynamic. Example in case of RR Zone 14/101, land value in RR 2012 is Rs 24000/- which increased to Rs. 40200/- i.e. 9% per annum. Hence, MbPT has adopted reasonable annual escalation at 4% per annum.
15.	**Specific Comments By Mohanlal Sohanlal Chavan**	
	As Per MBPT's proposal the rates given in annexure 1 is the Revision of SOR for the period	The revision under SoR 2012-17 is by statutory guidelines issued under PGLM, 2015 and

	from 01.10.2012 to 30.09.2017 for which I comment as below: 1. MBPT is a trust and its scope of business is primarily of dealing in PORTS and Shipping Business but Not of Collecting Rental incomes considering the rent as the primary income. 2. MBPT has stated in the proposal that the rents were fixed as per compromised policy for further 20 years Since 1992 which was valid till 30.09.2012 but MBPT issued charge certificate to each individual tenant has never mentioned on the charge certificate that which letting rates are charged whether they will charge me on the compromised policy rates or regular ready reckoner rate. 3. Bringing to MBPT's notice that the rent which has been paid to MBPT has been Substantially increased by MBPT at the Rate of 4% Every year and abiding such amount I have paid such rents regularly. 4. Being in the Good faith I hereby declare that I have never breached the MBPT tenancy by Sub-letting my tenancy and Always have been abide to the MBPT. 5. I had paid the rent that have been charged by MBPT on the regular letting rates which were as per the ready reckoner and not as per the compromised policy. 6. The Property Tax that has been imposed by MCGM (BMC) has been paid by me on the regular basis to the authority. Whereas, as mentioned in the said proposal ready reckoner rate from some of the private estate agency, Collectors of Stamp has been taken into consideration while calculating the SOR. But if we follow such a letting rates that has been charged it is in the bad faith As because, In scenario of a Regular property the property tax is beared by the owner of the property and not the tenant. Whereas, I being a sincere tenant still abiding the Bye Laws of MBPT and have been paying property tax of the property hold by me regularly. 7. Bringing to MBPT's Notice that Not only the Property tax but also various taxes such as Sewerage Tax, Trade Removal Charges, License Fee, Water Tax and many expenses that which an owner of the land should be liable to paid, but in tenancy of MBPT such a charges are imposed on the tenant and MBPT does not play any role in paying such expenses. 8. The rates which are given in SOR are Given as per the ready reckoner where I sought that even if such rates were imposed by	clarifications issued by Ministry from time to time and therefore mandatory and binding on all parties concerned. Every monthly Bills/invoices are sent along with footnote "THIS BILL IS PROVISIONAL AND WITHOUT PREJUDICE TO BOARDS RIGHTS AND CONTENTION TO REVISE THE RENT/COMPENSIONW.E.F 01.10.2012". The issue of renewal will be dealt with separately on case to case basis by Board of Trustees. The revision of rates are strictly in accordance with the provision of PGLM 2014-2015 The SoR rates are based on the laid down procedure under para 13 of PGLM 2015, and the same is recommended by the LAC and approved by the Board and further submitted to TAMP for approval. The para 13 of PGLM 2014 clearly states that the highest of 5 factors for determination of rentals on Major Port Trust land i.e. (i) State Govt. RR (ii) Average rate of actual transactions registered in last 3 years in the Port vicinity (iii) Highest accepted tender of Port land for similar transactions (iv) Rate arrived at by an approved Valuer appointed for the purpose of the Port (v) Any other factor. The land values in the Ready Reckoner Zones of MbPT lands are varying from Rs. 19,400 to Rs. 2,80,000 and average value works out to Rs. 1,50,000, whereas land rates of Ready Reckoner Zones outside MbPT lands varies between Rs. 19,400 to Rs. 3,77,200 and average value works out to Rs. 1,98,000. Considering the mean value (RR 2017) of is Rs. 1,74,000 for lands in MbPT area and outside MbPT area. The MbPTvaluers have recommended FMV which are average of Rs. 1,75,718 for lands which ranges between Rs. 53,820 to Rs. 3,31,600. The contention is blatantly incorrect. The rate as on 30.09.2017 is Rs 80.13 per SQM per month whereas the revised rate as on 01.10.2017 workes out to Rs 269 per SQM per month , which is 235 % increase and not 450% increase as contended. As per BMC act, statutory taxes to be borne by the tenants/lessees where lease period is more than 11 months. Not related to current SoR proposal.

	BMC. BMC allows the consideration for additional FSI and Build Structure. But same cannot be applied with the said land of BPT as it is contradictory to the MBPT bye laws which same could lead into breach of Tenancy. 9. Therefore, I suggest MBPT to rethink on the revised SOR which has been proposed for the Year 2012-2017 and take a step in the good faith of me and other tenants.	
16	**Specific Comments By Indian Hotels Co Ltd -**	
	Before we state our specific objections, it is necessary to point out the observations of the Hon'ble Supreme Court of India in Jamshedji Wadia's case: "*18.In our opinion, in the field of contracts the State and its instrumentalities ought to so design their activities as would ensure fair competition and non-discrimination. They can augment their* ***resources but the object should be to serve the public cause and to do public good by resorting to fair and reasonable methods****………………* ***However, the State cannot be seen to be indulging in rack-renting, profiteering and indulging in whimsical or unreasonable evictions or bargains****.* What is proposed is clearly in breach of these binding principles laid down by the Court. Without prejudice to what is stated above, we state and submit that – 1. The issue relating to renewal of lease and fixation of the lease rent is pending and the matter is sub judice before the Hon'ble Bombay High Court in Suit no. 2469 of 2012. Notice of Motion no. 2441 of 2012 in the said suit was disposed off by the Hon'ble Bombay High Court by its order dated 23rd October 2018, *inter-alia,* directing MPT to accept the lease rent in terms of schedule of lease rent attached to its letter dated 4th April 2002, till the disposal of the suit. A copy of the Hon'ble High Court's order dated 23rd October 2018 is enclosed for ready reference. Please note that this response is being sent to you strictly without prejudice to our rights, contentions and submissions in the said pending suit. 2. In view of the fact that the lease rent is already settled up to the year July 2031 in terms schedule of lease rent given to us along with the letter dated 4th April 2002, it is not open for MPT/ TAMP to revise the lease rent without obtaining necessary orders and directions from the Hon'ble Bombay High Court in the pending proceedings. Moreover, the cases which are already settled need not be reopen. Please refer the 2nd last para on page 10 of Annexure 1 to TR 105 of 2018. In our matter, the lease	1. Appeal is filed against the order dated 23.10.2018 and which is still pending. Hence the said order is not applicable. 2. Compromise policy is valid upto 30.09.2012 and after 01.10.2012 revision as per PGLM 2015 is applicable. 3. Lease of the Indian Hotel is expired long back and further having paid up share capital is more than 1.00 cr. and rent revision as per PGLM 2015 is applicable from 01.10.2012 onwards 4. Matter is not settled and compromise policy was valid only upto 30.09.2012 and thereafter PGLM 2015 is applicable. 1. SCJ 2004 had provided annual escalation of 4% every year and the same is being continued by MbPT since, the growth of land values in Mumbai is very dynamic. Example in case of RR Zone 14/101, land value in RR 2012 is Rs 24000/- which increased to Rs. 40200/- i.e. 9% per annum. Hence, MbPT has adopted reasonable annual escalation at 4% per annum. 2. Following documents uploaded along with DA supporting relevant TR's and LAC reports ,comparative statement of SOR, Notices to intimation of uploading the proposal and also dates of hearing were send to all the registered lessees and tenants whom proposal is applicable i,e. 1813 non home occupation plots falling in 23 ready reckoner zones. So far

	rental has been settled upto July 2031 (subject to the outcome of pending suit) though our lease provides for renewal for further term of 99 years i.e. upto 2100. 3. Moreover TR 127 of 2006 - para 8.5 confirms that the cases which are already approved by the Board / Chairman may not be reopened. In our case, the liability statement along with the schedule of lease rent up to 2031 was issued to us in 2002 after obtaining the concurrence of the Chairman. 4. Accordingly, our matter comes under settled cases except that the execution of lease was pending. We have, as per the Liability Statement to the said letter of 4th April, 2002, already paid stamp duty, legal charges, security deposit etc. towards the lease document. At the further outset, it may be noted that – 1. We would further like to point out that the Policy Guidelines for Land Management, 2014 provides in clause 13 (c), that "the Port Trust Board will fix a rate of annual escalation which would not be less than 2%. However, in the present proposal, no basis of escalation at the rate of 4% has been provided. 2. We accordingly request you to make available all the relevant information and documents pertaining the proposing the SOR , including the above mentioned documents and information, in order to enable us to provide you with our comments and objections,. Considering that the proposed revision is sought to be done despite the matter being sub-judice and considering the lack of complete information and documents which ought to have been provided, the purported revision is bad in law and ex-facie invalid. Further, without prejudice to what is stated herein above and each of the following grounds being without prejudice to each other, we now deal with the notice under reference inviting comments on the Revision of Schedule of Rates for the period 01.10.2012 to 30.09.2017 on the leasehold plots of Apollo Reclamation Estates: 1. On going through the proposal for approval of scale of rates for Non- Home Occupations outside the Custom Bound areas for Mumbai Port Trust, in terms of the Land Policy Guidelines for Land Management 2015 ("***PGLM 2015***) and subsequent clarification of 2018 ("***clarification guidelines of 2018"***) for Township area of Mumbai, Kandla and Kolkata	836 no. of comments received. No extension recommended and it will delay the process. PGLM 2014 and 2015 with its clarifications uploaded on MbPT website https://www.mumbaiport.gov.in.

Ports, Tariff Authority for Major Ports ("***TAMP***") approval is required for Scale of rates (SOR) for the period 01.10.2012 to 30.09.2017. Though MBPT's notice states that the said notice has been sent by you at the request of TAMP, you have not uploaded the approval given by TAMP for the same.

2. On perusal of the Annexure 1 i.e revised SOR for RR Zones, our property falls under Unit no. 12 (zone -1/6A of Stamp duty ready reckoner) and the applicable land rate for open developed land is considered under column E as Rs.98900/- for FSI 1 and the rate under column F with 6% return on column E is considered as Rs. 494.50 per sq.mt per month for the period 01.10.2012 to 30.09.2013 and column G, H , I and J reflects the rates with 4% increase p.a. till 30.09.2017. Thereby the rate per month is increased from Rs. 494.50 per sq.mt as on 01.10.2012 to Rs. 578.49 per sq.mt per month as on 01.10.2016.

3. As per the Compromise Proposal approved by the Hon'ble Supreme Court, in the matter of Jamshedji Wadia vs the Board of Trustees of the Port of Mumbai reported in 2004 Vol. 106 (2) Bom. L. R. 376 (SC)], the following is the rent in related to the FSI used -

- Minimum rent for FSI 0.5
- Maximum rent for FSI 1.33
- In case by 1.5 times of FSI 1.33 for FSI 3 -5
- In case by 2 times of FSI 1.33 for FSI 5 or more.

In our case the consolidated FSI is 4.92, thereby the FSI applicable is 1.5 times.

Please find below the comparison chart for our consolidated lease lands

Rate as per Hon'ble Supreme Court for Apollo Bunder Reclamation upto 2012 per sq.mt p.m for FSI 1	Rate as per Hon'ble Supreme Court for Apollo Bunder Reclamation for 2012 per sq.mt p.m in terms of compromise policy the applicable FSI will be 1.5 times	Rate as per the proposed SOR from 2012 for FSI 1 per sqmt p.m.	Incremental rate per sq.mt per month for FSI more than 1	Incremental Rent in times
1	2*	3	4	5
37.79	56.68	494.50	426.71	11 times

Note: *TR 122 of 2021 – para 5 confirms that the committee will be formed to decide the

1. Work of the service of the notices is done as per the TAMP's order.

2. Facts reproduced.

3. FSI factor as may be applicable as per recommendations of committee formed for this purpose by the Board.

	applicability of the FSI on the building and its computation for fixation of lease rent for FSI more than 1. The Hon'ble Supreme Court in Wadia's Case supra had accepted the compromise proposal referred in the judgement with slight modifications and thereby fixed the computation of FSI for the building having more than 1 as reflected above. Accordingly, our building FSI was considered 1.5 times. The Committee while deciding the factor of FSI must consider the Compromise Proposal approved by Hon'ble Supreme Court for old buildings and long terms leases. 4. TR No. 122 of 2021 – para 7(b) which has been approved by the board states that the Home Occupations and Mixed Users have been excluded from SOR and same will be published subsequently. In terms of the compromise proposal and Wadia case, the Non- Home and Home Occupations ratio was fixed and the same ratio should be continued i.e. Home Occupations should be 20% of the Non- Home Occupations. In other words, the rates for Non-home Occupations should not be more than four times the rate for Home Occupants. We reserve our right to file further objections, if required, after the SOR for Home Occupations and Mixed Users are published. 5. The SOR rates are adopted from the Stamp duty Ready Reckoner of 2012 for Mumbai. It has not disclosed as to how the said rates have been considered as a fair, reasonable and marketable as the stamp duty ready reckoners rates are governed by its guidelines for fixation of the rates. 6. We request you to refer the "Important guidelines of Stamp Duty Valuation" which are required to be considered while using the SDRR rates for open land, land with buildings, vast land and accordingly the concessions on various accounts to be considered while arriving at the market rate which has not been considered while adopted the SOR by LAC. In our case, our consolidated plot area is 12343 sq.mts or thereabouts. Therefore same falls under vast land there by clause no. 17 of Important Guidelines is applicable wherein 15% concession is to be extended on the SDRR rates. Moreover the said SOR rates given in Annexure 1 are to be approved by the TAMP. 7. Mumbai Port Trust had revised the Non Home occupation rate in the year 2006, under the garb of TR 127/2006. The said TR was challenged by many lessees of MPT before the Hon'ble Bombay High Court by way of Writ Petitions which are still pending. The matter is accordingly sub-judice.	4. Comments doesn't pertains to this SoR proposal. 5. It is clearly stated in LAC report annexed with TR 222 of 2015 (which is uploaded on MbPT website). 6. There is no provision in PGLM 2015, regarding the rate of SoR and area of the land allotted/leased out.

	8. Para 4(b) of the guidelines for SOR rates published by MPT and uploaded on its web site, states that the Land Allotment Committee (LAC) while finalising the SOR had considered to bring the rent rates to some rational level by referring the ongoing surrounding areas sales transaction rental rates of office spaces at MMRDA Bandra Kurla complex and information collected from Sub- Registrar office. In this regard we would like to draw a parallel about the Municipal Corporation of Mumbai who had settled the lease rent of Schedule W properties with the concurrence of Maharashtra Govt. vide their notification of 2017. Both MPT and MCGM are instrumentalities of the State as per Article 12 of the Constitution of India. The leases of schedule W properties are similar to MPT land leases starting from Colaba till Worli. They are based on the SDRR rates and considering the leasehold aspect have valued the properties at 25% of the SDRR. They have levied 5% as lease rent for commercial premises for a block period of 10 years. A copy of the policy of MCGM is enclosed for ready reference. The comparison of lease rent on the basis of TR/ SOR of MPT vis-à-vis the compromise policy and the MCGM Policy for schedule W properties are given herein below:	7. This proposal is for revision of rates from 01.10.2012 as per PGLM 2015. Further there is no stay to the applicability of TR 127 of 2006. 8. Revision of SoR is as per PGLM 2015 issued by MoS, GoI.

A) Lease rent on the basis of proposed TR / SOR of MPT :

SDRR rate of 2012	Area in sq.mt.	BUA (FSI) Consolidated	Proposed Lease rent as per MPT		
			6% return p.m	Applicable lease rent pm	Interval of Increase
98900	12343	4.92	494.50	3,00,29,780	Annual increase of 4%

B) Lease rent on the basis of compromise policy :

SDRR rate of 2012	Area in sq.mt.	BUA (FSI) Consolidated	Proposed Lease rent as per MPT		
			6% return p.m	Applicable lease rent pm	Interval of Increase
98900	12343	1.5	494.50	91,55,420/-	Annual increase of 4%

C) Lease rent on the basis of MCGM's policy for Schedule W properties:

		BUA	Proposed lease rent as per MCGM policy for Schedule W properties

<table>
<tr>
<td></td>
<td>
<table>
<tr><td>SDRR rate of 2012</td><td>Area in sq.mt.</td><td>(FSI) Consolidated</td><td>5% of the 25% of SDRR pm</td><td>Applicable lease rent pm</td><td>Interval of increase</td></tr>
<tr><td>98900</td><td>12343</td><td>4.92</td><td>103.02</td><td>62,56,155</td><td>Block of 10 years</td></tr>
</table>

9. In light of para 8 above, the lease rent on the basis of proposed TR / SOR of MPT should be considered at par with the schedule W properties lease rent policy. MPT should adopt the MCGM policy of Schedule W for Mumbai outside custom bound area for the period 2012 to 2017. There cannot be separate benchmarks for rent on leasehold properties in similar areas by two separate instrumentalities of the State. This discrimination is not permitted in law and is therefore is not legal and valid. Moreover, the SOR rates are not in consonance with the stamp duty ready reckoners important guidelines and therefore the proposal for SOR cannot be finalised.
</td>
<td>9. MbPT is duty bound to act as per the guidelines/directions given by MoPS&W, GOI. The current proposal is strictly as per the provisions prescribed under PGLM 2015.</td>
</tr>
<tr>
<td>17</td>
<td>FIMIGATION INDUSTRIAL AND LABORATORY CHEMICALS COMPANY PVT LTD -</td>
<td></td>
</tr>
<tr>
<td></td>
<td>We have been witness to the glory and the downfall of Mumbai port. We are sorry to state that in the last 20 years there has been drastic fall in cargo traffic that has directly reduced business opportunities and income.
If you check online on the MbPT website, as on date you will find traffic consists of supply vessels, petroleum, few passenger vessels and two vessels of iron & steel cargo. We fail to understand, in current economic conditions how will the MbPT future plans to create a Nature Park, Marina, cable car to Elephanta caves, Passenger Jetties will generate sufficient revenues.
We wish to highlight that being the major promoters of JNPT port, MbPT has somehow ignored its own business interests and are themselves to blame for the fall in revenues, this has directly affected the livelihood of all the Ancillary port related businesses based around the port.
Whereas in the last decade Gujarat Ports have created modern facilities and have captured the</td>
<td>Not related to current SoR Proposal
The SoR was due from 01.10.2012 and 30.09.2017 when there was no pandemic. Covid-19 pandemic started from March 2020 and as per present circumstances there has been substantial relaxation given by the Govt. to the trade and general public and most of the premises have been operational. Further (a) any relaxation which the Govt. of India extends under any special circumstances in the case would be applicable to the tenants/lessees, though presently there are no such directions and even in any clarification from MoS&W, Govt. of India on giving any concession, relaxation, compensation and assistance during pandemic time. In this connection, attention is invited to Delhi High Court Judgment, Ramanad and others V/s. Dr. Girish Soni and others dated 21.05.2020 has held that the period of lockdown on account of Covid-19 does not excuse in payment of rental amounts and no concession in rental charges is admissible. b) As the parties have continued to occupy the premises</td>
</tr>
</table>

	entire cargo traffic. Our area at Sewri is in a state of neglect, since we can remember we are surrounded by slums, roads with craters, un-cleared garbage and filth. In the rains there is invariable flooding due to rain water and filthy water entering into our premise. Unfortunately some of the basic facilities are not available in the area. It is our earnest request that TAMP should focus on the core business of the port by attracting traffic rather than seeking additional revenues in retrospect from the tenants, who are already stressed due to economic downfall and the adverse economic effect due to the pandemic. It is requested that TAMP should kindly consider how many businesses will close down due to this proposal and cause an economic problem to businesses and the work force that is closely associated with the Port activities for their existence.	and MbPT being Public body which continued to provide its services in COVID period and rendered the monthly invoices of compensation and also paid the GST on the invoice for the period there is no question of granting any relief. MbPT's expenditure on infrastructure and also liability towards salary/wages, maintenance etc. has continued even in COVID pandemic period. Since rentals from MbPT landed assets are important part of MbPT revenue which is essential for sustenance of MbPT, no such concessions are admissible on this ground in the proposed SoRw.e.f. 01.10.2012.
18	**Specific Comments by Ashraf Shakur & ors**. -	
	1. We are the original lessees of Final Plot No. 78 in the Elphinstone Estate and had been granted a lease of 30 years, renewable for a further period of 30 years, vide letter no. EM/U-10S-28A/6521 dated 16th July, 1974. 2. We have been regularly paying the rent as demanded by MbPT as per the bills submitted to us and there has been no default in payment of same. 3. The aforesaid lease had expired on 07-12-2007 and, therefore, we had requested for renewal for a further period of lease for 30 years along with a demand draft of Rs. 50000/- that was accepted by MBPT on 12-04-2007. The said demand draft had become stale several times and was accordingly revalidated and last submitted to you vide our letter dated 17-08-2010. The said demand draft is still lying with MBPT office and we have not heard anything from you in the matter thereafter. 4. We are now surprised to receive MBPT circular notice as above and wish to state that the rates for land per sq.mtr. proposed to be revised are quite steep and exorbitant and do not reflect the current market conditions. The proposed rates should be moderate and reasonable and not be a burden on the lessees.	1. The issue raised is not relevant to the present proposal of revision of SoR 2012-17. 2. The issue raised is not relevant to the present proposal of revision of SoR 2012-17. 3. The issue raised is not relevant to the present proposal of revision of SoR 2012-17. 4. The present rentals are billed as compensation as per S. C. Judgement 2004 (Wadia Judgement) rate which was based on valuation report of MbPT land by Kirloskar Consultants in 1980s which were 41 years back and hence no way comparable with present real estate market condition and present land value in Mumbai city which are almost 36 times in comparison with 1980's land values. The MBPT has furnished a zone wise comparative statement showing the land values as of 1980's as considered by the Kirloskar consultant in their valuation report and approved by the Board vis-à-vis land values as on 2012 adopted by Board under TR 122 of 2021, which shows that on an average Kirloskar land values of Rs. 1406/- per sqm for FSI 1.33 has increased to Rs. 51,714/- per sqm for FSI 1.00 as on 2012, i.e. increase of almost 37 times of

		the Land values of 1980's. Whereas in the comparison of rentals as per Supreme Cout Judment dt. 13.01.2004 as on 01.10.2012 was on an average of Rs. 28.44/- per sqm per month for FSI 1.00 which will be revised to on an average of Rs. 259 per sqm per month for FSI 1.00 i.e. increase by almost 9 times. It may be seen that the land values have increased by 36 times but MbPT rental have increased only by 9 times over the SC Judgments (1980 values). Infact, MbPT had fixed rent as 10% return on Kirloskar land values with 4% every year from 01.10.1994 onwards in terms of Supreme Court Wadia Judgment. However, the rental returns from 01.10.2012 onwards will be just 6% of the Ready Reckoner Land values in MbPT estate areas, the RR values of MbPT are less as compared to abutting non-MbPT lands. Thus, it may be seen that the SoR proposed by MbPT is infact lesser than the prevailing market value. Therefore, the SoR rates are fair and reasonable and justifiable. Further it may be observed that, the Ready Reckoner land values of abutting zones which are outside MbPT are higher by average of 182% which is Rs. 81,147/- average for 1 Sqm for FSI 1.00 which are having similar infrastructure, development potential and land use. The Ready Reckoner rates are itself lower than the prevailing actual market values of land and particularly so with respect to Port Trust Properties. One of the reasons for such disparity is that the Port Trust properties not being saleable or transferable are being valued much less that the freehold lands in the open market. It is generally estimated and believed that the ready reckoner rates even for freehold land are above 50% of the actual market rates of lands in the open market. In respect of the Port Trust properties, the Ready Reckoner rates, by that reasoning, would be almost 30% of the actual market rates of land of comparable properties. Hence, a return of 6% only on the Ready Reckoner rates for Port Trust Properties is still far lower than the prevailing actual market rentals of comparable properties. In this connection attention is invited to para E of LAC report dated 29.12.2014 approved by the Board under TR 222/2015 and as further approved vide TR 105/2018 and TR 122/2021. In the said LAC report it has been clearly brought out that there is exploitation of MbPT properties by way of unauthorised subletting, unauthorised transfer and unauthorised assignment due to wide variation in the existing rentals based on Supreme Court Judgement and the very high market rentals. As may also be seen that LAC collected data of the 5 factors and presented their analysis in para F (i) to (v) and (a) to (f) pages 5 to 11 as enumerated LAC report dated 23.12.2014. Accordingly, LAC recommended SoR w.e.f 01.10.2012 based on

		Ready Reckoner 2012 land values with 6% return per annum and 4% annual escalation. As already brought out in the LAC report dated 29.12.2014 and approved by TR 222 of 2015, it has been categorically brought out in Para (E) as below The historical rent value charged by MbPT is so low as compared to the existing market rates, difference in actual rent recovered by lessees/tenants from ultimate users and rental paid to MbPT has leads to unauthorised subletting and unauthorised transfers etc. The Hon'ble Supreme Court has held that Port can't act as a private landlord but it can't be construed that the present absurd position may be adopted to satisfy the test of "Benevolent State". The State can't be deprived of its dues specifically related to natural resource. It may be appreciated that area in the vicinity is commanding a rental value of Rs.237/- to Rs.1296/- per sq.mtrs. whereas as per historical method the Port is charging Rs.18/- to Rs.39/- per sq.mtr. which is less than 10% of the actual rental rates paid by the trade/user. The data collected from BKC shows an exponential growth in rental value for the commercial property. The data collected from State Govt. authorities suggest a return of 9 to 12% on the value of the land. This fact gives an indication that trade can absorb this cost of rent to remain economical in the business. Before fixing up the rate it needs to be understood the grass root reason leading to these breaches. The huge difference in the rent paid to Port vis-à-vis the prevailing market rates has led to a situation in which tenants/lessees/allottees are finding it commercially viable to further sub-let the properties and earn substantial gains. The magnitude of profits can be imagined that port revives only 10% of the amount, which is paid by the final user. This profit is being made by the allottees/tenants/lessees at the cost of the Port. The Committee is of the considered view that unless the rent rates are not brought to some rational level, near to market rates, it would encourage the allottees to continue with the breaches and earn profits. Hence, some scientific basis needs to be adopted to regulate the rent management of the Port. The Port Trust land area is divided into 36 zones by Kirloskar Company and as per the Ready Reckoner is subdivided into 22 nos. of sub-zones in divisions. The basis of arriving at market rates of land and built up areas is "transaction values for receptive zones published in the list by the Dy. Registrar of Stamp duty and Registration of Government of Maharashtra's office for the year 2012. This data is prepared by taking mean /dues of sale transactions taken place in the respective areas and therefore this data is authentic and scientific on which most the Government Departments, MCGM and Other

		Authorities are relying upon. This data can also stand the judicial test since the sources are authentic and reliable and figures furnished by Government Departments and any element of Arbitrariness and business will not exists. Therefore, the Committee primarily relied upon the data furnished by Ready Reckoner in the year 2012 and arrived at rates of return at 6% of the land values mentioned in the respective zones in the year 2012. Further, the Hon'ble Supreme Court has held in the cases of coal block allocation and 2G spectrum sale that the procedure/manner of exploitation of natural resources must be transparent, fair and reasonable. Keeping these observations in consideration and the fact that land belonging to MbPT is a natural resource to fix the rentals to avoid any kind of manipulation, arbitrariness and unfair practice. The committee is of the considered view that ready reckoner date is most authentic, reliable and fair and reasonable. This will also help that the adopting an uniform procedure in fixing the rentals on a future data as ready reckoner rates fixed by the Government are revised from time to time as per actual real estate transactions. It is further submitted that periodical revision every five years as mandated under PGLM 2014-15 is to ensure that concerned lessees/tenants do not evade payment of rentals. The Port Trust being a public body should not be deprived of its legitimate return from let out land of the Port. These revisions of SoR will be made applicable to MT, FML, Expired lese and Licenses whose period of occupation is over and lessee/tenants are continued to occupy the premises unauthorisedly beyond the leases period. In fact, the Port Trust is not seeking to charge market rents from such lessee/ tenants but only seeking to charge a revised reasonable rent in accordance with the balance propounded by the Supreme Court in the Wadia Judgement fixed on the basis of the market value of land which is nearly 4 decades old and merely because MbPT as a landlord, is an instrumentality of the State. It is placed on record that all the 23 RR zones covering Port Trust land for SoR 2012-2017 and 36 zones covering SoR 2017-2022, it is observed that RR rates for adjoining MbPT land are 2-4 times more than the RR rate for MbPT land. Since there are no transactions rates available for MbPT area, hence the RR rate is less for the MbPT area when compared with the prevailing market value of the land in the surrounding area. Existing Ready Reckoner rate of 2012 and table showing RR rates in the MbPT land beside its adjoining land and also the land value recommended by the Valuer as on 2012 in Annexure -1.

	5. The proposed rates cannot be retrospective in effect but should be prospective and hence the revision should not be for the periods gone by but should be for future periods.	Please find attached table showing some examples of the rates of subletting etc. undertaken by some of the Port Trust's tenants inter alia, showing the huge disparity between the letting rates realized by the Port Trust and the rate at which such tenant has sublet / assigned the premises as on 2007 and 2008 and the similar disparity continued even today. (Annexure-2) It is therefore, submitted that in cases of subletting, assignment etc., by the tenants of the Port Trust ought not to be allowed to profiteer at the cost of the public exchequer and any tenant who has sublet or assigned his premises does not in any event, deserve any sympathy from this Honourable Authority. Thus there is no violation of SC Judgement 2004 by effecting the revision as per SOR w.e.f. 01.10.2012 as per applicability of para E of LAC report dated 29.12.2014 and PGLM 2010,14,15 issued by Ministry time to time which obligatory directives under Section 111 of MPT act and is bound by the said directives for implementation. Therefore, contentions raised are incorrect. The MbPT has not arbitrarily imposed such high schedule of rates. 5. Jamshedji Wadia judgement is the Hon'ble Supreme Court Judgement dated 13.01.2004 by which Hon'ble Supreme Court upheld the Board compromise policy rates which were valid for 20 years w.e.f. 01.10.1992 to 30.09.2012. The said facts have been confirmed by AG's (Mukul Rohatgi) opinion dated 29.07.2016 wherein AG stated that MbPT is legally empowered to fix revised rates w.e.f. 01.10.2012 and also as per instructions given by MoSP&W, GoI given to TAMP to approve the SoR retrospectively w.e.f. 01.10.2012, subject to withdrawal of Writ Petition 1153 of 2000 filed by MbPT against TAMP. The writ petition was withdrawn by MbPT on 08.08.2019. These facts were rightly pointed out in para 3 of proposal for SoR 2012-17. Thus there is no violation of S.C. Judgement and MbPT is legally within its rights has power to revise the SoR rates w.e.f. 01.10.2012 onwards. (i) The proposed revision of rentals w.e.f. 01.10.2012 to 30.09.2017 will be made applicable to only monthly tenancies, 15 monthly leases, expired leases and licenses, with retrospective effect. All parties were made aware by Circular No.EM/ASG/F-361/5873 dated 28.12.2012 whereby it was informed to all the lessees, tenants and occupants that revision of compensation / rent in respect of all the leases / tenancies excepting subsisting long term leases of Port Trust premises is due from 01.10.2012

		onwards. They were also informed that the lessees, tenants and occupants will be informed about the revised letting rates, rates of compensation, in due course of time. Also, all the lessees and tenants are billed as provisional compensation rates with footnote clearly indicating as follows – "THIS BILL IS PROVISIONAL AND WITHOUT PREJUDICE TO THE BOARD'S RIGHTS AND CONTENTIONS TO REVISE RENT/COMPENSATION w.e.f. 01/10/2012" (ii) However, since all the running leases, i.e. leases which are not yet expired are excluded from the application of proposed revision of SoR for rental / compensation since the existing agreement / rentals do not permit such revision. In case of monthly tenancies, 15 monthly leases, expired leases and licenses, since the original lease term has already been expired and the parties have unauthorisedly occupied Port Trust land without any valid extension of their occupation, all such parties are liable to pay compensation for renewal use of the premises as per the letting rates / compensation rates as determined by the Port or as per the applicable policy laid down by the Ministry of Shipping, GoI for the Ports, i.e., PGLM 2015, in this case. Therefore, this revision has been effected to all the monthly tenancies, 15 monthly leases, expired leases and licenses. (iii) Ministry of shipping, Govt. of India forwarded Policy Guidelines for Land Management 2014 (excluding township areas) for all Major Ports (PGLM 2014) and the same was accepted by Board vide TR 224 of 2014. A Committee (LAC) constituted vide TR 146 of 2014 and submitted its recommendations on SoR w.e.f. 1.10.2012 for Port lands outside custom bond area including Estate let out lands on 29.12.2014. Board Vide TR No. 222 of 2015, accepted the LAC report & proposed SoR for land areas outside custom bound area was approved by the Board on 16.01.2015. Opinion of Attorney General of India (AG) on applicability of Supreme Court Judgment post 30.09.2012 was sought in the matter. (iv) Further, Ministry issued amended PGLM 2015 on 17.07.2015. Detailed chronology of events from 2014 till date is enclosed as Annexure-7.

		(v) Since, PGLM 2015 was not applicable to Township Areas, clarification of Ministry was sought by DO letter to Joint Secretary (Ports) on 03.04.2018. The grey areas in the TR 222 of 2015 were referred to P.T. Advocate Shri Buddy Ranganadhan and also taken up with Ministry of Shipping, Govt. of India. On seeking clarification on the issue of the applicability of PGLM 2015 to the Township areas of Mumbai, Kandla and Kolkata Ports. (vi) Subsequently Ministry of Shipping, Govt. of India issued Clarification Circular No.1 of 2018 extending the PGLM 2015 to township areas of Mumbai, Kolkata and Kandla ports. The Clarification Circular No. 1 of 2018 provided revision of SoR for commercial occupations (nonhome) but excluding occupations of residential units (home occupations) and also renewal of expired lease on land not required by port as per Master plan by tender cum auction method. Subject to payment of all past arears as per applicable SOR and on upfront payment above reserve price. Based on the said clarifications, Board approved action plan vide TR 61 of 2018 (vii) In accordance with the said action plan of TR 61 of 2018, in respect of Para 5(b), proposal on grey areas of TR 222 of 2015 was submitted to LAC. LAC report dated 2.8.2017 was placed before the Board on 2.8.2018. Vide TR 105 of 2018 Board approved LAC Report dated 2.8.2017 and also accepted the LAC recommendations that TAMP's approval to the said SoR is not necessary, in view of pending Writ Petition no. 1153 of 2000 filed by MbPT challenging the TAMP's jurisdiction. However, the issue of approval of TAMP to the new SoR remained pending for want of instructions from Ministry on withdrawal of Writ Petition and allowing TAMP to approve the SoR retrospectively, i.e. from 1.10.2012 onwards. This issue alongwith other issues such as interest rate on revised arrears, GST, FSI dispute etc. were taken with Ministry of Shipping, Govt. of India. Ministry of Shipping, Govt. of India directed TAMP to fix SoR w.e.f 01.10.2012 onwards for areas of MbPT including township areas vide letter dated 15.05.2019 and TAMP vide letter dated 15.07.2019 issued the clarification on non-applicability of TAMP notification to MbPT for the period prior 01.10.2012 and

	6. In addition to the lease rent paid to MbPT, we are also paying Municipal Corporation of Greater Mumbai a sum of Rs. 1,00,000/- (One Lac) approx. towards annual taxes for which no services, for example, sewerage, water, etc., are provided by them. This should also be considered by MbPT while revising the schedule of rates. 7. We, therefore, feel that the land rates proposed to be revised by MBPT is unjustifiable and too steep.	stated that same is treated as withdrawn by TAMP. (viii) The various issues on implementation of PGLM 2015 were discussed in the Brain Storming Session of all Chairman, Dy. Chairman, Estate Manager of all Ports with the Ministry on 25th and 26th September 2019 and Ministry of Shipping, Govt. of India issued further clarification no. 2 of 2019 on grey areas of PGLM 2015. Thereafter, the matter was again placed before the Board to seek orders on para 6 of the TR 114 of 2019 along with revised LAC note dated 13.08.2019 which includes new issues raised by FA&CAO on issue of charging interest on differential arrears and GST issue in the matter. However, the considerations were deferred by the Board. The said matter was once again placed before the Board, but vide TR 149 of 2019 once again the considerations were deferred on this subject. The matter was again submitted to the Board on 01.11.2019 seeking specific orders, and Board vide TR 114 of 2019, 149 and 169 of 2019 deferred the consideration. Board vide TR 122 of 2021, approved the said proposal for revision of SoR 2012-17 and directed to obtain approval of the TAMP to the said SOR in terms of PGLM 2015 guidelines and in accordance with MoS instructions dated 15.05.2019. MbPT also withdrew the Writ Petition 1153 of 2000 on 08.08.2019. 6. The issue raised is not relevant to the present proposal of revision of SoR 2012-17. 7. Therefore, Proposal is submitted to TAMP after resolving all the legal issues and obtaining competent authority's orders in the matter, hence the matter was delayed
19	**Specific Comments by Rajdoot Hotel -**	
	Our premises is being used for only residential purpose both for our staff and hotel guest. The enhanced rates by Tariff Authority will not apply for residential and mixed use properties.	MbPT has not approved any conversion of sanctioned use to this Stakeholder. Hence, contentions are incorrect.

20	**Specific comments by Adv. Ajay Kumar Tiwari on behalf of Mr Navin Ashok Mathreja -**	
	(i). My clients say and submit that, my clients is the lawful tenant and grandson of Mr.Moolraj Rajaram Mathreja (deceased original tenant) of aforedsaid mentioned address i.e Bill Code 20701241, East of HB&B Ground Darukhana Mumbai and used and occupied the same being the legal tenant of premises. (ii). My client says and submit that, since my client is one of the parties in the obstructionist notice bearing Obsts Notice No 734 of 2010 in L.E & C No. 625/655 of 1986. Pending before Hon'ble Court No 24 at small Causes Court at Mumbai. During pendency of aforesaid matter MBPT's notice to offer comments is bad law, not tenable in the eyes of law, it is only in order to harass my clients to grape extra money from my clients the same is not acceptable. (iii). My client say and submit that, however, my client always ready and willing to pay the entire arrears of rent with permitted increase to you and even my client already paid the arrears of rents to you somewhere in 2010, but MBPT is illegally amd unauthorizedly and without any reason filled suit as well obstructionist notice against my client. My client further says and submit that, since my client always ready and always willing to pay entire arrears of rent (dues) even till today my client is ready and ready and willing to pay entire dues as per B.P.T(authority) offer to my client but my client has also offer to you Authority of B.P.T as you settled the entire dispute I.e ad=foresaid suit as well as obstructionist notice pending before court no 24 at Small Couse Court at Mumbai. (iv). My client further says and submit that, during pendency of aforesaid matter against my client, my client has already offered to settle the dispute and even the Authority of B.P.T has also ensured that, they will be going to settle the same and as the authority has insured the settle the dispute hence my client has already paid the entire dues somewherein 2010, and if the matter is going to be settle, my client ready and willing to pay the entire dues amount. (v). My client says and submit that, my client has denied all contentions made in offer to comment on revision of schedule of rates for the period from 01-10-2017, to MbPt Estate lands as falsely alleged in notice. (vi). Without prejudice, my client further says and submit that, may client has also offer to settle all dispute pending before the court of small causes court at Mumbai against my client, and my client ready and willing to pay entire dues amounts as per the offer made by Authority of TAMP as well as MbPT.	Comments are not related to current proposal on revision of SoR. Revision of SoR 2012-17 and 2017-22 are applicable as mentioned in the propopsals .

	(vii). My clients says and submit that, my client has specifically denied all contentions in offer to comments on Revision of rates for the period from 01-10-2017 to 30-09-2022(Sor 2017-2022) for & ready Reckoner zones of MbPT Estate lands as falsely alleged in notice. (viii). My client says and submit that , as I mentioned aforesaid paras the present notice is bad in law, not tenable in eyes of laws , Not acceptablein view of pending matter in Small causes court at Mumbai and also sub judice the same before the Hon,ble court No.24. Moreover, my client always ready and willing to pay the entire dues as per authority of MBPT. My Further says and submit that, my client further offers to pay the entire rent dues as per authority of the same as the MbPT has settle the entire dispute pending before the court of small causes at Mumbai. (ix). My says and submit that, in view of aforesaid facts and circumstances the both offer date 12/08/2021, are bad in law, not acceptable the same required to be discarded and my client further offered that my client will pay the entire dues as per authority of the MbPT has settle the entire dispute.	
21	**Specific comments from Pratik V.Undir -**	
	The Annexure-I, states the revision of Schedule of Rates for the period from 01.10.2012 to 30.09.2017, applicable to the MbPT's let-out properties. It is stated in the foot-notes in point no. (8) that "These rates are not applicable to the lettings of PT Structures, BDD Chawls, Fish based occupations / lettings of Old Sassoon Dock, Home Occupations, Mixed users i.e. Home & Non-Home will be made applicable as per prevailing MBPT regulations" (Copy of the extract attached). The fact that the 'Sanctioned User' of the Plot No. 11/A, at C.S. No. 141, Colaba, as per MbPT's records is 'to keep Fishing Tackle and Gear and Fishing Nets' in short for storage of equipments related to Fish based occupations. Since its inception the said plot is being used for Fish based activities and for residential purpose as well. Therefore in the light of the foot-notes, in point no. (8) Stated in Annexure-I above, the circular related to the revision of Schedule of Rates for the period from 01.10.2012 to 30.09.2017, is not applicable to the plot in my occupation.	The plot no. 11-A is at Jamshedji Bunder (outside & far away from Sassoon Dock) falls under RR zone 1/6A of Colaba Division which is submitted in the present subject proposal of revision of SoR 2012-17. Therefore the subject SoR 2012-17 for RR zone 1/6A is applicable to all the plots falling under Jamshedji Bunder, Colaba including the plot no. 11A under the RR zone 1/6A of Colaba Division. Any violation/change of user amounts to breach.
22.	**Specific comments of Adv. Thakordas & Madgavkar on behalf of Kamani Tubes Ltd.**	
(i)	The definition of rate is an inclusive definition and not a specific definition. It lends vagueness to the concept. Rate is not a toll. Rate is not equivalent to a rent Rate is not a due	The Lease is expired having no renewal clause. After expiry of lease it is the responsibility of the lessee to remove the structure as clearly mentioned in the lease deed and hand over the vacant plot to lessor.

	<u>The due is very general and not specific).</u> Rate is not a charge Rate is not a fee. The above shows that the word rate is not defined since it isgiven a tautological concept i.e. Rate is rate in the definition itself. Therefore it is not clear what does rate imply and how is it defined and how is it calculated. What is the scope of demand for rate? Rate can be used as synonymous with a Cess but rate is not a Cess since Cess is purpose oriented. All this goes to show that the statute vide section 2 (v) of the Act has not defined rate and instead authorized TAMP and/ or Port Trust to levy rate and recover the same. This reflects that uncanalised power is conferred while determining rate which is primarily discriminatory under Article 14 of the constitution of India. Rate is not a tax — This is clear from the language of the lease which says lessee must pay Rate, Tax. Therefore the concept of rate must exclude taxation. Taxation being imposed by local authorityand the Port Trust is not the local authority. Therefore, it has no statutory or constitutional way to levy undefined rate. Therefore unless rate is first defined as to coming within the authority of TAMP or MbPT then such a rate ought not to be imposed.	Lessee was allowed to construct the building on land let out to him which he has enjoyed for 99 years by paying very small rent to MbPT only for land and now when lease is expired, lessee has no right to continue with possession of the said building and surrender the land to Port Trust by removing structure over it. There are judgements of Supreme Court which clearly states that, lessor can take over the structure constructed by lessee after expiry of the lease. However, it is total discretionary power of lessor to grant fresh lease as per PGLM and rates decided thereby. If lessee disagrees, he has every option to surrender the vacant possession. Taxation towards the GST are raised by MbPT in monthly bills as per the norms of Central Govt. MCGM is levying the taxes for the services render by them like supply of water, sewerage charges. For any clarification regarding the working of the revised rent required by the lessee / tenants the concerned officers of the divisions / units are always there to render the assistance
(ii)	Reference is made to Section of 47 (A) MPT Act and Paragraph 13 of PGLM, 2015 Guidelines and Clarification No. 1 of 2018, Clarification No. 2 of 2019, Clarification No. 1 of 2019-20 and further extensions dated 27.01.2021 for the proposed revision of SoR 2017- 2022. (Note - *"Clarification No. 1 of 2018, Clarification No. 2 of2019, Clarification No. 1 of 2019-20 and further extensions dated 27.01.2021 when tried to be downloaded from the website was disabled and could not be downloaded. In view thereof we request for the copy of the same").*	PGLM 2015 and its clarifications being public documents are available on public domain and on World Wide Web. The same area also been uploaded on mumbaport.gov.in. .
(iii)	Guidance can be obtained from the following excerpts 47 (A) of MPT - 47A. Constitution and incorporation ofTariff Authority for Major Ports.—	Schedule of rates are fixed by undertaking valuation by registered valuer considering the five factors as per the para No.13 of PGLM 2015. The valuation report submitted by registered valuer were been examined by LAC and approved by the Board.

	With effect from such date as the Central Governmentmay, by notification in the Official Gazette, appoint there shall be constituted for the purposes of this Act an Authority to be called the Tariff Authority for Major Ports. *The Authority shall be a body corporate by the name aforesaid having perpetual succession and a common seal and shall by the said name sue and be sued.* *The head office of the Authority shall be at such place as the Central Government may decide from time to time.* *The Authority shall consist of the following Members to be appointed by the Central Government, namely:—* *a Chairperson from amongst persons who is or who has been a Secretary to the Government ofIndia or has held any equivalent post in the Central Government and who has experience in the management and knowledge of the functioning of the ports;* *a Member from amongst economists having experience of not less than fifteen years in the field of transport or foreign trade,'* *a Member from amongst persons having experience of notless than fifteen years in the field of finance with special reference to investment or cost analysis in the Government orin any financial institution or industrial or services sector.*	
(iv)	Paragraph 13 of PGLM, 2015 — *13 - Market Value and Land and SoR.* *(a) Land Allotment Committee may normally take into account the highest of the factors mentioned herein below to determine the latest market value of Port land. In case the land allotment committee is not choosing the highest factor, the reasons for the same have to be recorded in writing.* *i) State Government's ready reckoner of land values in the area, if available for similar classifications / activities.* *ii) Highest rate of actual relevant transactions registered in last three years in the Port's vicinity (the vicinity of*	Schedule of rates are fixed by undertaking valuation by registered valuer considering the five factors as per the para No.13 of PGLM 2015. The valuation report submitted by registered valuer were been examined by LAC and approved by the Board.

(v)	*the Port is to be decidedby the respective Port Trust Boards), with an appropriate annual escalation rate to be approved by the Port Trust Board.* *iii) Highest accepted tender cum- auction rate of Port land for similar transactions, updated on the basis of the annual escalation rate approved by the port trust board.* *iv) Rate arrived at by an approved valuer appointed for the purpose by the port.* *v) Any other relevant factor as may be identified by the Port.* **Attention is also invited to the following authorities from Advanced Law Lexicon 3" Edition 2005 :-** *"Rate" means a rate, cess or assessment the proceeds of which are applicable to public local purposes and leviable on the basis of a valuation of property, and includes any sum which, although obtained in the first instance by a precept, certificate or other instrument requiring payment from some authority or officer, is or can be ultimately raised out of a rate.* ***HALSB URY, 4T EDN.,*** *Vol. 32, Pnrn 203, P. 97.* *Rate includes any toll, rent, rate, fee or charge leviable underthis Act. (**Major Port Trusts Act (38 of 1963), S. 2(x).*** *Amount of money charged or paid, calculated according to acertain rule of ratio. In insurance, it is the sum a policy holder pays an insurance company, usually stated per L*100 £1000 of cover. ***(Insurance).*** *Rate and Cess — The two expressions are generally used in the same sense.* ***(Sarojini Tea Co.*** *v. Collector* ***of Dibrugarh, AIR****1992 SC 1264).* *"Rateable Property" prima facie means, property, in its nature capable of being rated". (per L ASH, J., R.v.* ***M‹ihlen,*** *L.R., 4 QB 326).* *Value of a property for the purpose of calculating rates, based on an estimate of the rent the property would command (the annual value)on the open market with vacant possession.* ***(Business; International Accounting).*** The above shows that rate cannot be determined unless property is valued by the	The SoR rates derived from the valuation reports are for the land and not for the structures erected by the lessee hence there is no question to consider the other issue related to the structures constructed by the lessee.

	valuer and then guidance can be taken from valuation report. Specimen sample of one buildingis attached herewith.	
(vi)	This goes to show that the SoR which is to be revised must follow the above provisions unless more specific guidelines are framed it will be an arbitrary and unreasonable determination even if supported by valuation report.	
(vii)	Guidance can also be invited from observation from Supreme Court from Wadia's judgment in this regard. Extract of the relevant portion at Para 18 & 4 is reiterated herein below:- ***"18. In our opinion, in the field of contracts the State and its instrumentatilite ought to so design their ‹activities as would ensure fair competition and non-discrimination. They can augment their resources but the object should be to serve the public cause and to do public good by resorting to fair and reasonable method*** *However, the State cannot be seen to be indulging in rack- renting, profiteering and indulging in whimsical or* ***unreasonable*** *evictions or bargains."* *"4. Some of the lessees filed writ petitions under Article 226 of the Constitution of India complaining that the BPT being an instrumentalitv of the State within the meaning of Article 12 o(the Constitution, it was bound to be reasonable and fair in its d ealing with the lessees."*	Mumbai Port Trust is facing great difficulty to meet overall expenditures of the organisation because of the non-paying attitude of rent / compensation of lessees and tenants by taking the undue advantage of the various legal means and making Port Trust to invest huge amounts of money in the litigation. Because of this attitude the Port Trust is in huge loss. There is no question of any profit in the scenario as contended in this para. There are about 5000 employees and 35000 pensioners to whom port trust has to pay every month, thereby MbPT has to carry responsibilities of about 40,000 families. Port Trust is providing pre-medical facility to all the family members of these families. Even Port Trust is giving concession to the Government Organisations like BEST, MGCM, Defence, Police etc. and most of the land of the MbPT is occupied by them. The Supreme Court Judgement referred here was for the lessees and tenants. In the subject case the lease is expired.
(viii)	The apex court gives liberty to the lessee to make representation when required and also approach the High Court for Clarifications. The relevant extract being Para 40 is reiterated herein below :- ***"40 (vii) such of the tenants as may wish to content that there are certain real and material distinguishing features to be considered for the purpose of carving out an exception and relaxing the general terms and entitling them to*** **reduction** ***in the rates of rent applicable as above said may file representations*** **each setting out specific grounds and relevant facts precisely in that regard in the office of Bombay Port Trust under a written acknowledgment. The Mumbai Port Trust shall maintain a register of all such representations filed after the expiry of six**	

	weeks from today shall be received or entertained. **The decision by the Adjudicator shall be final and binding on the parties. In case of any difficulty in implementing this procedure directions may be sought for from the High Court.**	
(ix)	As stipulated in the Maharashtra Rent Act the provision of *"Permitted Increases"* is not stipulated either in the SoR or the Major Port Trusts Act, 1963, therefore category of the Permitted Increases may be defined.	Maharashtra Rent Act is not applicable to the present case. Regarding the applicability of Maharashtra Rent Control Act to MbPT properties the Supreme Court has left the issue open in Wadia Judgement.
(x)	On perusal of the SoR for the period from 01.10.2012 to 30.09.2017 and SoR 01.10.2017 TO 30.09.2022 the following is observed :- **SoR 2012 — 2017** A perusal of the proposed SoR for the period from 01.10.2012 to 30.09.2017 shoes that it only takes the Ready Reckoner Value as the basis. Other factors as per clause 13 are not reflected or considered and ought to be considered and shown to have been considered. The issue of Permitted increased stillremain open and should be provided and the category of claimable permitted increases must be specified. **SoR 2017 — 2022** On what basis valuation has been considered ? It is not specified in the SoR whether rate is as perReady Reckoner Value. It is not specified whether the value as determined isproperty specific or zonal value. Other considerations like Pandemic and Covid are notshown to be considered for discount / concessions **Conclusion ;** This will show that the framing of the SoR or revision thereofwithout any statutory guidelines will be an exercise in futility. Moreso when it is not property specific and it is not considering the realities as a result of the pandemic and the paying capacity of the lessees and determined on the footingof the premises being vacant. All this leads to the conclusion that the revision of SoR is	Schedule of rates are fixed by undertaking valuation by registered valuer considering the five factors as per the para No.13 of PGLM 2015. The valuation report submitted by registered valuer were been examined by LAC and approved by the Board.

	divorced from realities but wedded to surmises, conjectures and facts which are not apparent.	

Sr. no	Specific Comments made by Shri. Ram Rustom (Code No. 31102229)	Response made by MBPT
21	I don't not agree to the proposed rates. The rates that has been proposed are far far too high. As we are in the midst of a pandemic that has hit the globe and as a nation it has severely impacted all business and occupations across all sectors since the past couple of years and is continuing to wreck havoc in the life's of citizens, please understand that the proposed rate revisions are far too high in the said time. The livelihood of us citizens are already challenged and we are even finding it hard to make ends meet. We have not done well in the business since the pandemic has hit. Even when the circumstances where better, the proposed numbers seems too high given the uncertainty and the big change in the rates. It is requested to take into account all the factors as mentioned above and reconsider the decision. It may be noted that we have always made timely payments. We hope you will understand the problem at hand and will consider that we are not okay with rates revision. We will continue to pay what we have been already paying and don't agree to revised rates you have proposed.	a) The revision of SOR proposed is w.e.f. 01.10.2012 onwards when there was no COVID-19 pandemic. b) Even during Covid Pandemic from March 2020 onwards, there are no such direction from MOS&W, GoI, in PGLM 2015 and its Clarifications on giving any concessions, relaxation, compensation and assistance during pandemic time. In this connection, attention is invited to Delhi High Court Judgement, 'Ramanand & Other V/s Dr. Girish Soni & Others dated 21.05.2020 has held that the period of lockdown on account of Covid-19 does not excuse the payment of rental amounts. . c) As the parties have continued to occupy the premises and MbPT being Public body continue to provide its services, due to which mbPT's expenditure on infrastructure and also liability for salary wages, maintenance, etc. continued in COVID pandemic period and since rentals from MbPT landed assets is important part of MbPT revenue, no such concession can be entertained.

3. 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 03 September 2021 through Video Conferencing. The MBPT makes a power point presentation of its proposal. At the joint hearing, the MBPT and the users/ tenents/ lesees have made their submissions.

Users/ Advocates on behalf of users

(i). Can we record this conversation?

[TAMP : No, we cannot give permission to individual stake holders to record. We are recording the proceedings. The summary of the Arguments put forth by various stakeholders will be hosted in our website alongwith the Order on the matter in reference.

Mumbai Port Trust (MBPT)

(i). The Port Trust land area is divided into 33 ready reckoner zones. The proposal submitted to TAMP now is for 7 Ready reckoner zones. The Areas covered are Dadar –Naigaum, Mahul, Mazgoan, Fort and Mahim.

(ii). The MBPT is bound to fix the lease rentals as per the Land Policy Guidelines, 2015 issued by Government. Five factors have been listed in the Land Policy Guidelines to arrive at the Lease rentals.

(iii). The MBPT has constituted LAC as per the Land Policy Guidelines. The LAC has considered the land values an on 01.10.2017 given by the Government approved panel of Land Valuers. The Lease rentals per annum are worked out @ 6% of the Land Value given by the Land Valuers for each of the Ready Reckoner Zone. All the Rates are for FSI = 1.

(iv). TAMP is requested to approve the SOR per sq.mtr per month as proposed by us. This will be base rate per sq.mtr per month, on which, we will workout the individual rental components based on the actual consumption / actual use of FSI for each plot. [MBPT has displayed a plan showing Ready Reckoner Zones]

(v). In response to general comments/ issues/ objections made by lessees/ tenants, the MBPT submits that as per TAMP directions, we have uploaded the proposal on 14.08.2021. 15 days' time i.e. time upto 28.08.2021 was granted.

(vi). The submission of the users that all the documents are not uploaded, is not correct. All the documents viz. TAMP proposal, supporting attachments, TRs, LAC reports etc have been uploaded.

(vii). Common request has been made by the users for granting extension of time. Notice for uploading of SOR, Joint hearing were sent to all the relevant registered lessees/ tenants. 836 comments were already received. No extension is recommended as it may delay the process.

(viii). Most of general comments made by users will be answered. Individual comments which are not relevant to the proposal are not covered.

(ix). On the common issue raised by the users regarding humanity appeal on Covid-19 pandemic, we submit that our SOR is due for revision from 01.10.2017. This period falls prior to pandemic. There are no legal provisions or directions from Government for granting concessions or relaxations during pandemic. Infact, Delhi High Court in its Judgement dated 21.5.2020 has pronounced that is no excuse for payment of rentals or no concession in rental charges, owing to pandemic.

(x). With regard to lessees/ tenants objection that rates proposed are exorbitantly high as compared to Hon'ble Supreme Court Judgement dated 31.01.2004, the submissions of MBPT are :

- The present rates are based on the Kirloskar Valuation done in the year 1980, which are no way comparable with the present market value. The land value in 1980's has almost increased by 125 times now. However, the rentals as on 2004's as per Supreme Court order has been proposed to be increased to only 25 times.

- 10% return was considered on the Kirloskar Land Valuation as per the Supreme Court Judgement with 4% p.a. increase after 1.10.1994. However, the MBPT has considered 6% of the land value in the present proposal.

- All the Major Ports including MBPT are bound by PGLM 2015. As per PGLM 2015, MBPT has appointed the Land Valuer for assessing market value of the respective RR Zones. 5 Factors as per PGLM 2015 have been considered.

- Since no actual sale transaction have happened in the MBPT land for last 15 years, the Valuer has recommended the Fair Market Value (FMV) considering present infrastructure and facilities and have recommended certain discounts ranging from 10% - 40% of the actual marker value transactions prevailing in the adjoining land outside the MBPT.

- The lease rentals to be approved will be applicable to monthly, 15 monthly, expired lessees and vacant plots. However, the running leases are excluded from the proposed revision as their contracts are valid.

- The average MBPT land value works out to ₹.1,50,000 per sq.mtr., whereas the average land value outside MBPT works out to be ₹.1,98,000 per sq. mtr. However, the Valuer has recommended the mean of MBPT land and Outside MBPT land at ₹.1,74,000 per sq. mtr.

- Most of the lessees are violating the lease terms. After expiry of lease term, they are continuing to sub-let to the 3rd party, carrying unauthorized construction and profiteering at the cost of public exchequer. Such lessees deserves no sympathy. [The MBPT gave an illustration as a case study].

(xi). As regards the user's objection that the MBPT is violating the Supreme Court Order dated 13.01.2004, it is submitted that the Hon'ble Supreme Court Orders were valid for only 20 years i.e. 10.10.1992 to 30.09.2012. The MBPT has not violated the Supreme Court Orders but has determined the lease rentals following the Land Policy Guidelines issued by the Government, which is mandatory and binding on MBPT. Existing low rents as per Wadia Judgement and very high market rentals is leading to profiteering/ exploitation of MBPT land by violation of lease terms/ authorized sub-letting/ construction/change of users etc.

(xii). The SOR proposed is based on the procedure laid down under para 13 of PGLM, 2015. The same is recommended by the LAC and approved by the Board.

(xiii). With regard to objection of users regarding revision of rent retrospectively and delay in revision of SOR w.e.f. 01.10.2021, our submission is that the delay is due to non-applicability of PGLM guidelines, 2014/15 to the township areas of MBPT. Though there was a delay in revision, through a circular dated 28.12.2012, we have informed all the lessees and tenants that the revision of lease rental were due from 01.10.2012.

All the bills which are raised are sent will a footnote stating that the bills are provisional and without prejudice to Boards rights and contention to revise the rent compensation w.e.f. 01.10.2012.

By the Clarification No. 1 of 2018 issued by the Government of India, PGLM Guidelines was extended to the township areas.

[Users/ Advocates on behalf of users: Please share us the presentation of MBPT and give us a separate date of hearing]

Users/ Advocates on behalf of users :

(i). One case cannot be a reference point to decide a rate. The ready reckoner rate has been taken by MBPT, since no transactions have happened during the last 15 years. This cannot be a basis of considering ready reckoner of adjoining area, for this area.

(ii). How can TAMP or MBPT propose retrospective payments when Govt. is going away with retro rent. We oppose the retro rent demanded by MBPT.

(iii). We don't agree to the terms and conditions put forth by MBPT.

Member (F), TAMP

(i). MBPT is requested to share a copy of presentation to this office. Also, a copy of the Powerpoint presentation may also be hosted by MBPT in its website.

(ii). MBPT may note that they need not go for highest rate amongst all factors. They can moderate/ re-look its proposal depending upon the objections received from the Stake holders.

(iii). If any tenants/ lessees wish to give the objections on the presentation made by the MBPT, they can give it in writing within two weeks' from the date of MBPT hosting of presentation in its website. MBPT to give its reply thereon within a weeks' thereon.

[Users / Advocates on behalf of users: We want a physical hearing tenant wise. Rent may be fixed tenant wise.]

[TAMP : There is no provision to fix the rent tenant wise as per the Land Policy]

Users/ Advocates on behalf of users:

(i). We cannot be judged by a breach conducted by a one tenant. We know we cannot be levied with the rates of 80's. But, at the same time, we cannot be asked to pay rentals on the basis on the current market value. This issue effects more than 2 lakh people directly and more than 15 lakh people indirectly.

(ii). The SOR proposed is based on the market valuation for 2012-17 based on Ready Reckoner rates and 2017-22 based on valuation, which is unreasonable. The Ready Reckoner rates taken at 6% is arbitrary. Look at the way Collector extends the leases at 0.25%, whereas the MBPT has taken 6%, which is 24 times higher.

(iii). In the case of Dwarakadas vs Board of Trustess, the Supreme Court has laid down that no arbitrary or rack renting can be done by any Public Authority unlike private entities. The market value cannot be the base for the sitting tenants. It can be done for the future leases.

(iv). Wadia Judgement in 2004 protects the tenants till the year 2024. The material put up in the website is not adequate. The Land policy was not put in the website. On request by us, a corrigendum was made on 25 August 2021 by MBPT. As such, we have only 6 days to respond on this sensitive issue.

(v). What is the intention of MBPT by increasing the rent rates from ₹. 5 crores to ₹. 125 crores in 15 min. video conference. Is it an intention to make everyone a defaulter and put them out of the land? No tenant can pay the difference of ₹. 5 crores and 125 crores in a span of 3 months. The 3 months given by MBPT to pay arrears pertaining to 10 years, is too short a period.

(vi). The MBPT may confirm that it will not charge or demand the new rent charges.

[TAMP : MBPT can only issue bills for rent as per new SOR after the approval of TAMP by an Order. At present, it is only a proposal.]

(vii). Application of Ready Reckoner rates to the small and narrow pattas, where no development can be made due to set back requirements, is absurd. So special consideration may be needed for the small and narrow pattas. Rate of one Zone cannot be blindly applied on all tenants.

(viii). Major Port Authorities Act, 2021 has been Gazetted repealing the existing Major Port Trust Act, 1963. The new MPA Act, 2021 mentions that a Major Port Authority Board constitutes a committee to determine the tariff, which cannot be given a retrospective effect. As such, no TAMP is in existence as of today, who has a jurisdiction to decide the tariff for MBPT.

<u>[TAMP : The MPA Act, 2021 has only been Gazetted. The date of implementation has not been notified by the Government. Till the date, the new Act comes into effect, the TAMP is legally in existence and the TAMP orders are valid.]</u>

(ix). There are more than 41 Writ petitions which are pending in Bombay High Court.

(x). The MBPT should formulate its proposal in such a manner, so that it is a win-win situation for both MBPT and to the tenants.

Users/ Advocates on behalf of users :

(i). The submission made by us are entirely without the prejudice to the rights of the tenants we challenged on jurisdiction of TAMP and would be subject to order passed by the courts from time to time.

4.1. The MBPT has furnished its reply on the comments/ observations received form the comments lessees/ tenants/ users. While giving the response, the MBPT has stated that majority of the comments were similar in nature, comments which are similar have been grouped together. The MBPT has further stated that the replies are Without Prejudice to the MbPT's Rights and Contentions in the pending litigation and terminations notices served and MbPT's rights to take legal action against breaches /violations under the applicable laws/lease/Tenancy terms and to take further action as per applicable laws stipulated under PGLM Guidelines / directives issued by Ministry and as may be decided by the Board of Trustees of Port of Mumbai from time to time.

4.2. The comments received from various lessees/ tenants/ users and the response of MBPT thereon is tabulated below:

Sr. No.	Comments of various Tenants / Lessees	MbPT Reply
1.	**Similar Representations received from Individual Tenants/ Lessees – Group - A**	
(i)	The present communication is being addressed pursuant to TAMP's communication in the two virtual meetings held on 3.09.2021 (one hour each) with respect to the above referred SOR Proposal/s, inviting (within a period of two weeks);- a further response from the tenants / lessees to MbPT's common comments and standard reply contained in their above referred & uploaded two Presentation/s. Pertinently, instead of uploading the said Presentation/s immediately post the said meeting/s; MbPT has uploaded the same on their website quite belatedly only on 8.09.2021.	The comments have been posted at the earliest possible after verifying that all the points raised in the representations are covered. Date of joint hearing was scheduled on 03.09.2021. Date of Uploading PPT on Website 08.09.2021. From 08.09.2021 to 22.09.2021 two week time was granted by TAMP to send queries/comments on PPT to TAMP
(ii)	At the very outset, none of the common comments and/ or the contents of the standard reply and/ or any of the contents of MbPT's above referred Presentation/s which are contrary to and/ or inconsistent with the earlier comments, response and objections and/or the present further response and objections contained herein; may be deemed to be admitted by us. Nothing stated in MbPT's said Presentation/s shall be deemed to have been admitted by us for want of specific traverse.	None of the comments/replies to common comments posted on the website/in the presentation should be deemed tp amount to an admission to any of the contentions of the applicants which are contrary to the comments and the facts posted by MbPT. Nothing contained in the representations shall be deemed to be admitted for want of specific traverse.
	Pursuant to MbPT's above referred Notices dated 12.08.2021 and 14.08.2021, respectively;	The comments posted in the presentation with regard to the revision of SOR for the period from

Sr. No.	Comments of various Tenants / Lessees	MbPT Reply
	& under our email dated 26.08.2021, we had submitted our common comments, response and objections to MbPT's above referred SOR Proposal/s forwarded to TAMP seeking approval of the SOR/s for the period 1.10.2017 to 30.09.2022, and for the period 1.10.2012 to 30.09.2017, respectively; and the contents thereof are reiterated as if the same form part of this present communication; especially that:- i) In our case (as is in most cases) there can be no question of framing of any SOR's (retrospectively or otherwise) right up to 31st March 2024; since, MbPT themselves (under their own T.R. 31 of 2004) had inter alia resolved to (& were duty bound & obligated) to implement the said judgment of the Hon'ble Supreme Court in Wadia's Case, and had also expressly accepted therein that the rates fixed under their own "Compromise Proposals" as upheld (with downward revision in rent and interest) in Wadia's Case would be applicable to their landed estates from 1.04.1994 up to 31.03.2024, with 4% annual increases "thereby extending the application of the proposals to 2024". ii) MbPT appears to not have taken any heed to the directions of the Ministry of Shipping (issued under their letter dated 18.02.2014), viz that MbPT should initiate necessary steps for immediate implementation of the judgment/ order of the Hon'ble Supreme Court dated 13.01.2004 (viz. in Wadia's Case) without any further delay; and that MbPT should seek clarification from the Hon'ble Supreme Court in respect of any interpretational issues arising out of the said judgment such as re-fixing of the letting rates after 30.09.2012. iii) There is no provision under the MPT Act, 1963 or the Rules framed thereunder, and / or under any delegated / subordinate legislation enabling the framing / fixation of the SORs retrospectively. iv) Any attempt to frame such steep and exorbitant SOR's based on hypothetical market values of land and that too retrospectively from 2012, would not only be unlawful, but also violative of Article 14 of the Constitution of India.	01.10.2012 to 30.09.2017 and 01.10.2017 to 30.09.2022 are reiterated as part of the present comments. (a) The revision under SoR 2012-17 is by statutory guidelines issued under PGLM, 2015 and clarifications issued by Ministry from time to time and therefore mandatory and binding on all parties concerned. Jamshedji Wadia judgement is the Hon'ble Supreme Court Judgement dated 13.01.2004 by which Hon'ble Supreme Court upheld the Board compromise policy rates which were valid for 20 years w.e.f. 01.10.1992 to 30.09.2012. TR 31/2004 is only direction for implementation of the SC judgement and the rates where valid only till 30.09.2021. Though the SC concluded the dispute with regard to rates only for the period upto 31.03.2000, the Board decided to continue the said rate for the period upto 30.09.2012 under TR No.31 of 2004. Further the said facts have been confirmed by Attorney Generals of India (AG) Shri Mukul Rohatgi by opinion dated 29.07.2016 wherein AG stated that MbPT is legally empowered to fix revised rates w.e.f. 01.10.2012 and also as per guidelines issued by MoPS&W, GoI, and rates are to be approved by TAMP. The TAMP is authorised to approve the SoR retrospectively w.e.f. 01.10.2012, subject to withdrawal of Writ Petition 1153 of 2000 filed by MbPT against TAMP, which is withdrawn on 08.08.2019. These facts were rightly pointed out in para 3 of proposal for SoR 2012-17. Thus there is no violation of S. C. Judgement dt. 13.01.2004 and MbPT is legally within its rights and empowered to revise the rates w.e.f. 01.10.2012 onwards. There is no provision of compromise proposal in PGLM 2015 issued by MoS&W, GoI. The validity of rates under S.C. judgement was upto 30.09.2012 and therafter MbPT is bound to follow the guidelines as per PGLM, 2015 issued by MoS&W, GoI. TAMP is given power for framing the rate/ rectify the rates. As per PGLM's guidelines of 2014 with subsequent clarifications issued by the Ministry of Shipping, MbPT has adopted highest value among the 5 factors.
(iv)	At the further outset, it is pertinent to point out that whilst the aforementioned two meetings scheduled on 03.09.2021 (one hour for each of MbPT's Proposal/s) were supposed to be primarily for hearing the comments, response,	Meeting was conducted by TAMP and MbPT as well as the representative were given adequate time during the meeting as well as 15 days additional period was given to the parties post

Sr. No.	Comments of various Tenants / Lessees	MbPT Reply
	suggestions and objections of the lessees/ tenants on MbPT's Proposal/s which were already in the lap of TAMP; it was most unfortunate and disturbing to see how unfairly the meetings were conducted. For the first 45 to 50 minutes (of the one hour time slot) it was only MbPT who was given a full opportunity to speak its position and exhibit its slide show Presentation/s, & to put forth all its comments and its standard reply; leaving a meagre 10 minutes for more than 400 attendees out of more than 800 lessees / tenants / occupants who had filed their objections - to voice their comments, suggestions, and respond effectively and meaningfully.	the hearing to represent their comments on the same which is very fair.
(v)	The common comments and the standard reply of MbPT under their said Presentation/s seeking to defend and justify the said SOR Proposal/s are false, unsustainable in law and exhibit a clear intention to circumvent the dictates and directions of the Hon'ble Supreme Court under its said judgment in Wadia's Case. MbPT's common comments and standard reply appear to be an unlawful attempt to seek fixation / framing of unfair, unreasonable, & arbitrary rates of rent and that too retrospectively from 2012 hurriedly before coming into effect of the Major Port Authorities Act, 2021 - which has already received Presidential assent and has been Gazetted, and which does not permit retrospective fixation or framing of rates of rent.	The revision under SoR 2012-17 is by statutory guidelines issued under PGLM, 2015 and clarifications issued by Ministry from time to time and therefore mandatory and binding on all parties concerned. The revision of rates are strictly in accordance with the provision of PGLM 2014-2015.
(vi)	It is shocking to peruse the insensitive reply and position taken by the MbPT with regards to the effect of the on-going pandemic of COVID-19 on its lessees/ tenants/ occupants. MbPT's contention viz. that "SOR allegedly being due from 1.10.2012 to 30.09.2017 which was prior to pandemic" - is a baseless, incorrect and a misplaced argument. By no stretch of imagination, can retrospective fixation / framing of steep, unlawful and arbitrary rates rents be justifiable under the present circumstances of the on-going pandemic of COVID-19. In any event, it is denied that SOR was due from 1.10.2012. It is reiterated that the rates under the "Compromise Proposals" as approved by the Hon'ble Supreme Court under Wadia's Case are applicable till 31st March 2024, and this is the stated and admitted position of MbPT themselves under their own T.R. 31 of 2004 - which seems to have been suppressed before TAMP.	The SoR was due from 01.10.2012 and 30.09.2017 when there was no pandemic. Covid-19 pandemic started from March 2020 and as per present circumstances there has been substantial relaxation given by the Govt. to the trade and general public and most of the premises have been operational. Further (a) any relaxation which the Govt. of India extends under any special circumstances in the case would be applicable to the tenants/lessees, though presently there are no such directions and even in any clarification from MoS&W, Govt. of India on giving any concession, relaxation, compensation and assistance during pandemic time. In this connection, attention is invited to Delhi High Court Judgement, Ramanad and others V/s. Dr. Girish Soni and others dated 21.05.2020 has held that the period of lockdown on account of Covid-19 does not excuse in payment of rental amounts (copy enclosed) and no concession in rental charges is admissible. b) As the parties have continued to occupy the premises and MbPT being Public body which continued to provide its services in
(vii)	7. Moreover, in order to justify the unlawful fixation / framing of their exorbitant SOR in the times of the on-going pandemic; MbPT has	

Sr. No.	Comments of various Tenants / Lessees	MbPT Reply
	wrongly relied upon a judgment of the Hon'ble Delhi High Court dated 21st May 2020, passed in the matter of Ramanand & Ors. V/s. Dr. Girish Soni & Anr. The said judgment has no applicability in the present case and is clearly distinguishable. The said judgment relates to a dispute for 'suspension of rent' between 'private parties' in the times of the current pandemic; and has got nothing to do with a public authority seeking to fix/frame exorbitant rates of rent, and that too retrospectively. It is well settled that MbPT being an instrumentality of State (within the meaning of Article 12 of the Constitution of India) has to be just, fair and reasonable in all their activities; and that all their actions must be for public purpose and public good; and must not violate Article 14 of the Constitution. In this context, the real question which falls for TAMP's consideration is, what is the real effect of the COVID-19 pandemic on the economy, on the businesses of MbPT's Tenants/ Lessees/ Occupants, on their ability to absorb the proposed heavy, unlawful, onerous and unreasonable rentals; and that whether in such circumstances or otherwise, should MbPT's Proposal/s be accepted by TAMP ?	COVID period and rendered the monthly invoices of compensation and also paid the GST on the invoice for the period there is no question of granting any relief. MbPT's expenditure on infrastructure and also liability towards salary/wages, maintainance etc. have continued even in COVID pandemic period. Since rentals from MbPT landed assets is important part of MbPT revenue which is essential for sustenance of MbPT, no such concessions are admissible on this ground in the proposed SoR w.e.f. 01.10.2012.
(viii)	Whilst seeking to reply to the objections, and justify its steep, arbitrary, unlawful and retrospective fixation/ framing of rents; the contention of the MbPT, viz. that the occupations are without any authorization from MbPT even after expiry or termination of lease/ tenancy; - is a case of the pot calling the kettle black. Such a contention is entirely misplaced in the context of any fixation/framing of SOR and that too retrospectively. The authority of any tenant/ lessee/ occupant (such as us) to continue the occupations of their respective premises, stems from the MbPT's own "Compromise Proposals" which have been approved by the Hon'ble Supreme Court (with modifications) under its said judgment in Wadia's Case. Under the said judgment, the Hon'ble Supreme Court has directed MbPT to settle the cases of the Tenants/Lessees/Occupants despite breaches alleged to have been committed by them; - by executing leases in their favour in terms of the said "Compromise Proposals". Specific premiums fixed in accordance with the "Compromise Proposals" upheld by the Hon'ble Supreme Court, in many cases have not only been levied but have also been already collected by the MbPT. Under the said judgment it has also been expressly stated that even if the leases in terms of the said "Compromise Proposals" are	(a) The revision under SoR 2012-17 is by statutory guidelines issued under PGLM, 2015 and clarifications issued by Ministry from time to time and therefore mandatory and binding on all parties concerned. Jamshedji Wadia judgement is the Hon'ble Supreme Court Judgement dated 13.01.2004 by which Hon'ble Supreme Court upheld the Board compromise policy rates which were valid for 20 years w.e.f. 01.10.1992 to 30.09.2012. Further the said facts have been confirmed by Attorney Generals of India (AG) Shri Mukul Rohatgi, opinion dated 29.07.2016 wherein AG stated that MbPT is legally empowered to fix revised rates w.e.f. 01.10.2012 and also as per guidelines issued by MoS&W&W, GoI, and rates approved by TAMP. The TAMP is authorised to approve the SoR retrospectively w.e.f. 01.10.2012, subject to withdrawal of Writ Petiton 1153 of 2000 filed by MbPT against TAMP, which is withdrawn on 08.08.2019. These facts were rightly pointed out in para 3 of proposal for SoR 2012-17. Thus there is no violation of S. C. Judgement dt. 13.01.2004 and MbPT is legally within its rights and empower to revise the rates w.e.f. 01.10.2012 onwards. TR 31/2004 is only direction for implementation of the SC judgement and the rates where valid only till 30.09.2021.There is no provision of

Sr. No.	Comments of various Tenants / Lessees	MbPT Reply
	not executed, the terms of the said "Compromise Proposals" would be binding. MbPT, is therefore, obligated under law declared by the Hon'ble Apex Court to settle the cases and grant a Thirty (30) years lease w.e.f. 1.04.1994 with 4% annual increases on the rents set out in the Compromise Proposals even beyond 2012 right up till 2024. It is reiterated that this position has been expressly admitted by MbPT in their own T.R. 31 of 2004 - which accepts for implementation - the Hon'ble Supreme Court's judgment in Wadia's case; and which T.R. seems to have been suppressed by MbPT in their said SOR Proposal/s. It is the MbPT who has failed and neglected to abide by the express dictates and directions of the Hon'ble Supreme Court in Wadia's Case, and who has failed to settle the cases and renew the leases in terms thereof; and cannot now be permitted to cast a shadow of illegality and unauthorised-ness upon the tenants/ lessees /occupants - by taking advantage of their own wrong.	compromise proposal in PGLM 2015 issued by MoS&W, GoI. The validity of rates under S.C. judgement was upto 30.09.2012 and thereof MbPT is bound to follow the guidelines as per PGLM, 2015 issued by MoS&W, GoI. TAMP is given power for framing the rate/ rectify the rates. As per PGLM's guidelines of 2014 with subsequent clarifications issued by the Ministry of Shipping, MbPT has adopted highest value among the 5 factors.
(ix)	Whilst it is true that the Hon'ble Supreme Court's said judgment is not a license in perpetuity allowing lessees/ tenants to go on committing breaches indefinitely, it is wrong and misleading on the part of MbPT to contend that lessees / tenants/ occupants who have committed breaches are taking shelter under the judgment in Wadia's Case. The "Compromise Proposals" were framed by the MbPT and were blessed by the Hon'ble Bombay High Court and the Hon'ble Supreme Court because they were the solution formulated by MbPT themselves to all these issues, including the issue of alleged breaches which affected a majority of lessees / tenants / occupants who were before the Hon'ble Supreme Court. MbPT themselves have failed to abide by the dictates and directions of the Hon'ble Supreme Court in Wadia's Case and have also failed to implement their own Compromise Proposals by not settling the matters of their tenants/ lessees/ occupants. What is truly unfair and absurd is that MbPT having gone before the Hon'ble Supreme Court and Hon'ble Bombay High Court with sworn affidavits of their Officers seeking approval of the Compromise Proposals to bring an end to decades of litigation; is itself acting contrary to its obligations and promises thereunder, & is thereby seeking to take advantage of its own wrong. Had the MbPT settled the matters as aforesaid there would be no necessity of seeking fixation / framing of SOR till 2024, at least in our case.	Supreme Court had given 8-week time period for settlement of cases in terms of Compromise Proposals. The tenants/ lessees who came forward with compromise proposal alongwith standard application and requisite amount were settled.

Sr. No.	Comments of various Tenants / Lessees	MbPT Reply
(x)	As a result of this failure on the part of MbPT to settle the cases and grant (thirty) 30 year leases right up to 2024; no less than 41 Writ Petitions have been filed before the Hon'ble Bombay High Court, have been admitted and are pending for final hearing. In the lead Petition of 2085 of 2009, Notice under Order 1 Rule 8 of the CPC, 1908, has been directed to be published, and accordingly has been issued - making the outcome of these Petitions applicable to all the tenants of the MbPT; irrespective of whether they had approached the Court or not. In these Writ Petitions, the action of the MbPT in passing their T.R. 127 of 2006 has also been challenged as being contrary to the Compromise Proposals upheld by the Hon'ble Supreme Court. By the said T.R. No. 127 of 2006, MbPT has attempted to wrongfully modify the terms of the said "Compromise Proposals" by seeking to levy higher rates of rents based on hypothetical market values of lands, viz. the very action the Hon'ble Supreme Court, and the Courts below have earlier prohibited MbPT / other Public Authorities from doing. Hence, there is no question of any fresh Scale of Rates (SORs) being framed or sought to be thrust upon me / us, & that too retrospectively. It is once again requested that MbPT be called upon to produce its said T.R. 31 of 2004 before TAMP comes to any conclusion in respect of the said Proposals. MbPT may also be called upon to produce (before TAMP) the sworn affidavits of its officers filed before the Hon'ble Supreme Court and the Hon'ble Bombay High Court in the matter of its General Rent Revision litigation; and also the several Writ Petitions (lead Writ Petition No. 2085 of 2009) filed before the Hon'ble Bombay High Court which are admitted, and in which Notice Order 1 Rule 8 of CPC has been issued.	The TR 127 of 2006 is itself with regard to settlement for the period upto 30.09.2012 strictly within the terms of the compromise proposals and as such does not have any relevance to the revision due from 01.10.2012. Further even in the Writ Petition filed in the year 2009 there is no orders staying the implementing of any of the provision of TR 127 of 2006 till date.
(xi)	It is pertinent that by the said Judgment in Wadia's case, the Hon'ble Supreme Court has dismissed MbPT's Cross-Objections as not only being not-maintainable, but also being devoid of any merit. By these Cross-Objections, the MbPT had sought to resile from their "Compromise Proposals" and had sought to assert their right to charge rents based on market rates. The Hon'ble Supreme Court in terms rejected such an attempt. Hence, the question of the MbPT / TAMP attempting to fix/ frame any SORs based on hypothetical land valuations / market rates does not arise. This has been repeatedly frowned upon and rejected by the Hon'ble Supreme	It is not true. The SoR revision is based on PGLM 2014-2015.

Sr. No.	Comments of various Tenants / Lessees	MbPT Reply
	Court and the Hon'ble High Courts in a catena of judgments.	
(xii)	For the reasons set out herein, MbPT is wrong in seeking to brush aside all the contentions raised by us with respect to the 41 Writ Petitions pending before the Hon'ble Bombay High Court – as not being relevant to the present proposals.	Pending Writ Petitions are not relevant to SoR revision.
(xiii)	Further, the fact that MbPT had informed its lessees / tenants / occupants by their Circular dated 28.12.2012 that revision of compensation / rent was due from 1.10.2012 onwards; and/or that the fact that MbPT had issued bills/ invoices with a footnote that the bill is provisional and without prejudice to the Board's right and contentions to revise rent/ compensation w.e.f. 1.10.2012; - does not in any manner whatsoever confer any legality on an otherwise illegal, unfair, unreasonable and retrospective framing / fixation of rates, which the law frowns upon and does not permit.	The revision under SoR 2012-17 and 2017-22 is by statutory guidelines issued under PGLM, 2015 and clarifications issued by Ministry from time to time and therefore mandatory and binding on all parties concerned. The contentions of para 13 are incorrect and MbPT is within its right to revise the rent.
(xiv)	Considering the well settled position of law that increase / fixation of rents based on hypothetical market values of land is itself unlawful and unsustainable in law; there is no question of permitting the MbPT to justify its actions with a flavour of illusory reasonableness by seeking to increase the rent 9 times compared to the rents in Wadia's judgment, & as compared to land values having increased 37 times. It may be appreciated that the tenants/ lessees/ occupants (such as me/us) have neither been permitted to, nor were in a position to enjoy all the incidents of the lease. All the leases which had expired, were subject to onerous conditions thereby substantially diminishing their earning potential. Returns on MbPT lands can be nowhere near, nor be compared with other freehold / leasehold occupations enjoying all the incidents of ownership / leasehold rights and security of tenure.	The rates are arrived at by the Govt. approved Valuer on the basis of transactions taken place in vicinity of Port Trust land.
(xv)	15. MbPT's contentions, viz. that: i) "SC judgment rates were valid only for 20 yrs. from 01.10.1992 to 30.09.2012"; ii) "From 01.10.2012 onwards PGLM, 2010, 2014-15 guidelines issued by Mos GOI are applicable to MbPT and MbPT is free to revise the rentals on the SOR based on PGLM guidelines";- - are false and unsustainable both in fact and law.	(a) Jamshedji Wadia judgement is the Hon'ble Supreme Court Judgement dated 13.01.2004 by which Hon'ble Supreme Court upheld the Board compromise policy rates which were valid for 20 years w.e.f. 01.10.1992 to 30.09.2012. Further the said facts have been confirmed by Attorney General's of India (AG) Shri Mukul Rohatgi, opinion dated 29.07.2016 wherein AG stated that MbPT is legally empowered to fix revised rates w.e.f. 01.10.2012 and also as per guidelines issued by MoS&W&W, GoI, and rates approved by TAMP. The TAMP is authorised to approve the SoR retrospectively w.e.f. 01.10.2012, subject to withdrawal of Writ Petiton 1153 of 2000 filed by MbPT against

Sr. No.	Comments of various Tenants / Lessees	MbPT Reply
		TAMP, which is withdrawn on 08.08.2019. These facts were rightly pointed out in para 3 of proposal for SoR 2012-17. Thus there is no violation of S. C. Judgement dt. 13.01.2004 and MbPT is legally within its rights and empower to revise the rates w.e.f. 01.10.2012 onwards. There is no provision of compromise proposal in PGLM 2015 issued by MoS&W, GoI. The validity of rates under S.C. judgement was upto 30.09.2012 and thereof MbPT is bound to follow the guidelines as per PGLM, 2015 issued by MoS&W, GoI. TAMP is given power for framing the rate/ rectify the rates. As per PGLM's guidelines of 2014 with subsequent clarifications issued by the Ministry of Shipping, MbPT has adopted highest value among the 5 factors.
(xvi)	16. It is reiterated that MbPT themselves under their own T.R. 31 of 2004 had inter alia resolved to implement the said judgment of the Hon'ble Supreme Court in Wadia's Case, and had also expressly accepted therein that the rates fixed under their own "Compromise Proposals" as upheld (with downward revision in rent and interest) in Wadia's Case would be applicable to their landed estates from 1.04.1994 upto 31.03.2024, with 4% annual increases "thereby extending the application of the proposals to 2024". Therefore, there is no question of MbPT being free to fix/frame its SOR w.e.f. 1.10.2012 in terms of the said PGLM or otherwise. Moreover, and considering that the said "Compromise Proposals" are applicable till 2024 (as stated hereinabove), and in any event; the subsequent guidelines issued by the Ministry cannot override and/ or supersede and/ or circumvent the ratios, dictates and directions of the Hon'ble Supreme Court in Wadia's Case, and in particular - qua the MbPT's own "Compromise Proposals".	TR 31/2004 is only direction for implementation of the SC judgement and the rates where valid only till 30.09.2021. The contentions are based on incorrect interepretation of TR, unsustainable and presenting a misleading picture with regard to the revision due. The SoR revision is strictly based on the provisions of PGLM 2014-2015.
(xvii)	17. The fact that the return of 6% is based on the PGLM 2015 has been accordingly applied by the MbPT's Board does not bless it with any legality so far as the law declared by the Hon'ble Supreme Court and the Hon'ble High Courts and particularly by the Judgment of the Hon'ble Supreme Court in Wadia's case is concerned – which law will prevail over any such policy / guidelines. The SOR's therefore proposed by the MbPT are neither fair nor reasonable nor permissible in law.	
(xviii)	Further, the contentions of MbPT vis-à-vis lessees profiteering, rack-renting and exploiting its lands by unauthorised subletting, unauthorised constructions, unauthorised	It is reiterated that the compromise proposals were only valid till the duration of its validity and has expired on 30.09.2012. Further the Supreme Court had only settled the disputes for

Sr. No.	Comments of various Tenants / Lessees	MbPT Reply
	change of user, unauthorised transfers;- were all raised by the MBPT before the Hon'ble Supreme Court in its General Rent Revision Litigation, and stand concluded by the judgment of the Hon'ble Supreme Court in Wadia's Case.	the period upto 31.03.2000 and as such the contention is untenable and it is reiterated that the tenants/ lessees due profiteer through unlawful subletting, unauthorised constructions, change of user, unauthorised transfers, etc.
(ixx)	With respect to the standard reply of MbPT vis-à-vis retrospective fixation / framing of rent; we reiterate all that is stated in our comments/ objection as well as what is stated herein viz. that MbPT attempt to retrospectively fix / frame SOR's - is unsustainable and not maintainable in law. No amount of reasoning vis-à-vis delay in submission of the said Proposal/s can confer any validity and/ or legality to the said Proposal/s. Further, though the Major Ports Authorities Act, 2021 has not come into force; TAMP may not ignore the clear intention of the legislature in barring retrospective fixation / framing of rents. The undue haste which is clearly visible on the part of MbPT seeking approval of its SOR Proposal/s, makes it clear that MbPT is acting unreasonably, and in a manner so as to defeat the legislative intent of the Parliament.	The revision under SoR 2012-17 is by statutory guidelines issued under PGLM, 2015 and clarifications issued by Ministry from time to time and therefore mandatory and binding on all parties concerned. All the tenants/lessees were clearly intimated about the revision due from 01.10.2012 and MbPT is therefore within its right to recover the increased rentals due from 01.10.2012.
(xx)	The contention that the Maharashtra Rent Control Act, 1999 does not apply to MbPT is incorrect. MbPT does not fall under the exempted category of "local authority" – defined under Section 7(6) of the Maharashtra Rent Control Act, 1999.	The letting rates under the Compromise Proposal had been fixed taking into account the market values of the land rates prevailing in the year 1980. Apart from the fact that the Port Trust tenancies have never been covered by the Rent Control Legislation that all the entities that have now been exempted under Section 3(1)(b) of the Maharashtra Rent Control Act 1999 would otherwise have been covered by and enjoyed the protection of the Rent Control Legislation then in force, even if the quondam Rent Act had applied to the Port Trust tenancies. The important factor to be considered is that the tenants of the Port Trust who have been exempted from the Maharashtra Rent Control Act are legislatively mandated, inter alia, not to have any statutory or other limitations or constraints in the fixation of payment of rents. It is further submitted that to continue to insist on levy of letting rates frozen on the basis of land values of 1980 in the year 2006-2007 or such exempted persons despite the fact such persons do not any longer enjoy even the protection of the Rent Act would be extremely unfair to the Port Trust and would be in effect be contrary to the principle laid down by the Supreme Court in the Wadia Judgement. (b) Even though the Maharashtra Rent Control Act (and the old Bombay Rent Act) would not and does not apply to the lettings by the Port Trust, the fact that such entities have lost the protection of the Rent Act and are now legislatively mandated to

Sr. No.	Comments of various Tenants / Lessees	MbPT Reply
		face the open market in land and rentals ,such revise the letting rates for such categories of tenants. (c) The contentions are incorrect.
(xxi)	In light of what is stated hereinabove, TAMP may kindly appreciate that MbPT's common comments and standard Reply under their Presentation/s propounding and/or seeking to defend and justify the said Proposal/s - are erroneous and unsustainable in law; and it is requested that MbPT's Proposal/s be rejected outright by TAMP.	The contention are denied and the SoR as proposed needs to be approved.
2.	**Similar Representations received from Individual Tenants/ Lessees – Group - B**	
(i)	With reference to Serial No. 1 of the Table, IT is submitted that admittedly as per the general comments and standard reply of MbPT out of 1149 non home occupation plots to whom notices are served, 775 comments were received. This data itself shows that the issue is sensitive and cannot be decided hastily. In the interest of natural justice, the Port Trust is bound to deal with each case separately considering the facts of such case. There cannot be a standardized formula to deal with all cases. Each of the 775 lessees have a right to hearing. Admittedly as per the MbPT table the corrigendum was issued on 20.8.2021. Therefore, with 26.8.2021 being the last date to make a proposal, the lessees were left with only 6 days to respond which is unreasonable. It is denied that any hard copy was submitted to us. We presume that hard copy mustn't be sent to the other lessees as well. We demand hard copies of the relevant TR's, land policy guidelines and such other material that MbPT claims to be relying upon.	Meeting was conducted by TAMP and MbPT as well as the representatives were given adequate time during the meeting. During the meeting TAMP based on the grievances with regard to inadequate time pur forth by the representatives, TAMP directed MbPT to upload the PPT on MbPT website and granted additional period of 15 to the parties post the hearing to submit their comments on the same which is very fair. MbPT had already uploaded all relevant documents with supporting relevant TR's, and LAC reports, comparative statement of SOR. PGLM 2014 and 2015 with its clarifications on MbPT website https://www.mumbaiport.gov.in. Considering the limitations under which the world is functioning in these times of Covid Pandemic with work from home and e-office being the norm, it would not be possible to furnish hard copies of all the documents and one needs to access the same from the website. It is denied that the website is not user friendly. In fact MbPT has never received any complaint about the website not being user friendly. This is a motivated charge and completely denied.
(ii)	With reference to Serial No. 2 of the table it is denied that hard copies of PGLM 2014 and 2015 with clarifications were uploaded on the website. Be that as it may, the website is not user friendly, and it is unfair to force a lessee to scroll through the website and find the PGLM. It is required in the interest of natural justice that PGLM 2014-15 be served upon the lessees individually. It is denied that hard copy was served upon all concerned parties as falsely represented in the presentation.	
(iii)	With reference to Serial 3 of the table, it is submitted that the attitude adopted by the Port Trust is unfortunate. In response to the Humanitarian appeal on account of pandemic, the port trust is relying upon a judgement of the Delhi High Court. That itself shows the insensitive approach and demonstrate that the	The SoR was due from 01.10.2012 and 30.09.2017 when there was no pandemic. Covid-19 pandemic started from March 2020 and as per present circumstances most of the premises have become operational. There are neither any directions from the Govt. with regard grant of any concession, relaxation in

Sr. No.	Comments of various Tenants / Lessees	MbPT Reply
	port trust has not bothered to look into the plight of the lessees/ land users. Being a public body, the Port Trust was bound to be considerate and look at each case on its own merits. It is submitted that while it is stated that revision was prior to the pandemic, the same is totally false as the revision of rates is proposed now with retrospective effect. Therefore, merely stating that period in respect of which revision is sought is prior to pandemic would not help the Port Trust in justifying which such revisions are sought during tough pandemic times. Moreover, the revision would also affect rates during the pandemic times.	seeking approval of TAMP to the revised SoR during pandemic time nor is there any such provisions either in PGLM 2015 or the clarifications issued. Further attention is again invited to Delhi High Court Judgement, Ramanad and others V/s. Dr. Girish Soni and others dated 21.05.2020 under which it has been held that the period of lockdown on account of Covid-19 does not excuse in payment of rental amounts (copy enclosed) and no concession in rental charges is admissible. b) As the parties have continued to occupy the premises and MbPT being Public body which continued to provide its services in COVID period and rendered the monthly invoices of compensation and also paid the GST on the invoice for the period there is no question of granting any relief. MbPT's expenditure on infrastructure and also liability for salary wages, maintenance etc. have continued even in COVID pandemic period. Since rentals from MbPT landed assets is important part of MbPT revenue which is essential for sustenance of MbPT, no such concessions are admissible on this ground in the proposed SoR w.e.f. 01.10.2012.
(iv)	With reference to Serial No. 4 of the table it is denied that present monthly rates are as per the valuation report of 1980's. The present rates take into account yearly increments. For the purpose of governing the rent increase, the increase in market rates can never be a benchmark. That view itself is erroneous. A sitting tenant does not get affected by market rate fluctuations. IT is denied that the Supreme Court judgement in the case of Jamshed Hormusji Wadia was valid only for 20 years from 1992 to 2012 as alleged. IT is submitted that opportunity be provided for the argument and true interpretation of Wadia judgement. The judgement required MbPT to extend leases from 1994 for a period of 30 years. Therefore, the judgement is clearly valid, at least till 2024. Moreover, if the MbPT seeks to revise rates, it is incumbent upon them to move the Supreme Court and seek reliefs. The principles of Wadia judgement will continue to bind the parties as the judgement was one passed in a representative litigation in which Order 1 Rule 8 notice was issued. w.e.f 2012 , MbPT is not "free" to do as they please and they are also subject to rules of reasonableness. The SC judgement doesn't permit rack renting or profiteering. IT is submitted that land values increasing 125 times do not help MbPT's	SC judgment rates were valid only for 20 years i.e from 01.10.1992 to 30.09.2012. From 01.10.2012 onwards PGLM 2010,2014-15 guidelines issued by Mos GOI(a) Jamshedji Wadia judgement is the Hon'ble Supreme Court Judgement dated 13.01.2004 by which Hon'ble Supreme Court upheld the Board compromise policy rates which were valid for 20 years w.e.f. 01.10.1992 to 30.09.2012. Though the SC concluded the dispute with regard to rates only for the period upto 31.03.2000, the Board decided to continue the said rate for the period upto 30.09.2012 under TR No.31 of 2004. Further the said facts have been confirmed by Attorney General's of India (AG) Shri Mukul Rohatgi by opinion dated 29.07.2016 wherein AG stated that MbPT is legally empowered to fix revised rates w.e.f. 01.10.2012 and also as per guidelines issued by MoS&W&W, GoI, and rates are to be approved by TAMP. The TAMP is authorized to approve the SoR retrospectively w.e.f. 01.10.2012, subject to withdrawal of Writ Petiton 1153 of 2000 filed by MbPT against TAMP, which is withdrawn on 08.08.2019. These facts were rightly pointed out in para 3 of proposal for SoR 2012-17. Thus there is no violation of S. C. Judgement dt. 13.01.2004 and MbPT is legally within its rights and empowered to revise the rates w.e.f. 01.10.2012 onwards.

Sr. No.	Comments of various Tenants / Lessees	MbPT Reply
	submission to increase rents by 25 times etc. Increase in land values is due to a variety of factors. MbPT land is leasehold and cannot be equated with Freehold land prices. Moreover, lessees are subject to restrictions and therefore, ready reckoner land rates cannot be a factor taken into account for harassing tenants. 10% of Kirloskar value with 4% increment year on year was the Supreme Court formula which ought to be effected and the MbPT cannot jump land values arbitrarily w.e.f 2012 as the increment factor is already being calculated and the rents are being revised year on year at 4% since decades.	There is no provision of compromise proposal in PGLM 2015 issued by MoS&W, GoI. The validity of rates under S.C. judgement was upto 30.09.2012 and thereafter MbPT is bound to follow the guidelines as per PGLM, 2015 issued by MoS&W, GoI. TAMP is given power for framing the rate/ rectify the rates. As per PGLM's guidelines of 2014 with subsequent clarifications issued by the Ministry of Shipping, MbPT has adopted highest value among the 5 factors.
(v)	With reference to Serial No. 5, it is denied that SC rates were valid only for 20 years. WE crave leave to rely upon the judgement as and when required. It is denied that revision of rates can be unilateral, one sided and arbitrary based on PGLM which has been formulated without even inviting inputs from tenants/ lessees. In the said Serial , the MbPT has just assumed that all tenants have carried out breaches. Such assumption cannot be the basis of formulating Rates. In a case where breaches are proved, a different schedule may be adopted from those in which no breach is proved. One cannot punish the innocent for a breach done by some lessee in a purported case study. In our case, there is no breach, and we cannot be punished for breaches of another party. The case study is totally misconceived and doesn't apply to the facts of our matter.	Revision of rent adopted by MbPT by following an uniform procedure on a future data as ready reckoner rates fixed by the Government are revised from time to time as per actual real estate transactions. In cases of tenancy having breaches committed, premium will be levied to the defaulters at the revised rate as per PGLM, 2015.
(vi)	fWith reference to Serial No. 6, while the issue was that the valuation wasn't done appropriately, the reply doesn't deal with that issue at all and says that rates are based on FMV decided by the valuer. It was incumbent on the Port Trust to check the voracity of the valuation itself. We maintain that the valuation isn't done appropriately, and the schedule doesn't reflect the true values and are inflated.	PGLM 2014-15 guidelines issued by Mos GOI are applicable to MbPT and MbPT is free to revise the rentals on the SOR based on PGLM guidelines. SoR 2017-2022 MbPT had engaged Govt. approved Valuers on panel and entrusted the work of valuation of MbPT land as per the jurisdiction of RR zones. The para 13 of PGLM 2014 clearly states that the highest of 5 factors for determination of rentals on Major Port Trust land i.e. (i) State Govt. RR (ii) Average rate of actual transactions registered in last 3 years in the Port vicinity (iii) Highest accepted tender of Port land for similar transactions (iv) Rate arrived at by an approved Valuer appointed for the purpose of the Port (v) Any other factor. Based on LAC recommendations Board approved the said revision of SoR rates for respective zones for Monthly, Fifteen Monthly Lease (FML), Expired Leases, licenses and vacant plots (for fresh allotment) falling in the respective RR Zones.

Sr. No.	Comments of various Tenants / Lessees	MbPT Reply
(vii)	With reference to serial no. 7 there is no justification given in the reply to why retrospective charges are being applied. Even the PGLM does not talk about retrospective renting. The port trust hasn't justified the delay in making proposal. Merely stating that till 2018 clarification, the PGLM did not extend to Mumbai doesn't give an exit route to charge retrospectively. In fact, till 2018 if PGLM was not applicable, it is clear that till 2018, no revision could apply. If PGLM has been sought to be made applicable from 2019 and proposal was made by MBPT in August 2021, it is clear that no revised rents can be billed for any period prior to 2021. Moreover, this is without prejudice to the fact that neither PGLM nor this authority have the jurisdiction to resort to rack renting and unfair increase prospectively or retrospectively and anything done by a public authority has to qualify on the touchstone of reasonableness. That was the ratio of the Supreme Court in the judgement in the case of Dwarkadas Marfatia v/s Board of Trustees of Port of Bombay. Retrospective rates are not only unconstitutional but also illegal and against tenets of morality. Retrospective rates cannot be charged even as per the MPT Act. The authority cannot determine retrospective rates for a period when they were not seized of the matter. Hence, the contents of serial no. 7 are illusory and erroneous.	The revision under SoR 2012-17 is by statutory guidelines issued under PGLM, 2015 and clarifications issued by Ministry from time to time and therefore mandatory and binding on all parties concerned. (a) It is submitted that the Ready Reckoner Land Rates are itself lower than the prevailing market values disparity is that the Port Trust properties not being saleable are valued much less than the freehold lands in the open market which are saleable. It is generally estimated and believed that the Ready Reckoner Rates even for freehold lands are about 50% of the actual market rates of lands in the open market. In respect of the Port Trust properties the Ready Reckoner Rates, by that reasoning, would be at least 30%of the actual market rates of land of comparable properties. Hence a return of 6% only on the Ready Reckoner Rates for Port Trust properties is still far lower than the prevailing market rentals of comparable properties. (b) It is further submitted that an analysis of the Ready Reckoner Rates from RR 2012 and 2017 is given hereunder. The said analysis show that the Ready Reckoner Rates for 2012 which is the basis of the letting rates are amongst the lowest rates (in comparison with adjoining RR zones to MbPT lands). (c) It is further submitted that a rate of return of 6% is a very reasonable rate by any stretch of imagination and is in any event less than the rate of return prescribed even by the Supreme Court in the Wadia Judgement.
(viii)	With reference to Serial No. 8, it is denied that rates proposed in SOR are fair and reasonable. It is submitted that the MbPT has arbitrarily classified that 80% of the tenants have benefitted and profiteered. It is submitted that no basis has been given for such figure of "80%". Moreover, assuming a figure of so-called 80% the MbPT is silent about the parameter to be adopted for the other balance tenants (at least 20% as per MbPT's own figures) who have admittedly not profiteered. Therefore, it is unfair that the 80% and the 20% are measured using the same yardstick and, on this ground, alone, the proposed SOR should be held as unreasonable and that proposed without application of mind. In our plot, we can sit and justify what the correct rates should be. For that, each plot has to be looked at separately. Clearly, we do not fall within the so-called 80%.	It is estimated that 80% of MT, FML, and expired leases have unauthorisedly and unlawfully sublet the premises and transferred the premises to third party which is a violation of tenancy, lease agreement even after the expiry of lease. Therefore, all such parties who are illegally and unauthorisedly holding the premises are liable to pay compensation for unlawful use of premises at prevailing SoR rates. These parties have failed to surrender the premises after termination of lease/tenancy terms and continue to hold over the MbPT land without any valid agreement and failed to give vacant possession to MbPT. As these monthly tenancies, FML, expired leases and licenses are not having any running contract with MbPT, MbPT had correctly and rightly worked out the SoR for MT, FML, expired leases and licenses based on PGLM guidelines by adopting the highest of 5 factors as furnished by Govt.

Sr. No.	Comments of various Tenants / Lessees	MbPT Reply
	Therefore, proper consideration should be given to our case on our own merits.	approved Valuers who are empaneled by MbPT and the SoR rates are worked out @6% return on the prevailing market rates and also concessions and rebates have been given by the Valuers taking into consideration the present infrastructure and lack of benefits.
(ix)	The MbPT has conveniently brushed aside the issue stating that Rent Act isn't applicable. The MbPT has failed to appreciate that the issue of applicability of Rent Act is left open in the Wadia judgement of 2004. Moreover, as per Rent Act of 1999, "local authority" definition in section 7(6) doesn't include MbPT. Therefore, MbPT doesn't enjoy the "exemption" as provided in the act. Moreover, section 4(4A) of the erstwhile Rent Act protected the structures as coming within the Rent Act. Therefore, the Rent Act does apply to MbPT, and this issue would be decided by the court at an appropriate occasion.	1. Maharashtra Rent Control Act does not apply to the lettings by the Port Trust. 2. Contentions are incorrect as rent act is not applicable to MbPT
(x)	With reference to serial 10, it is clear and admitted *that invoices are not yet issued. Therefore, in the teeth of this admission, no rates can be applied for period* where invoice isn't issued. TR's are nothing but MbPT's internal documents. MbPT cannot claim any money for a past period as no invoices were raised subject to approval.	1. Pending approval of SoR 2012-17 by TAMP MbPT has not raised invoices /demand notices. 2. After approval of the TAMP to the proposed SOR demand notices will be conveyed for the differential arears giving 3 months time to the parties for payment. 3. As per TR 122/2021, no interest will be levied for differential arrears till 3 months from the date of raising of the demand notice after approval of the TAMP. 4. The demand notices will be issued after approval of TAMP and any delay in the payment after 3 months, interest will be charged as per the said TR/ Board's policy.
(xi)	The issue is brushed aside by MBPT without answering or giving any satisfactory reply. It is for the Authority (without prejudice to the challenge to their jurisdiction) to apply their mind and strike down unreasonable renting and proposals should the authority act fairly and reasonably. Where one organ of a state is charging 0.25%, it is unfair for another organ to charge 6%. The difference clearly is substantial.	The SoR rates are based on the laid down procedure under PGLM 2015, para 13 and the same is recommended by the LAC and approved by the Board and further submitted to TAMP for approval. Fair Market Value given by MbPT empaneled Valuers and SoR is derived from this Fair Market Value.
(xii)	The replies are evasive and do not deal with the issue. There is no correlation between the comment and the so-called standard reply	PGLM 2010,2014-15 guidelines issued by Mos GOI are applicable to MbPT. MbPT is bound by PGLM 2015 guidelines hence Comparison with practices followed by PSU, Collector of Mumbai areirrelevant.
(xiii)	it is stated that although the PGLM may not have a provision of "compromise proposal". However, the MbPT ought to act sensitively, and a compromise has to be worked at in the interest of all parties. The PGLM is not conclusive or sacrosanct and room is always	As stated earlier in PPT publised on 08.09.2021, there is no provision of compromise in PGLM 2015 issued by MoSP&W, GoI. TAMP is authorize to fix the SoR Rates for the entire land of MbPT falling under the respective Ready Reckoner Zones for FSI 1.00 as a base rate and Board will decide SoR/Rentals on case to case

Sr. No.	Comments of various Tenants / Lessees	MbPT Reply
	there for making improvement in the interest of all parties.	basis. PGLM 2010,2014-15 guidelines issued by MoS, GoI are applicable to MbPT.
(xiv)	While it is accepted that running leases and those not terminated on account of breaches are excluded from SOR revision, it is not submitted by MbPT as to what would happen to those cases where breaches have been alleged by MbPT but where the tenant has challenged the termination before a court. In any event, in all cases leases are deemed to be subsisting till 2024 as per the Wadia judgement. Therefore, all cases should be excluded from SOR revision.	As stated earlier in PPT publised on 08.09.2021, it is once again to state that: 1. TAMP is authorize to fix the SoR Rates for MbPT land falling under the respective RR zones for FSI 1.00 as a base rate. 2. Board will accordingly decide SoR/Rental on case to case basis. 3. The SOR as per the Board resolutions will be applicable to all the MT, FML, expired leases and Licenses. 4. Running leases with valid registered lease deed and running leases which are not terminated on account of breaches are excluded from proposed SoR revision.
(xv)	The reply is evasive and doesn't answer the comment. While the reply says that rates are based on land rates, the actual valuation has been done based on structure rates which is erroneous.	The valuer has arrieved at the land rate by usng the appropriate method as per the valuation principles. The rate obatined from the registered sale transaction in the vicinity of the plots being valued and further discounting the rate for leasehold plots and on account of lack of amenities.
(xvi)	It is stated that the MPT Act was notified on 18.2.2021 and published in gazette. Draft rules were circulated by MOS on 7.4.2021 vide F No. 13/35/2015-PPP Cell PD-1. Therefore, the answer is contrary to the factual position. Only effective date not being given is no reason for a public authority to act contrary to a notified law which is likely to be effected anytime. In any event, retrospective renting and charging is illegal and shall not stand the test of judicial scrutiny.	1. The MPA Act 2021 is yet to be notified for its implementation and hence not relevant to present proposal. 2. The revision under SoR 2012-17 is by statutory guidelines issued under PGLM, 2015 and clarifications issued by Ministry from time to time and therefore mandatory and binding on all parties concerned. Circular No.EM/ASG/F-361/5873 dated 28.12.2012 vide which it was informed to all the lessees, tenants and occupants that revision of compensation / rent in respect of all the expired leases, monthly tenancies and fifteen monthly tenancies and licences / tenancies excepting subsisting long term leases of Port Trust premises is due from 01.10.2012 onwards. Bills are sent along with footnote "THIS BILL IS PROVISIONAL AND WITHOUT PREJUDICE TO BOARDS RIGHTS AND CONTENTION TO REVISE THE RENT/COMPENSION W.E.F 01.10.2012."
(xvii)	MOS requesting TAMP to approve rates retrospectively doesn't give authority to TAMP to fix rates retrospectively. Any approval by TAMP has to be prospective. This is without prejudice to the fact that we challenge the jurisdiction of TAMP To fix rates at all and such rates have to be governed as per the Supreme Court's sanctioned compromise formula.	1. The revision under SoR 2012-17 is by statutory guidelines issued under PGLM, 2015 and clarifications issued by Ministry from time to time and therefore mandatory and binding on all parties concerned. PGLM 2010,2014-15 guidelines issued by MoS, GoI are applicable to MbPT. There is no provision of compromise proposal in PGLM 2015 issued by MoSP&W, GoI. 2.MoS, Govt. of India has directed TAMP to approve the SoR retrospectively w.e.f.

Sr. No.	Comments of various Tenants / Lessees	MbPT Reply
		01.10.2012. The writ petition was withdrawn by MbPT on 08.08.2019.
3.	**Similar Representations received from Individual Tenants/ Lessees – Group - C**	
	Despite the very short and strict deadlines of 26.08.2021 and 28.08.2021, on the captioned proposals, we have filed our comments/objections thereto within the stipulated time; and had requested therein for a personal hearing in the matter before any final decision is taken.	Sufficient time has been given by TAMP to each party to make their oral / written submissions as may be seen from the following events. SoR 2012-2017 proposal for 23 zones of Non-Home Occupations uploaded on MbPT website on 14.08.2021 and SoR 2017-22 proposals for 08 zones of Non Home Occupations was uploaded on 12.08.2021 . -> 15 days' time was granted after uploading the proposal on MbPT website, i.e. upto 28.08.2021 for SoR 2012-2017 & upto 26.08.2021 for SoR 2017-2022 for giving comments. -> Joint hearing for both proposals was conducted by TAMP on 03.09.2021. -> After conducting the hearing, TAMP directed to upload the presentation of both SoR 2012-17 & SoR 2017-22 proposals, which was done by MbPT on 08.09.2021. -> Further time of 15 days was granted for giving written submissions by the registered tenants / lessees of MbPT, which was valid upto 22.09.2021. -> Thus, sufficient time of 30 days was granted by TAMP and therefore, the contentions are not acceptable.
	It is rather surprising that even before the aforesaid deadlines had expired, it was already decided by TAMP on 23.08.2021, and communicated by MbPT to its lessees/tenants on 27.08.2021;- that the "joint" hearings are scheduled virtually on 03.09.2021; and that too providing only one (1) hour on each of the said Proposal/s within which hundreds of lessees/tenants including ourselves are required to voice our comments/objections.	-> As already mentioned at Sl. No.1 above, more than 30 days' time was granted by TAMP to allow the parties to make their oral / written submissions. -> As it is not possible to hear each party in the course of joint hearing, parties were requested to give their written comments post hearing, i.e. 03.09.2021 and MbPT was directed to upload the presentation on website, which was done by MbPT on 08.09.2021. -> TAMP has given adequate time frame and allowed all stakeholders to submit their representations and each communication is being examined by MbPT and TAMP and has been replied based on the relevant issues before the TAMP, who is conducting hearing for all stakeholders in terms of PGLM 2015 for fixation of SoR. -> Thus, sufficient time of 30 days was granted by TAMP and therefore, the contentions are not acceptable.
	It seems to be apparent that these proposals are being hurriedly proceeded with, and without affording adequate time to us to effectively communicate to you our views thereon.	

Sr. No.	Comments of various Tenants / Lessees	MbPT Reply
	In such circumstances; it is extremely unlikely that we would be given a fair, meaningful and effective opportunity to place forth our comments/objections/views.	
	By this, we do not seek to imply and/ or contend in any manner whatsoever that we do not seek a personal hearing; but only that we desire a fair opportunity to present our views effectively.	
	In the light of the aforesaid, we request you to kindly schedule this meeting in such a manner so as to provide us a fair opportunity to present our views, comments and objections on the said SOR proposals.	
4.	**Similar Representations received from Individual Tenants/ Lessees – Group - D**	
(i)	We have on 28/08/21 addressed an email to you providing comments in respect of the proposals for revision of Schedule of Rent ('SOR') ('Proposal') for the period from 01/10/12 to 30/09/17 and 01/10/17 to 30/09/22. A copy of the said email is annexed herewith for your ready reference	-> SoR 2012-2017 proposals for 23 zones of Non-Home Occupations uploaded on MbPT website on 14.08.2021 and SoR 2017-22 proposals for 08 zones of Non Home Occupations were uploaded on 12.08.2021. -> 15 days' time was granted after uploading the proposal on MbPT website, i.e. upto 28.08.2021 for SoR 2012-2017 & upto 26.08.2021 for SoR 2017-2022 for giving comments. -> Joint hearing for both proposals was conducted by TAMP on 03.09.2021. -> After conducting the hearing, TAMP directed to upload the presentation of both SoR 2012-17 & SoR 2017-22 proposals, which was done by MbPT on 08.09.2021. -> Further time of 15 days was granted for giving written submissions by the registered tenants / lessees of MbPT, which was valid upto 22.09.2021. -> Thus, sufficient time of 30 days was granted by TAMP and therefore, the contentions are not acceptable. MbPT have perused all the comments received uploading of proposal on MbPT website on 14.08.2021 & 12.08.2021 and have given parawise remarks to TAMP on 02.09.2021 and also the a detailed presentation/PPT of common issues and MbPT's reply thereon was also uploaded on MbPT website on 08.09.2021 as directed by TAMP and further 15 days time was given from date of uploading of PPT i.e 08.09.2021.
(ii)	Thereafter, on 03/09/21 a meeting was called by you at short notice through video conferencing to provide suggestions with respect to your proposals. From the quick sequence of events leading to the virtual meeting on 03/09/21 it gives rise to a suspicion that you had already made up your mind in a pre-meditated manner with well-planned design and preparation and invitation for a virtual meeting (in your coinage "Hearing") was just a smoke screen to schematically exhibit that all stakeholders have been effectively heard and their long-pending grievances redressed in one shot without consideration of their views. In so much so that the said presentation finally uploaded on your website on 08/09/2021 contained "Standard MbPT Replies" before the queries or objections could be even raised during the meeting by the affected parties. The meeting was crowded, chaotic with little chance for peaceful listening or participation. Tamp needed MbPT to upload the presentation on MbPT website with tenants-occupants submissions, responses within 14 days thereof.	
(iii)	It is shocking and startling to note the highhandedness with which MbPT has handled the so-called "Hearing" in the name of a virtual meeting. It once again establishes beyond doubt that MbPT is in the process of implementing its proposal unilaterally, without considering the comments/responses submitted by me in the email dated 28th August 2021. Please note that any action that Mbpt takes for implementing its	Contents are denied. MBPT is duty bound by PGLM-2015 issued by MoPS&W, GoI under section 111 of MPT Act, 1963. • Present amount of compensation billed to all the monthly tenancies FML and expired leases and licenses no. 1813 non home occupations as per wadia judgment. • These occupations are occupying MbPT land without any authorization from MbPT and even

Sr. No.	Comments of various Tenants / Lessees	MbPT Reply
	one sided, arbitrary and biased proposals in total disregard of the Supreme Court judgments, Public interests, stakeholders, and my comments/counter proposals on your proposals, without giving me sufficient time to study and consider your proposals shall be at your entire risk and I shall not be bound by the same. While expressing my strong dissent to the hushed and rushed manner in which you have proceeded, I reserve my rights to counter and respond to each of your "Standard Replies" and the other contents of the presentation.	after expiry of the leases/termination of tenancies/lease. • Running leases with valid registered lease deed and running leases which are not terminated on account of breaches are excluded from proposed SoR revision. • All leases/tenants were informed by Circular No. EM/ASG/F-361/5873 dated 28.12.2012 vide which it was informed to all the lessees, tenants and occupants that revision of compensation / rent in respect of all the expired leases, monthly tenancies and fifteen monthly tenancies and licences / tenancies excepting subsisting long term leases of Port Trust premises is due from 01.10.2012 onwards. • Every monthly Bills/invoices are sent along with footnote "THIS BILL IS PROVISIONAL AND WITHOUT PREJUDICE TO BOARDS RIGHTS AND CONTENTION TO REVISE THE RENT/COMPENSIONW.E.F 01.10.2012". • Wadia judgment rentals were based on MbPT land values as on 1980 which was Rs. 1406 per sqm for FSI 1.33. • Whereas average land values for 23 MbPT zones increased to Rs 51714 per sqm for FSI 1 as per RR 2012 which is almost 37 times of land values of 1980's • Whereas the average monthly rents/compensation is Rs. 28.44 per sqm per month for FSI 1 and the same will be revised to an average of Rs. 259 per sqm per month for FSI 1 of the base rate i.e, rents increased only by 9 times compared with wadia judgment rates. • Ready reckoner rates abutting land values RR zones of outside MbPT land are on an average Rs. 81147 per sqm for FSI 1.00 (182% higher than MbPT land). • MbPT had fixed rent as 10% return on Kirloskar land values with 4% increase every year from 01.10.1994 onwards in terms of Supreme Court Wadia Judgment. • The returns on 6% of the ready reckoner values (FMV is prescribe under PGLM 2014/2015 by Mos GOI and approved by the board TR 222/2015 TR 105/2018 and TR 122/2021. • SC judgment rates were valid only for 20 yrs i.,e from 01.10.1992 to 30.09.2012 • From 01.10.2012 onwards PGLM 2010,2014-15 guidelines issued by Mos GOI are applicable to MbPT and MbPT is free to revise the rentals on the SOR based on PGLM guidelines

Sr. No.	Comments of various Tenants / Lessees	MbPT Reply
		• Thus the SOR proposed by MbPT at 6% per annum is fair reasonable and MbPT is well within its rights to revise the rents/compensation w.e.f. 01.10.2012 onwards as per the proposed SOR. SC judgment rates were valid only for 20 years i.e from 01.10.1992 to 30.09.2012 . • From 01.10.2012 onwards PGLM 2010,2014-15 guidelines issued by MoPS&W, GoI are applicable to MbPT and MbPT is free to revise the rentals on the SOR based on PGLM guidelines. • Thus the SOR proposed by MbPT at 6% per annum is fair reasonable and MbPT is well within its rights to revise the rents/compensation w.e.f. 01.10.2012 onwards as per the proposed SOR. • Port trust land is divided in to 23 sub zones as per ready reckoner zones and board accepted the rates given in RR zones 2012 being most authentic reliable and scientific data available and SOR was at 6% per annum for non home occupation was approved by the Board. • Following five factors were considered by LAC i.e. (i) Rentals as on 30.09.2012 as per SC rules, (ii) Based on 6% returns on RR Value 2006 with 4% increase upto 30.09.2012, (iii) Kirloskar land value with 6%, (iv) average market rates per sqm as on 2012 based on index II property transactions within outside MbPT properties and BKC areas and (v) 6% of RR 2012 market value obtained. • Comparative statement of Kirloskar land values of 1980's and RR land values of 2012 for MbPT land. The statement also show RR land values of abutting RR zones outside MbPT land is shown in Wadia judgment rentals were based on MbPT land values as on 1980 which was Rs. 1406 per sqm for FSI 1.33 • Whereas land values increase to Rs 51714 per sqm for FSI 1 as per RR 2012 which is almost 37 times of land values of 1980's • Whereas the average monthly rents/compensation is Rs. 28.44 per sqm per month for FSI 1 and the same will be revised to Rs. 259 per sqm per month for FSI 1 of the base rate i.e. rents increased only by 9 times compared with wadia judgment rates • Existing low rentals are based on Wadia judgments and very high market rentals leading to profiteering rent racking and exploitation of MbPT land by unauthorized subletting u/a constructions, u/a change of users/a transfers in violations of the tenancy/lease terms and collecting very high rental. (Cases)

Sr. No.	Comments of various Tenants / Lessees	MbPT Reply
		• As per the data available on record almost 79% of the lessees tenants committed the measure breaches and continuing their unauthorized occupation even after expiry of the term or termination of lease. • Thus it is the lessees and tenants who have committed the violation of SC judgment and the tenancy terms taking shelter under Wadia judgment • SC judgment is not a licenses in perpetuating allowing lessees tenants to go on commuting breaches indefinitely but restricting the MbPT rights to charge rentals based on 1980's land values. This is unfair and absurd proposition and thus MbPT has not violated SC judgment and have followed the guidelines issued by Mos GOI which are mandatory and binding MbPT under section 111 of MPT act 1963.
(iv)	In order for me to take a well informed decision in consultations with my advisors, I request you first of all to give me a reasonable opportunity/personal hearing to be heard meaningfully and constructively to provide me with the following information: a) Whether you have received my email dated 28th August 2021 providing my comments/observations/suggestions on the proposed revision of SOR. b) Whether you have considered the comments forwarded under the cover of my email dated 28th August, 2021 prior to the meeting held on 3rd September 2021; and c) Whether you have or are yet to implement the proposed revision of SoR d) Minutes of the meeting held on 3rd September 2021; and e) Grant me sufficient time to study your presentations and "Standard Replies" enabling me to provide my response for your consideration prior to any further movement in the matter.	a) & b) All the comments which were received by TAMP and forwarded to estate dept have been examined and replied and also the PPT of the common issues and the replies thereon were also uploaded on MbPt website on 08.09.2021 and further 15 days time was given for further comments. c) SoR will be implemented after notification of TAMP d) Minutes of meeting wre nort prepared by MbPT. However as directed by TAMP MbPt's replied to all the issues, comments received by TAMP & MbPT were duly replied in the PPT which was uploaded on MbPT website on 08.09.2021. e) As directed by TAMP further 15 days time was granted to enable the MbPT lessee/tenants to submit written replies which is adequate & sufficient time.
(v)	It appears that by these presentations, you are creating a huge untenable liability for the tenants thereby attempting to show them as defaulting tenants/occupants. Kindly justify, that in-spite of the historic verdict of 2004, you have failed to regularize the tenancies as per the Compromise formula and allowed time to lapse. Now after 107 months you want to recover fantastic astronomical proposed rents, retrospectively, for no fault of omission or commission of the tenant/occupant. I have perused the Matrix presented in the SOR presentation on 03-09-2021.	When all the opportunities is given to make written comments, personal hearing is not warranted since this is a policy issue of framing of SoR for monthly tenancies/15 Monthly Leases/expired leases falling in respective RR zones there is no necessity of giving personal hearing, personal grievances not relevant to the present SoR relevant to fixation of SoR and related to specific case as such grievances do not fall under jurisdiction of TAMP. TAMPs jurisdiction is limited to fixation of SoR in accordance with PGLM guidelines issued by MoPS&W, GoI. Tariff Authority for Major Ports (TAMP) an independent Authority to

Sr. No.	Comments of various Tenants / Lessees	MbPT Reply
	The proposed hike in rent would increase 4.3 times the present basic rent for 2012-2017 (equivalent to 22 years rent amount) and for 1-10-2017 to 30-08-2021, the proposed rent hike would be 40 times the present basic rent (equivalent to 156 years rent amount). Further to add Mbpt is recovering 25% ie 1/4th of Fair Market Value of the land in 47 months by an increase in the proposed basic rent. The proposed revised Schedule of Rates for the period 1-10-2012 to 30-09-2017 and 2017 to 30-08-2021 of MbPT Estate Land, needs to be rolled back and settled through discussion by way of a personal / physical meeting with the officers of TAMP, Minister of Shipping & MbPT, to arrive at a reasonable, and easily acceptable, and workable compromise for the benefit of all concerned.	regulate all tariffs, both vessels related and cargo related, and rates for lease of properties in respect of Major Port Trusts and the private operators located therein. Further in terms of PGLM-2015 TAMP's role & working methodology is defined and same methodology is followed and SoR for different RR zones approved by Board based on Land allotment Committee's (LAC) recommendation based on one of 5 factors as stated in para 13 of PGLM-2015 from Valuers valuation report.
(vi)	We want you to re-consider the rate revision you are expecting from us keeping in view the increment as per the Supreme Court Compromise formula you are demanding on and above the increase over the years which is 40 times. The Darukhana area in Mazgaon has plots held by families for several generations, who have while conducting port related trade struggled to inhabit the plots and holding dexterously in tough conditions, with poor infrastructure, temporary structures made of Tin Sheds, dilapidated roads, lack of water and sanitation facilities and public conveyance and unchecked encroachments. In effect, the honorable tenants and occupants have prevented the land being usurped by slums and anti-social elements and going outside MbPT control and official authorities. Therefore, the rates you are visualising are unrealistic. Why for the last 104 months you did not compromise as per the verdict of the Supreme Court and regularise the tenancies prior to the year 2012 ? Why such a historical judgment was was not implemented in the true spirit?	SC judgment rates were valid only for 20 years i.e from 01.10.1992 to 30.09.2012 . • From 01.10.2012 onwards PGLM 2010, 2014-15 guidelines issued by MoPS&W, GoI are applicable to MbPT and MbPT is free to revise the rentals on the SOR based on PGLM guidelines. • Thus the SOR proposed by MbPT at 6% per annum is fair reasonable and MbPT is well within its rights to revise the rents/compensation w.e.f. 01.10.2012 onwards as per the proposed SOR. • Port trust land is divided in to 23 sub zones as per ready reckoner zones and board accepted the rates given in RR zones 2012 being most authentic reliable and scientific data available and SOR was at 6% per annum for non home occupation was approved by the Board. • Following five factors were considered by LAC i.e. (i) Rentals as on 30.09.2012 as per SC rules, (ii) Based on 6% returns on RR Value 2006 with 4% increase upto 30.09.2012, (iii) Kirloskar land value with 6%, (iv) average market rates per sqm as on 2012 based on index II property transactions within outside MbPT properties and BKC areas and (v) 6% of RR 2012 market value obtained. • Comparative statement of Kirloskar land values of 1980's and RR land values of 2012 for MbPT land. The statement also show RR land values of abutting RR zones outside MbPT land is shown in Wadia judgment rentals were based on MbPT land values as on 1980 which was Rs. 1406 per sqm for FSI 1.33 • Whereas land values increase to Rs 51714 per sqm for FSI 1 as per RR 2012 which is almost 37 times of land values of 1980's.

Sr. No.	Comments of various Tenants / Lessees	MbPT Reply
		• Whereas the average monthly rents/compensation is Rs. 28.44 per sqm per month for FSI 1 and the same will be revised to Rs. 259 per sqm per month for FSI 1 of the base rate i.e. rents increased only by 9 times compared with wadia judgment rates • Existing low rentals are based on Wadia judgments and very high market rentals leading to profiteering rent racking and exploitation of MbPT land by unauthorized subletting u/a constructions, u/a change of users/a transfers in violations of the tenancy/lease terms and collecting very high rental. (Cases) • As per the data available on record almost 79% of the lessees tenants committed the measure breaches and continuing their unauthorized occupation even after expiry of the term or termination of lease. • Thus it is the lessees and tenants who have committed the violation of SC judgment and the tenancy terms taking shelter under Wadia judgment • SC judgment is not a licenses in perpetuating allowing lessees tenants to go on commuting breaches indefinitely but restricting the MbPT rights to charge rentals based on 1980's land values. This is unfair and absurd proposition and thus MbPT has not violated SC judgment and have followed the guidelines issued by MoPS&W, GoI which are mandatory and binding MbPT under section 111 of MPT act 1963. • SC judgment rates were valid only for 20 yrs i.,e from 01.10.1992 to 30.09.2012 • From 01.10.2012 onwards PGLM 2010,2014-15 guidelines issued by MoPS&W, GoI are applicable to MbPT and MbPT is free to revise the rentals on the SOR based on PGLM guidelines. • The SOR is applicable to only MTs, FML ,expired leases and Licenses for the period 01.10.2012 onwards for 5 years that is up to 0.09.2017. That is the period beyond applicability of SC judgement rates. • These occupations are occupying MbPT land without any authorization from MbPT and even after expiry of the leases/termination of enancies/lease. • Bills are sent along with footnote (THIS BILL IS PROVISIONAL AND WITHOUT PREJUDICE TO BOARDS RIGHTS AND CONTENTION TO REVISE THE RENT/COMPENSION W.E.F 01.10.2012). • Circular No.EM/ASG/F-361/5873 dated 28.12.2012 vide which it was informed to

Sr. No.	Comments of various Tenants / Lessees	MbPT Reply
		all the lessees, tenants and occupants that revision of compensation / rent in respect of all the expired leases, monthly tenancies and fifteen monthly tenancies and licences / tenancies excepting subsisting long term leases of Port Trust premises is due from 01.10.2012 onwards. • Delay in submission of SOR proposal to TAMP was on account of the fact that PGLM 2014/15 were not applicable to Township area of Mumbai Port Trust. • Vide clarification no 1 of 2018 dated 14.06.2018 issued under sec 111 of MoPS&W, GoI extended the PGLM 2015 guidelines to the Township area. • Matter was taken up with Ministry for withdrawal of notification dtd 15.03.2000. • MoS,GoI vide their no secy(s)/visit-Mumbai/land management/2018(333915) letter dated 15.05.2019 directed TAMP to fix the SoR for Mumbai port Trust land w.e.f. 01.10.2012 onwards. • Accordingly TAMP vide Their letter dated 15.07.2019 issued a clarification that in view of PGLM 2015 guideline the TAMP notification 28.03.2000 has become infructuous so far as MbPT is concerned and it is not applicable for MbPT for period prior to 01.10.2012 and same may be treated as withdrawn by the TAMP. • High Court writ petition no 1153 of 2000 filed by MbPT challenging TAMP notification was withdrawn vide HC order dated 08.08.2019. • The LAC recommendation dated 13.08.2019 was placed before the Board , however same was deferred by Board by TR 114 of 20.08.2019, TR 149 dated 24.09.2019 and TR 169 dated 01.11.2019.Finally Board gave approval to submit the proposal of SoR 2012-17 to TAMP vide TR 122 dated 03.08.2021. • Accordingly immediately after Board approval the said proposal was submitted to TAMP on 06.08.2021. • Market real estate sale transaction are very high as compare to MbPT rentals as per compromise formula. • Analysis given in TR 222 /2015 lesses/tenants are profiteering by subletting and indulging in unauthorized transfer of the premises • 80% of tenants are unauthorizedly occupying the premises even after the expiry of the lease and unauthorizedly sub-let/assigned and thus profiteering and rack renting at cost of MbPT low rentals based on 1980s land values.

Sr. No.	Comments of various Tenants / Lessees	MbPT Reply
		• MT, FML and expired leases have no running contracts with MbPT and hence are liable to revision of rates as per PGLM 2015 • Thus MbPT proposed SOR rates are fair and reasonable. • Analysis of the RR rates 2012 is given in the said analysis in Annexure-1 of PPT uploaded on website would show that the RR Rates for 2012 which is the basis of the SoR (letting rates) are amongst the lowest rates (in comparison with adjoining RR zones to MbPT lands). • It is further submitted that a rate of return of 6% is a very reasonable rate. • MbPT valuers on panel who worked out the values had visited the site & were conversant with & considered the ground realities of site condition prevailing in respective RR zone including issues like lack of infrastructure, facilities etc.
(vii)	The said Draft Proposal are totally contrary to the Central Government Policy of "Sabka-Sath – Sabka Vikas" for a common business person and also against the Fundamental Rights as provided in the Constitution of India. Needless to mention, this letter is addressed without prejudice to the rights, contentions and remedies in law and equity and nothing in this letter should be construed or interpreted as a waiver of such rights.	The SoR proposals made in accordance with the PGM-2015 guidelines issued by MoPS&W, GoI.
5.	**Similar Representations received from Individual Tenants/ Lessees – Group - E**	
	We refer to your PPT published on MBPT Portal on SOR 2012-2017 & 2017-2021 after hearing of 3rd September 2021 which was very disturbing & could not be properly heard. In fact it was not our hearing despite we had to hear MBPT & TAMP and so word "hearing" will not be suitable for the video meeting, it was a just your reply in voice that you published on your domain in defense of our objections & the reply published is neither satisfactory nor practical and seems not having any legal standing. We tried to let MBPT & TAMP hear us on each answer you were putting but we were put on mute and we could not speak at all. The reply published on portal are having no Legal Standing hence we deny any consideration on account of our Tenancy & suggest and request for further hearings on the same before implementing any rule.	Following MbPT reply are without prejudice to MbPT rights and contentions in the pending litigations and termination notices served on the lesses/ tenants and the MbPT rights to take legal action against the breaches and violation of tenancy terms and conditions under the applicable laws and the policy/ guidelines and issued by the ministry. The TAMP notice for approval of SoR 2012-17 was sent to registered tenant of MbPT however reply was received from 3rd party who do not have any locus standee with MbPT and is neither lessee/tenant of MbPT. At the outset, it is submitted that the application from 3rd party with whom MbPT has no privity of contract and who is neither lessee under any such Law, agreement and T&C and is occupying the premises without consent of MbPT. No third party can occupy the premises without the written permission from MbPT. The applicant is therefore, unauthorised occupant of the premises and has no legal right on property and therefore, TAMP is requested not to entertain any such application from third

Sr. No.	Comments of various Tenants / Lessees	MbPT Reply
		party. After conducting the hearing on 03.09.2021 by TAMP through video conference, details/para-wise replies on common issues raised by registered lessee/tenants were uploaded on MbPT website (www.mumbaiport.gov.in). After uploading of the presentation, TAMP has given two weeks' time to enable all the registered lessees/tenants to give their written comments.
(i)	We are running our business for our survival on MBPT premises since decades and the same has been conveyed to us by our Grand Parents and the premises is the only reason & source of our bread-butter. Not only for our families, we survive multiple families through our employees working with us in Darukhana.	MbPT has granted subject plot on monthly tenancy basis which is not transferrable and not alterable without permission of the MbPT and the said monthly tenancy can be terminated by one month's notice and do not create any permanent/perpetual right on the said plot of the tenant/lessee after expiry/termination
(ii)	We oppose the proposed schedule and do not accept anything stated in the presentation. We would like to seek personal hearing so that we can point out our responses in person and be represented through our legal counsel.	MbPT's present proposal submitted to TAMP is limited to fixation of SoR 2012-17 and 2017-22 as per para 13 of PGLM,2015 issuedby MoS, Govt. of India for the respective RR zone which are mandatory directives under Section 111 of MPT Act and MbPT is bound to act as per these directives.
(iii)	At the outset, we also record that our representation is entirely without prejudice to our rights and contentions in law and that this representation is made under protest and we reserve our right to challenge the jurisdiction of Tariff Authority of Major Ports to deal with the current matter and pass directions in respect thereof.	The revision of SoR rate for compensation/rent of the said plot which was due from 01.10.2012 onwards and the said revision is also without prejudice to the rights and contentions of MbPT for taking legal action against the parties and refusal to review the tenancy as per MbPT action plan or those who are not complying with MbPT's policy. MoS, Govt. of India vide their letter no secy(s)/visit-Mumbai/land management /2018(333915) dated 15.05.2019 directed TAMP for fixation of SoR rate for MbPT from 01.10.2012 onwards and TAMP vide their reply requested MbPT to submit SoR revision proposal w.e.f. 01.10.2012 in terms of PGLM 2015.
(iv)	The ref. PGLM 20154, Clarification 1 of 2018, 1 of 19-20 & 2 of 19-20 is not uploaded yet & so reply posted are not relevant without evidence.	PGLM 2014 and 2015, Clarification I of 2018, Clarification I of 2019 and 2020 and Clarification II of 2020 being public document are readily available on World Wide Web. Also they were already uploaded on MbPT website and can be accessed through following links (i) https://www.mumbaiport.gov.in under Downloads → Circulars → Estate Circulars, (ii) https://www.tariffauthority.gov.in and (iii) https://shipmin.gov.in.
(v)	WE also suggest that an individual hearing has to be conducted in the case of each lessee/ tenant and a common public meeting cannot substitute individual hearings and such common hearing does not provide us with an opportunity of being heard. We record that the previous meeting dated 3.9.2021 did not give us any opportunity	MbPT has no comments to offer.

Sr. No.	Comments of various Tenants / Lessees	MbPT Reply
	to express our views in a proper, peaceful and organized manner. WE request you to kindly provide us with a copy of the video recording of the public hearing dated 3.9.2021 for our record.	
(vi)	How can MBPT / TAMP can direct an upcoming order with just a little time of 14 days to object on while the nature of matter is sensitive & complicated.	As already mentioned in para 4, the proposal was uploaded on MbPT website on 14.08.2021 and subsequently TAMP had granted duration of 15 days to submit reply. Subsequently TAMP had arranged for a joint hearing on 03.09.2021 though video conference. Thereafter MbPT uploaded detailed presentation on 08.09.2021. TAMP has given further extension of 20 days' to enable registered lessee/tenant to submit their comments which is adequate and sufficient.
(vii)	The Retrospective Rates Rule are opposing the Public Policy as per Law.	Reason for retrospective revision is as under: The revision under SoR 2012-17 is by statutory guidelines issued under PGLM, 2015 and clarifications issued by Ministry from time to time and therefore mandatory and binding on all parties concerned. SC judgment rates were valid only for 20 years i.,e from 01.10.1992 to 30.09.2012. From 01.10.2012 onwards PGLM 2010,2014-15 guidelines issued by MoS, GoI are applicable to MbPT and MbPT is free to revise the rentals on the SOR based on PGLM guidelines. These lessees/tenants are occupying MbPT land without any authorization from MbPT and even after expiry of the leases/termination of tenancies/lease. Bills are sent along with footnote "THIS BILL IS PROVISIONAL AND WITHOUT PREJUDICE TO BOARDS RIGHTS AND CONTENTION TO REVISE THE RENT/COMPENSION W.E.F 01.10.2012." Circular No.EM/ASG/F-361/5873 dated 28.12.2012 vide which it was informed to all the lessees, tenants and occupants that revision of compensation / rent in respect of all the expired leases, monthly tenancies and fifteen monthly tenancies and licences /tenancies excepting subsisting long term leases of Port Trust premises is due from 01.10.2012 onwards. Delay in submission of SOR proposal to TAMP was on account of the fact that PGLM 2014/15 were not applicable to Township area of Mumbai Port Trust. Vide clarification no 1 of 2018 dated 14.06.2018 issued under sec 111 of MoS, GoI extended the PGLM 2015 guidelines to the Township area. As per the said guideline SoR was to be determined as per the highest of five factors and TAMP has to notify the SoR for the Township area. Matter was taken up with Ministry for withdrawal of notification dt.15.03.2000. MoS, GoI vide their letter no secy(s)/visit-Mumbai/land management

Sr. No.	Comments of various Tenants / Lessees	MbPT Reply
		/2018(333915) dated 15.05.2019 directed TAMP to fix the SoR for Mumbai port Trust land w.e.f. 01.10.2012 onwards. Accordingly TAMP vide their letter dated 15.07.2019 issued a clarification that in view of PGLM 2015 guideline the TAMP notification 28.03.2000 has become infructuous so far as MbPT is concerned and it is not applicable for MbPT for period prior to 01.10.2012 and same may be treated as withdrawn by the TAMP. High Court writ petition no 1153 of 2000 filed by MbPT challenging TAMP notification was withdrawn vide HC order dated 08.08.2019. Accordingly immediately after Board approval the said proposal was submitted to TAMP on 04.08.2021.
(viii)	Though the announcements are for retrospective period it is announced during pandemic period & that is jumping from the Humanity Grounds.	Revision of SoR was due from 01.10.2017 which was prior to Covid-19 pandemic The SoR was due from 01.10.2012 which was prior to pandemic. Covid-19 pandemic started from March 2020 and in the present circumstances most of the premises had been operational prior to 2012. There are no such directions from MoSP&W, Govt. of India on giving any concession, relaxation, compensation and assistance during pandemic time. In this connection, attention is invited to Delhi High Court Judgement, Ramanad and others V/s. Dr. Girish Soni and others dated 21.05.2020 which has held that the period of lockdown on account of Covid-19 does not excuse in payment of rental amounts (copy enclosed) and no concession in rental charges is admissible. As the parties have continued to occupy the premises and MbPT being Public body had continued to provide its services during COVID period. MbPT had also rendered the monthly invoices of compensation and paid the GST on the invoice for this period. Thus there is no question of granting any relief. MbPT's expenditure on infrastructure and also liability for salary wages, maintenance etc. had continued even in COVID pandemic period. Since rentals from MbPT land assets is one of the important part of MbPT revenue, no such concessions are admissible on this ground in the proposed SoR w.e.f. 01.10.2012.
(ix)	We are making rent payment as per Supreme Court Order but somehow MBPT has not followed up the guidelines of Supreme Court & not applied enhancement of 4%. In fact any excess payment made by us has been kept in MD A/c. that does not affect our revenue accounts and so we have asked the Estate Managers & The Chairman to apply TR127 & raise Bills or	Present monthly rental are as per valuation report of 1980's which are no way comparable with present market rate. SC judgment rates were valid only for 20 years i.e from 01.10.1992 to 30.09.2012. From 01.10.2012 onwards PGLM 2010,2014-15 guidelines issued by MoS GOI are applicable to

Sr. No.	Comments of various Tenants / Lessees	MbPT Reply
	Outstanding Statement many times since 2010 in writing but we were never replied by MBPT nor MBPT was ready to accept the excess amount against proper receipt. MBPT is claiming that the Supreme Court Validity is ended in 2012, we deny their claim to legal facts that our advocate will explain once you are ready to hear the same with your legal team.	MbPT and MbPT is free to revise the rentals on the SOR based on PGLM guidelines. Thus the SOR proposed by MbPT at 6% per annum is fair reasonable and MbPT is well within its rights to revise the rents/compensation w.e.f. 01.10.2017 onwards as per the proposed SOR. Zone wise Comparative Statement in Annexure-B showing the land values as of 1980's as considered by the Kirloskar consultant in their valuation report and approved by the Board vis-à-vis land values as on 2017. Average Kirloskar land values of Rs. 1406/- per sqm for FSI 1.33 has increased to Rs. 1,75,718/- per sqm for FSI 1.00 as on 2017, i.e. increase of almost 125 times of the land values of 1980's.Rentals as per Supreme Court Judgement dt. 13.01.2004 as on 01.10.2017 was on an average of Rs. 35/- per sqm per month for FSI 1.00 which will be revised to on an average of Rs. 878 per sqm per month (175178*06/12) for FSI 1.00 i.e. increase by almost 25 times. The land values in the Ready Reckoner Zones of MbPT lands are varying from Rs. 19,400 to Rs.2,80,000 and average value works out to Rs. 1,50,000, whereas land rates of Ready Reckoner Zones outside MbPT lands varies between Rs. 19,400 to Rs. 3,77,200 and average value works out to Rs.1,98,000. Considering the mean value (RR 2017) of is Rs. 1,74,000 for lands in MbPT area and outside MbPT area. The MbPT valuers have recommended FMV which are average of Rs. 1,75,718 for lands which ranges between Rs. 53,820 to Rs. 3,31,600. In fact, MbPT had fixed rent as 10% return on Kirloskar land values with 4% every year from 01.10.1994 onwards in terms of Supreme Court Wadia Judgment. However, the rental returns from 01.10.2017 onwards will be just 6% of the FMV given by valuer in MbPT estate areas. SoR 2017-2022 MbPT had engaged Govt. approved Valuers on panel and entrusted the work of valuation of MbPT land as per the jurisdiction of RR zones. The para 13 of PGLM 2014 clearly states that the highest of 5 factors for determination of rentals on Major Port Trust land i.e. (i) State Govt. RR (ii) Average rate of actual transactions registered in last 3 years in the Port vicinity (iii) Highest accepted tender of Port land for similar transactions (iv) Rate arrived at by an approved Valuer appointed for the purpose of the Port (v) Any other factor. Based on LAC recommendations Board approved the said revision of SoR rates for respective zones for Monthly, Fifteen Monthly Lease (FML), Expired Leases, licenses and

Sr. No.	Comments of various Tenants / Lessees	MbPT Reply
		vacant plots (for fresh allotment) falling in the respective RR Zones. SC judgment rates were valid only for 20 years i.e from 01.10.1992 to 30.09.2012. From 01.10.2012 onwards PGLM 2010,2014-15 guidelines issued by Mos GOI are applicable to MbPT and MbPT is free to revise the rentals on the SOR based on PGLM guidelines. Thus the SOR proposed by MbPT at 6% per annum is fair reasonable and MbPT is well within its rights to revise the rents/compantation w.e.f. 01.10.2017 onwards as per the proposed SOR. Zone wise Comparative Statement in Annexure-B showing the land values as of 1980's as considered by the Kirloskar consultant in their valuation report and approved by the Board vis-à-vis land values as on 2017. Existing low rentals based on Wadia judgments and very high market rentals leading to profiteering and exploitation of MbPT land by unauthorized subletting /a constructions, u/a change of users/a transfers in violations of the tenancy/lease terms. Thus it is the lessees and tenants who have committed the violation of SC judgment and the tenancy terms are taking shelter under Wadia judgment. SC judgment is not a licenses in perpetuating allowing lessees tenants to go on commuting breaches indefinitely but restricting the MbPT rights to charge rentals based on 1980's land values. This is unfair and absurd proposition and thus MbPT has not violated SC judgment but have followed the guidelines issued by MoS, GoI which are mandatory and binding MbPT under section 111 of MPT act 1963. In cases of subletting, assignment etc., by the tenants of the Port Trust ought not to be allowed to profiteer at the cost of the public exchequer and any tenant who has sublet or assigned his premises does not in any event, deserve any sympathy from this Honorable Authority.
(x)	In your presentation you divided tenants between 80% and 20%, we claim our above mentioned plot does not fall in your assumption of 80%.	As already mentioned in the PPT, it is observed that 80% of the lessees/tenants have committed measure breaches and unauthorisedly sublet, transfer the premises to third parties in violation of the tenancy/lease terms and have continued to occupy even after expiry of lease/termination of tenancy.
(xi)	We once again remind you that you cannot claim payment demand for which invoices were never issued, we understand that TR127 or TR222 are your internal documents that we were never reported to us officially.	Wherever lessee / tenant committed the breaches of unauthorised construction / subletting, assignment etc. and thereby profiteering on the Port Trust land is bound to pay as per the TR 127 of 2006. In many cases wherever breaches are detected after cutoff date

Sr. No.	Comments of various Tenants / Lessees	MbPT Reply
		i.e. 10.03.2004, liabilities as per TR 127 of 2006 has been conveyed to the lessee / tenant. Further, those lessees / tenants i.e. banks, PSUs, Private / Limited Companies having paid up share capital more than 1 crore are billed as per TR 127 of 2006. Hence most of the lessees / tenants are aware regarding the provisions of TR 127 of 2006 and many of them are paying accordingly. However, few of them have challenged the said TR in Bombay High Court by way of writ petition, however, no stay has been granted by the Court in any matter. From 1.10.2012 to 30.09.2017 the rates of the rent / compensation are 6% returns of the SoR as approved by TAMP with 4% increase every October. Regarding the said revised rates approved by the Board notices have circulated to the lessee/ tenants as already stated in para 7 above. The issue raised is not relevant to the present proposal.
(xii)	We strictly condemn & oppose the word “Wrong Land Users” for all by Mr.H.P.Kulkarni during video meeting dated 3rd Sep 2021, we request for withdrawal of the statement immediately & attach the withdrawal with recorded statement as the matters are still in Small & High Courts & all tenants does not fall in breach category.	Wherever the lessee/ tenant has sublet/assign the MbPT lets out plots to third parties. These third parties have no locus standi with Port trust and are in possession of those plots. In that case they are treated as wrongful land users with whom Port Trust has no privity of contracts.
(xiii)	If MOS requesting TAMP to approve rate retrospectively, does not give a Legal Authority to TAMP to fix the rate & try to implement retrospectively but can be decided to be prospective with proper guidelines of the Supreme Court Sanctioned Compromise Formula & the request of MOS to TAMP has never intended to go against a court’s judgement. The request of MOS & Orders of TAMP both are different tones and so TAMP has to carefully decide anything further.	The revision under SoR 2012-17 is by statutory guidelines issued under PGLM, 2015 and clarifications issued by Ministry from time to time and therefore mandatory and binding on all parties concerned. TAMP is taking the decision in the subject matter as per the powers vested with them as per Government of India’s guidelines. Further revision of rent/ compensation was pending from 1.10.2012 and lessee / tenants were clearly informed that, monthly bills issued to them by the Port Trust are subject to revision as per the Board policy.
(xiv)	We have already mentioned the rates in our earlier objection letters for which we did not hear anything from your end.	All the objections / queries have been attempted to resolve in the video conference.
(xv)	We request a physical meeting with the officers of the TAMP, the Shipping Ministry and the Port Trust so as to try to arrive at a win- win situation. For the purpose of records, the Schedule of Rates proposed for 2012-17 and 2017-22 are not acceptable to us for the reasons stated hereinabove and for other reasons that we shall argue in person or through our counsel if a personal hearing is provided by TAMP.	After considering all the facts and valuation reports approved by the Board and the policies/ TRs approved time to time the TAMP will finalise the SoR 2012-2017 & 2017-2022. On finalisation of the same lessees / tenants are bound to make the payment to the Port Trust accordingly in time bound manner.
(xvi)	We are ready to discuss the prospective rates from October 2021 or Jan 2022 onwards.	
(xvii)	Infrastructure Facility (zero) and inferior position of the area in Darukhana all streets can	Port Trust is investing huge amount of money in improving the infrastructure facility, however,

Sr. No.	Comments of various Tenants / Lessees	MbPT Reply
	never match the suggested SOR hence you are requested to look into it. TAMP is requested to inspect the area before blindly implement any rate or rule.	due to heavy traffic same needs to be maintained regularly which again require huge amount of funds as the cost of material labour machinery has been increased many times from 1992 onwards. However, tenants / lessees are making a payment to the Port Trust with the old rates approved by the Supreme Court and which were two smalls to meet with the amount of expenditure required to invest in the improvisation of infrastructure facilities hence once the rates are revised the Port Trust will be in position to improve the same.
(xviii)	We hereby request TAMP NOT to pass any order to MBPT as per suggested SOR 2012-2017 & 2017-2021 unless a healthy discussion with tenants is done. Further we are awaiting for the most awaited "MBPT LAND POLICY" which is nearly to arrive anytime hence TAMP is requested to wait & read the upcoming MBPT Land Policy before implementing any order on MBPT for new rate & old demands as the Land Policy of MBPT and Order of TAMP will surely clash with each other and we tenants will unnecessarily disturbed.	Presently MbPT is bound by PGLM, 2015 and its clarification and hence have rightfully in its legal rights have revised the SoR rate. MbPT being a public body under Major Port Trust Act, 1963 is bound to strive for public good and take necessary action to safeguard public land from land grabbers and rack renting. Hence proposed SoR justify the cause of public good.
(ixx)	With all due respect we request MOS / Gov.t of India / State Gov.t / TAMP & MBPT to please understand that we are passing through a Pandemic Time, we have still not recover from the financial & economical losses from March 2020 till now hence on the grounds of Humanity we submit our Mercy Appeal to be kind & postpone the proposal till we reach in a good & healthy time. At least let us all be vaccinated first.	
(xx)	Needless to say, should the port trust/ authority proceed to arbitrarily impose the schedule of rates suggested without paying heed to any of the inputs received from tenant groups, leading to horrendously high unreasonable rents, we shall be left with no other option but to seek judicial recourse at the sole risks, costs and consequences of the Port Trust which please note.	
6.	**Indian Hotels Co. Ltd**	
(i).	The present communication is being addressed pursuant to TAMP's communication in the two virtual meetings held on 3.09.2021 (one hour each) with respect to the above referred SOR Proposal/s, inviting (within a period of two weeks);- a further response from the tenants / lessees to MbPT's common comments and standard reply contained in their above referred & uploaded two Presentation/s. Pertinently, instead of uploading the said Presentation/s immediately post the said meeting/s; MbPT has	The comments have been posted at the earliest possible after verifying that all the points raised in the representations are covered.

Sr. No.	Comments of various Tenants / Lessees	MbPT Reply
	uploaded the same on their website quite belatedly only on 8.09.2021.	
(ii).	At the very outset, none of the common comments and/ or the contents of the standard reply and/ or any of the contents of MbPT's above referred Presentation/s which are contrary to and/ or inconsistent with the earlier comments, response and objections and/or the present further response and objections contained herein; may be deemed to be admitted by us. Nothing stated in MbPT's said Presentation/s shall be deemed to have been admitted by us for want of specific traverse.	None of the comments/replies to common comments posted on the website/in the presentation should be deemed tp amount to an admission to any of the contentions of the applicants which are contrary to the comments and the facts posted by MbPT. Nothing contained in the representations shall be deemed to be admitted for want of specific traverse.
(iii).	Pursuant to MbPT's above referred Notices dated 12.08.2021 and 14.08.2021, respectively; & under our email dated 26.08.2021, we had submitted our common comments, response and objections to MbPT's above referred SOR Proposal/s forwarded to TAMP seeking approval of the SOR/s for the period 1.10.2017 to 30.09.2022, and for the period 1.10.2012 to 30.09.2017, respectively; and the contents thereof are reiterated as if the same form part of this present communication; especially that:-	The comments posted in the presentation with regard to the revision of SOR for the period from 01.10.2012 to 30.09.2017 and 01.10.2017 to 30.09.2022 are reiterated as part of the present comments.
(iii),	i. In our case (as is in most cases) there can be no question of framing of any SOR's (retrospectively or otherwise) right up to 31st March 2024; since, MbPT themselves (under their own T.R. 31 of 2004) had inter alia resolved to (& were duty bound & obligated) to implement the said judgment of the Hon'ble Supreme Court in Wadia's Case, and had also expressly accepted therein that the rates fixed under their own "Compromise Proposals" as upheld (with downward revision in rent and interest) in Wadia's Case would be applicable to their landed estates from 1.04.1994 up to 31.03.2024, with 4% annual increases "thereby extending the application of the proposals to 2024".	(a) Jamshedji Wadia judgement is the Hon'ble Supreme Court Judgement dated 13.01.2004 by which Hon'ble Supreme Court upheld the Board compromise policy rates which were valid for 20 years w.e.f. 01.10.1992 to 30.09.2012. Though the SC concluded the dispute with regard to rates only for the period upto 31.03.2020, the Board decided to continue the said rate for the period upto 30.09.2012. Further the said facts have been confirmed by Attorney General's of India (AG) Shri Mukul Rohatgi by opinion dated 29.07.2016 wherein AG stated that MbPT is legally empowered to fix revised rates w.e.f. 01.10.2012 and also as per guidelines issued by MoS&W&W, GoI, and rates are to be approved by TAMP. The TAMP is authorised to approve the SoR retrospectively w.e.f. 01.10.2012, subject to withdrawal of Writ Petiton 1153 of 2000 filed by MbPT against TAMP, which is withdrawn on 08.08.2019. These facts were rightly pointed out in para 3 of proposal for SoR 2012-17. Thus there is no

Sr. No.	Comments of various Tenants / Lessees	MbPT Reply
		violation of S. C. Judgement dt. 13.01.2004 and MbPT is legally within its rights and empowered to revise the rates w.e.f. 01.10.2012 onwards. There is no provision of compromise proposal in PGLM 2015 issued by MoS&W, GoI. The validity of rates under S.C. judgement was upto 30.09.2012 and therafterf MbPT is bound to follow the guidelines as per PGLM, 2015 issued by MoS&W, GoI. TAMP is given power for framing the rate/ rectify the rates. As per PGLM's guidelines of 2014, MbPT has adopted highest value among the 5 factors.
(iii).	ii) MbPT appears to not have taken any heed to the directions of the Ministry of Shipping (issued under their letter dated 18.02.2014), viz. that MbPT should initiate necessary steps for immediate implementation of the judgment/ order of the Hon'ble Supreme Court dated 13.01.2004 (viz. in Wadia's Case) without any further delay; and that MbPT should seek clarification from the Hon'ble Supreme Court in respect of any interpretational issues arising out of the said judgment such as re-fixing of the letting rates after 30.09.2012. SR.NO.1	(a) Jamshedji Wadia judgement is the Hon'ble Supreme Court Judgement dated 13.01.2004 by which Hon'ble Supreme Court upheld the Board compromise policy rates which were valid for 20 years w.e.f. 01.10.1992 to 30.09.2012. Though the SC concluded the dispute with regard to rates only for the period upto 31.03.2020, the Board decided to continue the said rate for the period upto 30.09.2012. Further the said facts have been confirmed by Attorney General's of India (AG) Shri Mukul Rohatgi by opinion dated 29.07.2016 wherein AG stated that MbPT is legally empowered to fix revised rates w.e.f. 01.10.2012 and also as per guidelines issued by MoS&W&W, GoI, and rates are to be approved by TAMP. The TAMP is authorised to approve the SoR retrospectively w.e.f. 01.10.2012, subject to withdrawal of Writ Petiton 1153 of 2000 filed by MbPT against TAMP, which is withdrawn on 08.08.2019. These facts were rightly pointed out in para 3 of proposal for SoR 2012-17. Thus there is no violation of S. C. Judgement dt. 13.01.2004 and MbPT is legally within its rights and empowered to revise the rates w.e.f. 01.10.2012 onwards. There is no provision of compromise proposal in PGLM 2015 issued by MoS&W, GoI. The validity of rates under S.C. judgement was upto 30.09.2012 and therafterf MbPT is bound to follow the guidelines as per PGLM, 2015 issued by MoS&W, GoI. TAMP is given power for framing the rate/ rectify the rates. As per PGLM's guidelines of 2014, MbPT has adopted highest value among the 5 factors.
(iii).	iii. There is no provision under the MPT Act, 1963 or the Rules framed thereunder, and / or under any delegated / subordinate legislation enabling the framing / fixation of the SORs retrospectively.	(a) Jamshedji Wadia judgement is the Hon'ble Supreme Court Judgement dated 13.01.2004 by which Hon'ble Supreme Court upheld the Board compromise policy rates which were valid for 20 years w.e.f. 01.10.1992 to 30.09.2012. Though the SC concluded the dispute with regard to rates only for the period upto 31.03.2020, the Board decided to continue the said rate for the period upto 30.09.2012. Further

Sr. No.	Comments of various Tenants / Lessees	MbPT Reply
		the said facts have been confirmed by Attorney General's of India (AG) Shri Mukul Rohatgi by opinion dated 29.07.2016 wherein AG stated that MbPT is legally empowered to fix revised rates w.e.f. 01.10.2012 and also as per guidelines issued by MoS&W&W, GoI, and rates are to be approved by TAMP. The TAMP is authorised to approve the SoR retrospectively w.e.f. 01.10.2012, subject to withdrawal of Writ Petiton 1153 of 2000 filed by MbPT against TAMP, which is withdrawn on 08.08.2019. These facts were rightly pointed out in para 3 of proposal for SoR 2012-17. Thus there is no violation of S. C. Judgement dt. 13.01.2004 and MbPT is legally within its rights and empowered to revise the rates w.e.f. 01.10.2012 onwards. There is no provision of compromise proposal in PGLM 2015 issued by MoS&W, GoI. The validity of rates under S.C. judgement was upto 30.09.2012 and therafterf MbPT is bound to follow the guidelines as per PGLM, 2015 issued by MoS&W, GoI. TAMP is given power for framing the rate/ rectify the rates. As per PGLM's guidelines of 2014, MbPT has adopted highest value among the 5 factors.

Sr. No.	Comments of various Tenants / Lessees	MbPT Reply
(iii).	iv) Any attempt to frame such steep and exorbitant SOR's based on hypothetical market values of land and that too retrospectively from 2012, would not only be unlawful, but also violative of Article 14 of the Constitution of India. SR.NO.6 SR.NO.2 AND 3	(a) Jamshedji Wadia judgement is the Hon'ble Supreme Court Judgement dated 13.01.2004 by which Hon'ble Supreme Court upheld the Board compromise policy rates which were valid for 20 years w.e.f. 01.10.1992 to 30.09.2012. Though the SC concluded the dispute with regard to rates only for the period upto 31.03.2020, the Board decided to continue the said rate for the period upto 30.09.2012. Further the said facts have been confirmed by Attorney General's of India (AG) Shri Mukul Rohatgi by opinion dated 29.07.2016 wherein AG stated that MbPT is legally empowered to fix revised rates w.e.f. 01.10.2012 and also as per guidelines issued by MoS&W&W, GoI, and rates are to be approved by TAMP. The TAMP is authorised to approve the SoR retrospectively w.e.f. 01.10.2012, subject to withdrawal of Writ Petiton 1153 of 2000 filed by MbPT against TAMP, which is withdrawn on 08.08.2019. These facts were rightly pointed out in para 3 of proposal for SoR 2012-17. Thus there is no violation of S. C. Judgement dt. 13.01.2004 and MbPT is legally within its rights and empowered to revise the rates w.e.f. 01.10.2012 onwards. There is no provision of compromise proposal in PGLM 2015 issued by MoS&W, GoI. The validity of rates under S.C. judgement was upto 30.09.2012 and therafterf MbPT is bound to follow the guidelines as per PGLM, 2015 issued by MoS&W, GoI. TAMP is given power for framing the rate/ rectify the rates. As per PGLM's guidelines of 2014, MbPT has adopted highest value among the 5 factors.

Sr. No.	Comments of various Tenants / Lessees	MbPT Reply
(iv).	At the further outset, it is pertinent to point out that whilst the aforementioned two meetings scheduled on 03.09.2021 (one hour for each of MbPT's Proposal/s) were supposed to be primarily for hearing the comments, response, suggestions and objections of the lessees/ tenants on MbPT's Proposal/s which were already in the lap of TAMP; it was most unfortunate and disturbing to see how unfairly the meetings were conducted. For the first 45 to 50 minutes (of the one hour time slot) it was only MbPT who was given a full opportunity to speak its position and exhibit its slide show Presentation/s, & to put forth all its comments and its standard reply; leaving a meagre 10 minutes for more than 400 attendees out of more than 800 lessees / tenants / occupants who had filed their objections - to voice their comments, suggestions, and respond effectively and meaningfully.	Meeting was conducted by TAMP and MbPT as well as the representative were given adequate time during the meeting as well as 15 days additonal period was given to the parties post the hearing to represent their comments on the same which is very fair.
(v).	The common comments and the standard reply of MbPT under their said Presentation/s seeking to defend and justify the said SOR Proposal/s are false, unsustainable in law and exhibit a clear intention to circumvent the dictates and directions of the Hon'ble Supreme Court under its said judgment in Wadia's Case. MbPT's common comments and standard reply appear to be an unlawful attempt to seek fixation / framing of unfair, unreasonable, & arbitrary rates of rent and that too retrospectively from 2012 hurriedly before coming into effect of the Major Port Authorities Act, 2021 - which has already received Presidential assent and has been Gazetted, and which does not permit retrospective fixation or framing of rates of rent.	The revision of rates are strictly in accordance with the provision of PGLM 2014-2015.
(vi).	It is shocking to peruse the insensitive reply and position taken by the MbPT with regards to the effect of the on-going pandemic of COVID-19 on its lessees/ tenants/ occupants. MbPT's contention viz. that "SOR allegedly being due from 1.10.2012 to 30.09.2017 which was prior to pandemic" - is a baseless, incorrect and a misplaced argument. By no stretch of imagination, can retrospective fixation / framing of steep, unlawful and arbitrary rates rents be justifiable under the present circumstances of the on-going pandemic of COVID-19. In any event, it is denied that SOR was due from 1.10.2012. It is reiterated that the rates under the	The SoR was due from 01.10.2012 and 30.09.2017 when there was no pandemic. Covid-19 pandemic started from March 2020 and as per present circumstances there has been substantial relaxation given by the Govt. to the trade and general public and most of the premises have been operational. Further (a) any relaxation which the Govt. of India extends under any special circumstances in the case would be applicable to the tenants/lessees, though presently there are no such directions and even in any clarification from MoS&W, Govt. of India on giving any concession, relaxation, compensation and assistance during

Sr. No.	Comments of various Tenants / Lessees	MbPT Reply
	"Compromise Proposals" as approved by the Hon'ble Supreme Court under Wadia's Case are applicable till 31st March 2024, and this is the stated and admitted position of MbPT themselves under their own T.R. 31 of 2004 - which seems to have been suppressed before TAMP.	pandemic time. In this connection, attention is invited to Delhi High Court Judgement, Ramanad and others V/s. Dr. Girish Soni and others dated 21.05.2020 has held that the period of lockdown on account of Covid-19 does not excuse in payment of rental amounts (copy enclosed) and no concession in rental charges is admissible. b) As the parties have continued to occupy the premises and MbPT being Public body which continued to provide its services in COVID period and rendered the monthly invoices of compensation and also paid the GST on the invoice for the period there is no question of granting any relief. MbPT's expenditure on infrastructure and also liability towards salary/wages, maintainance etc. have continued even in COVID pandemic period. Since rentals from MbPT landed assets is important part of MbPT revenue which is essential for sustenance of MbPT, no such concessions are admissible on this ground in the proposed SoR w.e.f. 01.10.2012.
(vii).	Moreover, in order to justify the unlawful fixation / framing of their exorbitant SOR in the times of the on-going pandemic; MbPT has wrongly relied upon a judgment of the Hon'ble Delhi High Court dated 21st May 2020, passed in the matter of Ramanand & Ors. V/s. Dr. Girish Soni & Anr. The said judgment has no applicability in the present case and is clearly distinguishable. The said judgment relates to a dispute for 'suspension of rent' between 'private parties' in the times of the current pandemic; and has got nothing to do with a public authority seeking to fix/frame exorbitant rates of rent, and that too retrospectively. It is well settled that MbPT being an instrumentality of State (within the meaning of Article 12 of the Constitution of India) has to be just, fair and reasonable in all their activities; and that all their actions must be for public purpose and public good; and must not violate Article 14 of the Constitution. In this context, the real question which falls for TAMP's consideration is, what is the real effect of the COVID-19 pandemic on the economy, on the businesses of MbPT's Tenants/ Lessees/ Occupants, on their ability to absorb the proposed heavy, unlawful, onerous and unreasonable rentals; and that whether in such circumstances or otherwise, should MbPT's Proposal/s be accepted by TAMP ?	The SoR was due from 01.10.2012 and 30.09.2017 when there was no pandemic. Covid-19 pandemic started from March 2020 and as per present circumstances there has been substantial relaxation given by the Govt. to the trade and general public and most of the premises have been operational. Further (a) any relaxation which the Govt. of India extends under any special circumstances in the case would be applicable to the tenants/lessees, though presently there are no such directions and even in any clarification from MoS&W, Govt. of India on giving any concession, relaxation, compensation and assistance during pandemic time. In this connection, attention is invited to Delhi High Court Judgement, Ramanad and others V/s. Dr. Girish Soni and others dated 21.05.2020 has held that the period of lockdown on account of Covid-19 does not excuse in payment of rental amounts (copy enclosed) and no concession in rental charges is admissible. b) As the parties have continued to occupy the premises and MbPT being Public body which continued to provide its services in COVID period and rendered the monthly invoices of compensation and also paid the GST on the invoice for the period there is no question of granting any relief. MbPT's expenditure on infrastructure and also liability towards salary/wages, maintainance etc. have continued even in COVID pandemic period. Since rentals from MbPT landed assets is important part of MbPT revenue which is essential for sustenance

Sr. No.	Comments of various Tenants / Lessees	MbPT Reply
		of MbPT, no such concessions are admissible on this ground in the proposed SoR w.e.f. 01.10.2012.
(viii).	Whilst seeking to reply to the objections, and justify its steep, arbitrary, unlawful and retrospective fixation/ framing of rents; the contention of the MbPT, viz. that the occupations are without any authorization from MbPT even after expiry or termination of lease/ tenancy;- is a case of the pot calling the kettle black. Such a contention is entirely misplaced in the context of any fixation/framing of SOR and that too retrospectively. The authority of any tenant/ lessee/ occupant (such as us) to continue the occupations of their respective premises, stems from the MbPT's own "Compromise Proposals" which have been approved by the Hon'ble Supreme Court (with modifications) under its said judgment in Wadia's Case. Under the said judgment, the Hon'ble Supreme Court has directed MbPT to settle the cases of the Tenants/Lessees/Occupants despite breaches alleged to have been committed by them; - by executing leases in their favour in terms of the said "Compromise Proposals". Specific premiums fixed in accordance with the "Compromise Proposals" upheld by the Hon'ble Supreme Court, in many cases have not only been levied but have also been already collected by the MbPT. Under the said judgment it has also been expressly stated that even if the leases in terms of the said "Compromise Proposals" are not executed, the terms of the said "Compromise Proposals" would be binding. MbPT, is therefore, obligated under law declared by the Hon'ble Apex Court to settle the cases and grant a Thirty (30) years lease w.e.f. 1.04.1994 with 4% annual increases on the rents set out in the Compromise Proposals even beyond 2012 right up till 2024. It is reiterated that this position has been expressly admitted by MbPT in their own T.R. 31 of 2004 - which accepts for implementation - the Hon'ble Supreme Court's judgment in Wadia's case; and which T.R. seems to have been suppressed by MbPT in their said SOR Proposal/s. It is the MbPT who has failed and neglected to abide by the express dictates and directions of the Hon'ble Supreme Court in Wadia's Case, and who has failed to settle the cases and renew the leases in terms thereof; and cannot now be permitted to cast a shadow of illegality and unauthorised-ness upon	(a) Jamshedji Wadia judgement is the Hon'ble Supreme Court Judgement dated 13.01.2004 by which Hon'ble Supreme Court upheld the Board compromise policy rates which were valid for 20 years w.e.f. 01.10.1992 to 30.09.2012. Further the said facts have been confirmed by Attorney General's of India (AG) Shri Mukul Rohatgi, opinion dated 29.07.2016 wherein AG stated that MbPT is legally empowered to fix revised rates w.e.f. 01.10.2012 and also as per guidelines issued by MoS&W&W, GoI, and rates approved by TAMP. The TAMP is authorised to approve the SoR retrospectively w.e.f. 01.10.2012, subject to withdrawal of Writ Petiton 1153 of 2000 filed by MbPT against TAMP, which is withdrawn on 08.08.2019. These facts were rightly pointed out in para 3 of proposal for SoR 2012-17. Thus there is no violation of S. C. Judgement dt. 13.01.2004 and MbPT is legally within its rights and empower to revise the rates w.e.f. 01.10.2012 onwards. There is no provision of compromise proposal in PGLM 2015 issued by MoS&W, GoI. The validity of rates under S.C. judgement was upto 30.09.2012 and thereof MbPT is bound to follow the guidelines as per PGLM, 2015 issued by MoS&W, GoI. TAMP is given power for framing the rate/ rectify the rates. As per PGLM's guidelines of 2014, MbPT has adopted highest value among the 5 factors. Supreme Court had given 8 weeks time period for settlement of cases in terms of Compromise Proposals. The tenants/ lessees who came

Sr. No.	Comments of various Tenants / Lessees	MbPT Reply
(ix)	the tenants/ lessees /occupants - by taking advantage of their own wrong. Whilst it is true that the Hon'ble Supreme Court's said judgment is not a license in perpetuity allowing lessees/ tenants to go on committing breaches indefinitely, it is wrong and misleading on the part of MbPT to contend that lessees / tenants/ occupants who have committed breaches are taking shelter under the judgment in Wadia's Case. The "Compromise Proposals" were framed by the MbPT and were blessed by the Hon'ble Bombay High Court and the Hon'ble Supreme Court because they were the solution formulated by MbPT themselves to all these issues, including the issue of alleged breaches which affected a majority of lessees / tenants / occupants who were before the Hon'ble Supreme Court. MbPT themselves have failed to abide by the dictates and directions of the Hon'ble Supreme Court in Wadia's Case and have also failed to implement their own Compromise Proposals by not settling the matters of their tenants/ lessees/ occupants. What is truly unfair and absurd is that MbPT having gone before the Hon'ble Supreme Court and Hon'ble Bombay High Court with sworn affidavits of their Officers seeking approval of the Compromise Proposals to bring an end to decades of litigation; is itself acting contrary to its obligations and promises thereunder, & is thereby seeking to take advantage of its own wrong. Had the MbPT settled the matters as aforesaid there would be no necessity of seeking fixation / framing of SOR till 2024, at least in our case.	forward with compromise proposal alongwith standard application and requisite amount were settled.
(x)	As a result of this failure on the part of MbPT to settle the cases and grant (thirty) 30 year leases right up to 2024; no less than 41 Writ Petitions have been filed before the Hon'ble Bombay High Court, have been admitted and are pending for final hearing. In the lead Petition of 2085 of 2009, Notice under Order 1 Rule 8 of the CPC, 1908, has been directed to be published, and accordingly has been issued - making the outcome of these Petitions applicable to all the lessees / tenants of the MbPT; irrespective of whether they had approached the Court or not. In these Writ Petitions, the action of the MbPT in passing their T.R. 127 of 2006 has also been challenged as being contrary to the Compromise Proposals upheld by the Hon'ble Supreme Court. By the said T.R. No. 127 of 2006, MbPT has attempted to wrongfully modify the terms of the said "Compromise Proposals" by seeking to levy	The TR 127 of 2006 is itself with regard to settlement for the period upto 30.09.2012 strictly within the terms of the compromise proposals and as such does not have any relevance to the revision due from 01.10.2012. Further even in the Writ Petition filed in the year 2009 there is no orders staying the implementing of any of the provision of TR 127 of 2006 till date. SR.NO.1 AND 9

Sr. No.	Comments of various Tenants / Lessees	MbPT Reply
	higher rates of rents based on hypothetical market values of lands, viz. the very action the Hon'ble Supreme Court, and the Courts below have earlier prohibited MbPT / other Public Authorities from doing. Hence, there is no question of any fresh Scale of Rates (SORs) being framed or sought to be thrust upon us, & that too retrospectively. It is once again requested that MbPT be called upon to produce its said T.R. 31 of 2004 before TAMP comes to any conclusion in respect of the said Proposals. MbPT may also be called upon to produce (before TAMP) the sworn affidavits of its officers filed before the Hon'ble Supreme Court and the Hon'ble Bombay High Court in the matter of its General Rent Revision litigation; and also the several Writ Petitions (lead Writ Petition No. 2085 of 2009) filed before the Hon'ble Bombay High Court which are admitted, and in which Notice Order 1 Rule 8 of CPC has been issued. SR.NO.1 AND 9.	
(xi).	It is pertinent that by the said Judgment in Wadia's case, the Hon'ble Supreme Court has dismissed MbPT's Cross-Objections as not only being not-maintainable, but also being devoid of any merit. By these Cross-Objections, the MbPT had sought to resile from their "Compromise Proposals" and had sought to assert their right to charge rents based on market rates. The Hon'ble Supreme Court in terms rejected such an attempt. Hence, the question of the MbPT / TAMP attempting to fix/ frame any SORs based on hypothetical land valuations / market rates does not arise. This has been repeatedly frowned upon and rejected by the Hon'ble Supreme Court and the Hon'ble High Courts in a catena of judgments.	It is not true. The SoR revision is based on PGLM 2014-2015.
(xii).	For the reasons set out herein, MbPT is wrong in seeking to brush aside all the contentions raised by us with respect to the 41 Writ Petitions pending before the Hon'ble Bombay High Court – as not being relevant to the present proposals. SR.NO.9	Pending Writ Petitions are not relevant to SoR revision. SR.NO.9
(xiii).	Further, the fact that MbPT had informed its lessees / tenants / occupants by their Circular dated 28.12.2012 that revision of compensation / rent was due from 1.10.2012 onwards; and/or that the fact that MbPT had issued bills/ invoices with a footnote that the bill is provisional and without prejudice to the Board's right and contentions to revise rent/ compensation w.e.f. 1.10.2012; - does not in any manner whatsoever confer any legality on an otherwise illegal, unfair, unreasonable and retrospective framing /	The contentions of para 13 are incorrect and MbPT is within its right to revise the rent.

Sr. No.	Comments of various Tenants / Lessees	MbPT Reply
	fixation of rates, which the law frowns upon and does not permit.	
(xiv).	Considering the well settled position of law that increase / fixation of rents based on hypothetical market values of land is itself unlawful and unsustainable in law; there is no question of permitting the MbPT to justify its actions with a flavour of illusory reasonableness by seeking to increase the rent 9 times compared to the rents in Wadia's judgment, & as compared to land values having increased 37 times. It may be appreciated that the tenants/ lessees/ occupants (such as me/us) have neither been permitted to, nor were in a position to enjoy all the incidents of the lease. All the leases which had expired, were subject to onerous conditions thereby substantially diminishing their earning potential. Returns on MbPT lands can be nowhere near, nor be compared with other freehold / leasehold occupations enjoying all the incidents of ownership / leasehold rights and security of tenure.	The rates are arrived at by the Govt. approved Valuer on the basis of transactions taken place in vicinity of Port Trust land.
(xv).	(i). MbPT's contentions, viz. that: i) "SC judgment rates were valid only for 20 yrs. from 01.10.1992 to 30.09.2012"; and that	(a) Jamshedji Wadia judgement is the Hon'ble Supreme Court Judgement dated 13.01.2004 by which Hon'ble Supreme Court upheld the Board compromise policy rates which were valid for 20 years w.e.f. 01.10.1992 to 30.09.2012. Further the said facts have been confirmed by Attorney General's of India (AG) Shri Mukul Rohatgi, opinion dated 29.07.2016 wherein AG stated that MbPT is legally empowered to fix revised rates w.e.f. 01.10.2012 and also as per guidelines issued by MoS&W&W, GoI, and rates approved by TAMP. The TAMP is authorised to approve the SoR retrospectively w.e.f. 01.10.2012, subject to withdrawal of Writ Petiton 1153 of 2000 filed by MbPT against TAMP, which is withdrawn on 08.08.2019. These facts were rightly pointed out in para 3 of proposal for SoR 2012-17. Thus there is no violation of S. C. Judgement dt. 13.01.2004 and MbPT is legally within its rights and empower to revise the rates w.e.f. 01.10.2012 onwards. There is no provision of compromise proposal in PGLM 2015 issued by MoS&W, GoI. The validity of rates under S.C. judgement was upto 30.09.2012 and thereof MbPT is bound to follow the guidelines as per PGLM, 2015 issued by MoS&W, GoI. TAMP is given power for framing the rate/ rectify the rates. As per

Sr. No.	Comments of various Tenants / Lessees	MbPT Reply
		PGLM's guidelines of 2014, MbPT has adopted highest value among the 5 factors.
(xv).	(ii) "From 01.10.2012 onwards PGLM, 2010, 2014-15 guidelines issued by Mos GOI are applicable to MbPT and MbPT is free to revise the rentals on the SOR based on PGLM guidelines";- - are false and unsustainable both in fact and law. SR.NO. 7	(a) Jamshedji Wadia judgement is the Hon'ble Supreme Court Judgement dated 13.01.2004 by which Hon'ble Supreme Court upheld the Board compromise policy rates which were valid for 20 years w.e.f. 01.10.1992 to 30.09.2012. Further the said facts have been confirmed by Attorney General's of India (AG) Shri Mukul Rohatgi, opinion dated 29.07.2016 wherein AG stated that MbPT is legally empowered to fix revised rates w.e.f. 01.10.2012 and also as per guidelines issued by MoS&W&W, GoI, and rates approved by TAMP. The TAMP is authorised to approve the SoR retrospectively w.e.f. 01.10.2012, subject to withdrawal of Writ Petiton 1153 of 2000 filed by MbPT against TAMP, which is withdrawn on 08.08.2019. These facts were rightly pointed out in para 3 of proposal for SoR 2012-17. Thus there is no violation of S. C. Judgement dt. 13.01.2004 and MbPT is legally within its rights and empower to revise the rates w.e.f. 01.10.2012 onwards. There is no provision of compromise proposal in PGLM 2015 issued by MoS&W, GoI. The validity of rates under S.C. judgement was upto 30.09.2012 and thereof MbPT is bound to follow the guidelines as per PGLM, 2015 issued by MoS&W, GoI. TAMP is given power for framing the rate/ rectify the rates. As per PGLM's guidelines of 2014, MbPT has adopted highest value among the 5 factors. SR.NO. 7
(xvi).	It is reiterated that MbPT themselves under their own T.R. 31 of 2004 had inter alia resolved to implement the said judgment of the Hon'ble Supreme Court in Wadia's Case, and had also expressly accepted therein that the rates fixed under their own "Compromise Proposals" as upheld (with downward revision in rent and interest) in Wadia's Case would be applicable to their landed estates from 1.04.1994 upto 31.03.2024, with 4% annual increases "thereby extending the application of the proposals to 2024". Therefore, there is no question of MbPT being free to fix/frame its SOR w.e.f. 1.10.2012 in terms of the said PGLM or otherwise. Moreover, and considering that the said	The contentions are based on incorrect interepretation of TR, unsustainable and presenting a misleading picture with regard to the revision due. The SoR revision is strictly based on the provisions of PGLM 2014-2015.

Sr. No.	Comments of various Tenants / Lessees	MbPT Reply
	"Compromise Proposals" are applicable till 2024 (as stated hereinabove), and in any event; the subsequent guidelines issued by the Ministry cannot override and/ or supersede and/ or circumvent the ratios, dictates and directions of the Hon'ble Supreme Court in Wadia's Case, and in particular - qua the MbPT's own "Compromise Proposals".	
(xvii).	The fact that the return of 6% is based on the PGLM 2015 has been accordingly applied by the MbPT's Board does not bless it with any legality so far as the law declared by the Hon'ble Supreme Court and the Hon'ble High Courts and particularly by the Judgment of the Hon'ble Supreme Court in Wadia's case is concerned – which law will prevail over any such policy / guidelines. The SOR's therefore proposed by the MbPT are neither fair nor reasonable nor permissible in law.	The contentions are based on incorrect interepretation of TR, unsustainable and presenting a misleading picture with regard to the revision due. The SoR revision is strictly based on the provisions of PGLM 2014-2015.
(xvii).	Further, the contentions of MbPT vis-à-vis lessees profiteering, rack-renting and exploiting its lands by unauthorised subletting, unauthorised constructions, unauthorised change of user, unauthorised transfers;- were all raised by the MBPT before the Hon'ble Supreme Court in its General Rent Revision Litigation, and stand concluded by the judgment of the Hon'ble Supreme Court in Wadia's Case.	It is reiterated that the compromise proposals were only valid till the duration of its validity and has expired on 30.09.2012. Further the Supreme Court had only settled the disputes for the period upto 31.03.2000 and as such the contention is untenable and it is reiterated that the tenants/ lessees due profiteer through unlawful subletting, unauthorised constructions, change of user, unathorised transfers, etc.
(xix).	With respect to the standard reply of MbPT vis-à-vis retrospective fixation / framing of rent; we reiterate all that is stated in our comments/ objection as well as what is stated herein viz. that MbPT attempt to retrospectively fix / frame SOR's - is unsustainable and not maintainable in law. No amount of reasoning vis-à-vis delay in submission of the said Proposal/s can confer any validity and/ or legality to the said Proposal/s. Further, though the Major Ports Authorities Act, 2021 has not come into force; TAMP may not ignore the clear intention of the legislature in barring retrospective fixation / framing of rents. The undue haste which is clearly visible on the part of MbPT seeking approval of its SOR Proposal/s, makes it clear that MbPT is acting unreasonably, and in a manner so as to defeat the legislative intent of the Parliament. SR.NO.11	All the tenants/lessees were clearly intimated about the revision due from 01.10.2012 and MbPT is therefore within its right to recover the increased rentals due from 01.10.2012. SR.NO.11
(xx)	The contention that the Maharashtra Rent Control Act, 1999 does not apply to MbPT is incorrect. MbPT does not fall under the exempted category of "local authority" – defined under Section 7(6) of the Maharashtra Rent Control Act, 1999.	The letting rates under the Compromise Proposal had been fixed taking into account the market values of the land rates prevailing in the year 1980. Apart from the fact that the Port Trust tenancies have never been covered by the Rent Control Legislation that all the entities that have now been exempted under Section 3(1)(b)of the Maharashtra Rent Control Act 1999 would

Sr. No.	Comments of various Tenants / Lessees	MbPT Reply
		otherwise have been covered by and enjoyed the protection of the Rent Control Legislation then in force ,even if the quondam Rent Act had applied to the Port Trust tenancies . The important factor to be considered is that the tenants of the Port Trust who have been exempted from the Maharashtra Rent Control Act are legislatively mandated, inter alia, not to have any statutory or other limitations or constraints in the fixation of payment of rents . It is further submitted that to continue to insist on levy of letting rates frozen on the basis of land values of 1980 in the year 2006-2007 or such exempted persons despite the fact such persons do not any longer enjoy even the protection of the Rent Act would be extremely unfair to the Port Trust and would be in effect be contrary to the principle laid down by the Supreme Court in the Wadia Judgement. (b) Even though the Maharashtra Rent Control Act (and the old Bombay Rent Act) would not and does not apply to the lettings by the Port Trust, the fact that such entities have lost the protection of the Rent Act and are now legislatively mandated to face the open market in land and rentals ,such revise the letting rates for such categories of tenants. (c) The contentions are incorrect.
(xxi)	In light of what is stated hereinabove, TAMP may kindly appreciate that MbPT's common comments and standard Reply under their Presentation/s propounding and/or seeking to defend and justify the said Proposal/s - are erroneous and unsustainable in law; and it is requested that MbPT's Proposal/s be rejected outright by TAMP.	The contention are denied and the SoR as proposed needs to be approved.
(xxii)	The proposed revision is in violation of orders of the Hon'ble High Court in Suit No. 2469 of 2012 between IHCL and MbPT with respect with present lease	An appeal has been filed by Mbpt against the said High Court order and which is still pending. TAMP is to finalize the SOR for Ready Reckoner Zone.
(xxiii).	TR No. 122 of 2021 is violative of compromise proposal approved by Hon'ble Supreme Court Judgement in Wadia case	The validity of compromise proposals was up to 30.09.2012
(xxiv).	Principles of natural justice have to be provided and personal hearing	Sufficient personal hearing has been given.

	BPCL COMMENTS (SOR 2012-17)	

1	We are in receipt of Notice No. EM/AS (G)/ F-361 dated 14/08/2021 from MbPT regarding submission of our comments on revision of Schedule of Rates for period 01.10.2012 to 30.09.2017 by MbPT to TAMP on or before 28.08.2021. Thereafter, vide letter no. OMC/WAD-1/MBPT-Lease1 dated 21.08.2021 we had sought for an extension for submission of our comments and you have vide email dated 24.08.2021 acceded to our request and granted time till 10.09.2021 for submission of our comments/objections, accordingly we hereby submit our comments/objections to the revision in Schedule of Rates for the period of 01.10.2012 to 30.09.2017, only for plots leased to BPCL in SewreeWadala complex. At the outset we deny that MBPT is entitled to seek revision of schedule of rates of rent payable retrospectively for the period of 01.10.2012 up to 30.09.2017. At the further outset it may be noted here only that under the provisions of Section 5 r/w Section 7 Burmah Shell Act, 1976 the term of the lease stood continued and renewed for further term, on the same terms and conditions. The said lease period post renewal (statutory) is still subsisting. Consequently there is no question of raising any demand for revised lease rental and no such occasion has arisen. All rules, regulations, contrary/inconsistent to the said act cannot be relied upon and the act shall prevail.	The revision under SoR 2012-17 is by statutory guidelines issued under PGLM, 2015 and clarifications issued by Ministry from time to time and therefore mandatory and binding on all parties concerned. Every monthly Bills/invoices are sent along with footnote “THIS BILL IS PROVISIONAL AND WITHOUT PREJUDICE TO BOARDS RIGHTS AND CONTENTION TO REVISE THE RENT/COMPENSIONW.E.F 01.10.2012”. The issue of renewal will be dealt with separately on case to case basis by Board of Trustees. 1. SC judgment rates were valid only for 20 yrsi.e from 01.10.1992 to 30.09.2012 2. From 01.10.2012 onwards PGLM 2010,2014-15 guidelines issued by Mos GOI are applicable to MbPT and MbPT is free to revise the rentals on the SOR based on PGLM guidelines. 3. The SOR is applicable to only MTs, FML, expired leases and Licenses for the period 01.10.2012 onwards for 5 years that is up to 30.09.2017. That is the period beyond applicability of SC judgement rates. 4. These occupations are occupying MbPT land without any authorization from MbPT and even after expiry of the leases/termination of tenancies/lease. 5. Bills are sent along with footnote (THIS BILL IS PROVISIONAL AND WITHOUT PREJUDICE TO BOARDS RIGHTS AND CONTENTION TO REVISE THE RENT/COMPENSION W.E.F 01.10.2012). 6. Circular No.EM/ASG/F-361/5873 dated 28.12.2012 vide which it was informed to all the lessees, tenants and occupants that revision of compensation / rent in respect of all the expired leases, monthly tenancies and fifteen monthly tenancies and licences / tenancies excepting subsisting long term leases of Port Trust premises is due from 01.10.2012 onwards. 7. Delay in submission of SOR proposal to TAMP was on account of the fact that PGLM 2014/15 were not applicable to Township area of Mumbai Port Trust. 8. Vide clarification no 1 of 2018 dated 14.06.2018 issued under sec 111 of MoS, GoI extended the PGLM 2015 guidelines to the Township area. 9. Matter was taken up with Ministry for withdrawal of notification dtd 15.03.2000. 10. MoS,GoI vide their no secy(s)/visit-Mumbai/land management/2018(333915) letter dated 15.05.2019 directed TAMP to fix the SoR for Mumbai port Trust land w.e.f. 01.10.2012 onwards. 11. Accordingly TAMP vide Their letter dated 15.07.2019 issued a clarification that in view of

		PGLM 2015 guideline the TAMP notification 28.03.2000 has become infructuous so far as MbPT is concerned and it is not applicable for MbPT for period prior to 01.10.2012 and same may be treated as withdrawn by the TAMP. 12. High Court writ petition no 1153 of 2000 filed by MbPT challenging TAMP notification was withdrawn vide HC order dated 08.08.2019. 13. The LAC recommendation dated 13.08.2019 was placed before the Board, however same was deferred by Board by TR 114 of 20.08.2019, TR 149 dated 24.09.2019 and TR 169 dated 01.11.2019. Finally, Board gave approval to submit the proposal of SoR 2012- 17 to TAMP vide TR 122 dated 03.08.2021. 14. Accordingly, immediately after Board approval the said proposal was submitted to TAMP on 06.08.2021. 15. Contention raised in this para is not correct. After expiry of the lease since there was no renewed clause revised lease rental as per SoR is levied in term of PGLM guidelines.
2	Thus a total area of 300726 SQMT has been leased to BPCL by MbPT for our Sewree and Wadala Terminals. We must bring to your kind notice the fact that at the relevant point of time i.e. during the subject period of 01.10,2012 up to 30.09.2017, several correspondences were addressed at our end to the effect that the rates be fixed. We must specifically point out that in the communication dated 18.01.2017, we have narrated the facts and have specifically pointed out that based on reconciliation only an amount of Rs. 58,93,133/- was payable. The same was offered to be paid subject to approval from our board. It is pertinent to note that MbPT has accepted sum of Rs. 27.42cr paid by us without any reservations. Consequently MbPT having accepted the said amount, it is not open now to raise any demand with regard to the said period. During such period no attempt was made on the part of MBPT either to respond to such requests or to raise any demand for revised rates of rent payable. It was only vide letter dated 11.07.2019 that MbPT for the first time demanded arrears of rentals for plot no. RR 1735 amounting to Rs.31.22 crore for the periodof March 2004 – August 2020 Vide joint industry letter dated 08.02.2020; we had placed our objection to the high increase in rentals. It was also stated that before expiry of lease we have requested MbPT for renewal of lease, however no response	MbPTSoR revised is pending and in each of the monthly bills issued for the period from 01.10.2012 up to 30.092017 it was pointed out in foot note that the amount billed are Provisionals and revision as would be finalised by Board would be payable. Contention raised in this para is not correct. The joint letter was signed by GMs of 3OMC several meetings were held with Chairman and Dy. Chairman and the PGLM guidelines were elaborately explained to the concerned officials of all the 3OMCs ,HPCL,BPCL& IOCL.

	wasreceivedonsame andwhileMbPT continued to raisemonthlyinvoices we ensured payments of all bills on tie. Accordingly it was requested to withdraw the demand ofarrears. While we continued to discuss the issue of arrears with MbPT we also have complied in the mean while with your good office's requirements of submitting fresh application in the prescribed format on 17.08.2020 along with remittance of application fees of rupees five lakh.	
3	It is not reasonable or legal to renew the rates retrospectively. We again clarify that the land is not being used for any other commercial purposes and that is only being used for receipt, storage and distribution of essential commodity, moreover a major portionof the said land is being used for maintaining inter distances between facilities as per OISD norms for ensuring safety. Accordingly it was requested to withdraw arrears ofrentals, offerland on long term lease at mutually agreeable rates, terms and conditions after giving concession as per clause 11.2. (h) of PGLM,2015	The contention raised in this para is not correct. Please refer para 1 above
4	Vide joint industry letter dated 15.10.2020 regarding the demand for arrearsof rental being made retrospectively and the fact that bills raised are being paid regularly without any delays. It was also mentioned that the rate fixed by MbPT for arrear calculations is 186% more that SDRR rates. It was also informed that from a business perspective it is important that we know our rental expenses beforehand to understand the financial viability of continuing at site. Moreover increase in rentals will also impact in rates of petroleum products in the region which will be a heavy burden on public. Accordingly it was requested to withdraw the demand for arrears along with interest and to offer us long term lease prospectively on mutually agreed terms and conditions after giving concession as perclause 11.2(h) of PGLM , 2015	The contention raised in the para is not correct. It is time and again stated and also printed beneath the bills compensation that the bills are provisional which are subject to revision in terms of Bond's policy. As regards these contentions raised by BPCL that increase in rental of MbPT lease hold plot will impact rates of Petroleum products in the region in the states. All the 3 OMCs were requested to furnish calculations how the increase in rental of MbPTs leasehold plots whihc are done interms of PGLM 2015 will impact the prices of petroleum products in Mumbai region as stated in their letter. Till date none of the Oil companies responded.
5	Vide letter dated 31.10.2020 we had requested MbPT to reconsider their proposal for onetime upfront payment towards lease renewal and waiver of interest on arrears for RR 1735, considering the size of land occupied by BPCL for more than a century and the fact that we are industry already established on the property. It is submitted that vide its letter dated 08.02.2019 MbPT has stated that as per clarification from	The contentions raised in this para deals with specification 11.2(h) for Renewal in terms of PGLM guidelines. Which states that there OMC being CPSUs renewal of lease can be considered on nomination basis without resorting for auction subject to payment of upfront premium for 30 years at the SoR rates as para 13(C) of PGLM 2015.

	Ministry of Shipping PGLM 2015 land can be allotted by way of fresh lease to entitiesmentioned in para 11.2(h) of PGLM 2015. Therefore it was mentioned in the aforesaid letter that as perpara 11.3 (d) of PGLM 2015 renewal/grant of lease to government bodies be as per latest SOR based on Fair Market Value. In this regard we draw your attention to clause 11.3 (d) of PGLM, 2015 " In respect of lease agreements with renewal option, the lease can be renewed by the Port Trust Board by treating it as a fresh lease at the latest SoR notified as per para 13(c)." Thus it is amply clear that such leases are to be considered as a fresh lease and SOR as per para 13(c) is to be made applicable from the date of execution of fresh lease	
6	It is ubmitted that the SoR are provided in PGLM 2015 does not mention that the same are to be applicable retrospectively. Therefore, the demand made by MbPT is against the law and applicable guidelines. We also draw your attention to clause 11.3 (j) of PGLM 2015 wherein it is stated that "The process of renewal of existing leases should be initiated by the respective Ports well in advance, before the term of lease expires. The automatic renewal of existing leases should be preferably done within three months of receipt of such application for renewal. Liability to pay compensation for wrongful use by the lessee will not arise, if the delay in renewing such leases is wholly attributable to the Port." Thus the applicable policy itself states that it will be the obligation of respective port to initiate action for renewal of lease before it expires, whereas in the present matter while no action was taken by MbPT when BPCL issued letters much before the expiry of the lease the same was not responded for a period of 21 years even after repeated reminders and meeting with officials of MbPT. As the delay in renewal of lease is solely attributable to Port, demand for arrear of rentals is not valid and legal. Moreover it is submitted that no question for demand of interest arises as our Corporation has been paying the demanded bills on timely manner without any delays. It is reiterated that revision of rentals cannot be done retrospectively as a tenant is to be made aware of the financial obligations arising out of a lease agreement. Moreover, while PGLM was enforced much later, its provisions cannot be used for calculations of rentals for a period of 2012 onwards as it is contrary to the laid down law. Moreover, in the absence of any agreement or understanding recorded between BPCL and MBPT to the effect that MBPT would be entitled to seek revision of rates retrospectively; it is not	Refer para 1 above for retrospective comment. The contention raised in this paras are not correct and devoid of proper facts. The renewal RR No. 1735 the lease of the said plot was expired on 07.07.1999. There was no renewal clause. In terms of PGLM guidelines vide this office letter dated 08.02.2019 offer for grant of fresh Lease for the period of 30 years was conveyed vide further letter dated 31.10.2019 upfront amount for 30 years from 01.10.2019 upto 30.09.2049 &Rs. 4,90.17 Crores was conveyed.

	open now for MBPT to seek revision of schedule of rates retrospectively	
7	It deserves to be noted here only that the agreed lease rent has been paid for the subject period and even till date i.e. up to 31.08.2021 and there has been no grievance raised by MBPT in this regard, moreover on the contrary MbPT has been giving assurances to Corporation that its proposal for renewal of lease will be submitted to the competent authority at earliest. Without entering into the merits ofsuch claim to revise the schedule of rates, it must be pointed out here only that the same would be expressly barred by law of limitation. The Limitation Act, 1963 and the provision thereunder prohibit any predated claims and or passed claims beyond the period of limitation. Hence, any action by MBPT to demand at revised rates retrospectively for the subject period would be barred under the said Act. The principles of estoppel would also come into play where under MBPT is estopped from seeking any revision to the schedule of rates retrospectively, having accepted the amount duly and diligently paid by BPCL during the said subject period and even thereafter from month to month till date. In the absence of any enabling provision either as an by way of an agreement or understanding with BPCL or under any law in force, MBPT is precluded from proceeding with the exercise by virtue of the present notice to invite comments on proposed revision of rates.	Bills are sent along with footnote (THIS BILL IS PROVISIONAL AND WITHOUT PREJUDICE TO BOARDS RIGHTS AND CONTENTION TO REVISE THE RENT/COMPENSION W.E.F 01.10.2012). Circular No.EM/ASG/F-361/5873 dated 28.12.2012 vide which it was informed to all the lessees, tenants and occupants that revision of compensation / rent in respect of all the expired leases, monthly tenancies and fifteen monthly tenancies and licences / tenancies excepting subsisting long term leases of Port Trust premises is due from 01.10.2012 onwards.Vide clarification no 1 of 2018 dated 14.06.2018 issued under sec 111 of MoS, GoI extended the PGLM 2015 guidelines to the Township area. Matter was taken up with Ministry for withdrawal of notification dtd 15.03.2000. MoS,GoI vide their no secy(s)/visit-Mumbai/land management/2018(333915) letter dated 15.05.2019 directed TAMP to fix the SoR for Mumbai port Trust land w.e.f. 01.10.2012 onwards. Accordingly TAMP vide Their letter dated 15.07.2019 issued a clarification that in view of PGLM 2015 guideline the TAMP notification 28.03.2000 has become infructuous so far as MbPT is concerned and it is not applicable for MbPT for period prior to 01.10.2012 and same may be treated as withdrawn by the TAMP. . High Court writ petition no 1153 of 2000 filed by MbPT challenging TAMP notification was withdrawn vide HC order dated 08.08.2019. The LAC recommendation dated 13.08.2019 was placed before the Board, however same was deferred by Board by TR 114 of 20.08.2019, TR 149 dated 24.09.2019 and TR 169 dated 01.11.2019. Finally, Board gave approval to submit the proposal of SoR 2012- 17 to TAMP vide TR 122 dated 03.08.2021. Accordingly, immediately after Board approval the said proposal was submitted to TAMP on 06.08.2021. Contention raised in this para is not correct. After expiry of the lease since there was no renewed clause revised lease rental as per SoR is levied in term of PGLM guidelines.

8	In any event, the proposal to revise rent can only be done prospectively i.e. for future period. MBPT in the instant case has accepted the terms of the lease and have continued in light thereof to honor the obligations set out therein to be performed the parties. In effect, the terms and condition of the original lease have been continued although on revised terms (with reference to the rentals). The provision of the Transfer of Property Act, 1882 would govern the leases executed by and between the parties. In particular, sections 105 up to section 117 of the said act would be applicable. In the instant cases i.e. the leases in question although have expired by efflux of time/expiry of term, the principle of promissory estoppel entitles BPCL to occupy and continue in the lease premises on payment of the rent. Although, MBPT has never finalized the rates and/or rentals beyond the original period of lease, nonissuance of any demand notice and/or any proposal of what so ever nature for renewal of the lease for the subject period, and during subsistence of the said period, now does not give any right to MBPT to retrospectively finalize the rates and rentals. In view ofthe actions and/or inactions on the part of MBPT during the relevant period, to notseek revision through renewal of the lease, to now demand revised rates for the period which has passed. It can only be done with reference to future period and that too on renewed terms. The Indian Contract Act, 1872 and the provision there under cannot be ignored and overlooked by MBPT. In the absence of express agreement by and between the parties the proposal for revision is ill founded and without any basis. The internal notes, circulars or notifications issued by MBPT, would not be binding on BPCL, more so if the same are contrary or inconsistent with any prevalent law. Hence the demand raised vide notice by MBPT is contrary to the settled principles of law, opposed to equity and are arbitrary and unreasonable and therefore being beyond the purview of law, not tenable. The express terms of the lease agreement also do not contemplate such revision. Needless to state that the entire exercise sought to be carried out belatedly by MBPT is not in line with any agreement or understanding arrived at between the parties, therefore the same is not tenable.	The Lease for 30 years will be granted prospectively as per PGLM. However, arrears upto the Date of commencement fresh lease should be liquidating as per arrears statement calculated taking upto consideration approved SoR time to time. The provisions as regards Transfer/Assignment/Major/Amalgamation will be as per the policy approved by the Board. The contention raised in this para is not correct. The contention raised regarding Retrospective demand is not correct. This issue has already covered in length in the para 1 above .The contention raised is not correct. There is no fault on the paraofMbPT as already been clarified in para regarding retrospective demand of Revised rent. In terms of PGLM guidelines MbPT.is well within its rights to demoted revised rates & BPCL shall liquidate the same. Lease Agreement not have renewal clause therefore there is not question that Lease Deed will include revision beyond lease period
9	Repeated requests for renewal of leases which has expired on 30.06.2021 are yet to be answered by MBPT	Not correct. The MbPT stand has already been clarified to BPCL. There were several meetings conducted by Chairman and Dy. Chairman and the PGLM guidelines were thoroughly explained to the officials of BPCL elaborately.

10	There is no basis, rational orjustification for the arbitrary proposed revision ofschedule of rates retrospectively.	The contention is not correct PGLM 2015 & Clarifications No. 1 of 2018 dated 14.05.2018 Clarification No. 2 of 2018 dated 09.03.2019, Clarification No. 1 of 2019-20 dated 24.09.2019. Ministry's extension of applicability of PGLM
11	The instances in the nature of industrial/residential premises cannot be referred to and relied upon in any manner to justify proposed revision of rates. The valuation reports are neither realistic nor based on thorough research. An exorbitant rate has been determined erroneously by MBPT in placing reliance on such reports. Not a single instance sought to be relied upon by MBPT pertains to any land nearby to the leased premises. The instances of lease/license/sale are neither comparable with the leased premises nor are anywhere even close to or in proximity in terms of distance and/or size of the lands. In fact industrial gala, and or flat cannot be taken into account for any purpose much less in determining lease rental values and rates. Thus in the absence of any like, comparable land instances and reports of valuation providing realistic values, the same cannot be even considered. Hence, we strongly object to such documents (valuation reports and instances) being taken account of in determining lease rental rates	In terms of PGLM guidelines the working of FMV of land value falling in different RR Zone were entrusted to Govt. approved/Register valuer 1. ShriAmitPatwardhan 2. ShriAvinashPendse who have done scientific valuation of the land of different RR Zone and furnished the rates after taking in to consideration the present situation of the land, lack of amenities etc. and discount have been provided
12	Bare perusal of the notice reveals that MBPT is proceeding with predetermined intention to revise the schedule of rates and comments have been invited only with a view to record that the rates have been determined after due notice to all concerned.	The contention raised in this para is not correct. No instruction was given by MbPT to the valuer. Tender was called for appointment of Govt. Register Valuer in MbPT panel and different RR Zones were entrusted for valuation to different valuers. The Wadala RR zones 14/101, 11/86 and Mahul Division 90/419 was entrusted to M/s Patwardhan consultants Pvt. LtdThe valuation stictly in terms of PGLM 2015
13	The proposed rates are not only exorbitant but also without rational or basis and therefore cannot be accepted.	The rates are arrived at by the Govt. approved Valuer on the basis of transactions taken place.
14	We have strong objection to any demand for interest and/or penalty raised/proposed to be raised,/proposed to be raised,/proposed to be raised, for the first time now. The same cannot be raised in the absence of any agreement to begin with coupled with a demand at the relevant point of time raised for payment of lease rentals.It is an undisputed fact that no demand was ever raised by MBPT for the subject period. Hence, it is not open now to demand and/or penalty. Not only such demand for interest/penalty would be contrary to law but also unjust and unfair	Refer para 1 above for reply to contention regarding retrospective demand .
	HPCL COMMENTS (SOR 2012-17)	

1	We are in receipt of Notice No. EM/AS (G)/ F-361 dated 14/08/2021 from MbPT regarding submission of our comments on revision of Schedule of Rates for period 01.10.2012 to 30.09.2017 by MbPT to TAMP on or before 28.08.2021. Thereafter, vide letter no. OMC/WAD. 1/MBPT-Lease1 dated 21.08.2021 we had sought for an extension for submission of our comments and you have vide email dated 24.08.2021 acceded to our request and granted time till l0.09.2021 for submission of our comments/objections, accordingly we hereby submit our comments/objections to the revision in Schedule of Rates for the period of 01.10.2012 to 30.09.2017. At the outset we deny that MBPT is entitled to seek revision of schedule of rates of rent payable retrospectively for the period of OI.l0.2012 up to 30.09.2017. The descriptions of the relevant leased lands for our SewreeWadala Terminal are more particularly set out as follows: Thus a total area of 149788 SQMT has been leased to HPCL by MbPT for our Sewree and Wadala Terminals. It is submitted that only lease for land at plot no. 102261776 admeasuring 42645.36 SQMT expired on 28.02.2008, while the other leases continued to be valid during the period of revised SOR period i.e. 2012-2017. We must bring to your kind notice the fact that at the relevant point of time I.e. during the subject period of 01.10.2012 up to 30.09.2017. Several correspondence was addressed at our end to the effect that the rates be fixed.	The revision under SoR 2012-17 is by statutory guidelines issued under PGLM, 2015 and clarifications issued by Ministry from time to time and therefore mandatory and binding on all parties concerned. Every monthly Bills/invoices are sent along with footnote "THIS BILL IS PROVISIONAL AND WITHOUT PREJUDICE TO BOARDS RIGHTS AND CONTENTION TO REVISE THE RENT/COMPENSIONW.E.F 01.10.2012". The issue of renewal will be dealt with separately on case to case basis by Board of Trustees. 1. SC judgment rates were valid only for 20 yrsi.e from 01.10.1992 to 30.09.2012 2. From 01.10.2012 onwards PGLM 2010,2014-15 guidelines issued by Mos GOI are applicable to MbPT and MbPT is free to revise the rentals on the SOR based on PGLM guidelines. 3. The SOR is applicable to only MTs, FML, expired leases and Licenses for the period 01.10.2012 onwards for 5 years that is up to 30.09.2017. That is the period beyond applicability of SC judgement rates. 4. These occupations are occupying MbPT land without any authorization from MbPT and even after expiry of the leases/termination of tenancies/lease. 5. Bills are sent along with footnote (THIS BILL IS PROVISIONAL AND WITHOUT PREJUDICE TO BOARDS RIGHTS AND CONTENTION TO REVISE THE RENT/COMPENSION W.E.F 01.10.2012). 6. Circular No.EM/ASG/F-361/5873 dated 28.12.2012 vide which it was informed to all the lessees, tenants and occupants that revision of compensation / rent in respect of all the expired leases, monthly tenancies and fifteen monthly tenancies and licences / tenancies excepting subsisting long term leases of Port Trust premises is due from 01.10.2012 onwards. 7. Delay in submission of SOR proposal to TAMP was on account of the fact that PGLM 2014/15 were not applicable to Township area of Mumbai Port Trust. 8. Vide clarification no 1 of 2018 dated 14.06.2018 issued under sec 111 of MoS, GoI extended the PGLM 2015 guidelines to the Township area. 9. Matter was taken up with Ministry for withdrawal of notification dtd 15.03.2000. 10. MoS,GoI vide their no secy(s)/visit-Mumbai/land management/2018(333915) letter dated 15.05.2019 directed TAMP to fix the SoR for Mumbai port Trust land w.e.f. 01.10.2012 onwards. 11. Accordingly TAMP vide Their letter dated 15.07.2019 issued a clarification that in view of

		PGLM 2015 guideline the TAMP notification 28.03.2000 has become infructuous so far as MbPT is concerned and it is not applicable for MbPT for period prior to 01.10.2012 and same may be treated as withdrawn by the TAMP. 12. High Court writ petition no 1153 of 2000 filed by MbPT challenging TAMP notification was withdrawn vide HC order dated 08.08.2019. 13. The LAC recommendation dated 13.08.2019 was placed before the Board, however same was deferred by Board by TR 114 of 20.08.2019, TR 149 dated 24.09.2019 and TR 169 dated 01.11.2019. Finally, Board gave approval to submit the proposal of SoR 2012- 17 to TAMP vide TR 122 dated 03.08.2021. 14. Accordingly, immediately after Board approval the said proposal was submitted to TAMP on 06.08.2021. 15. Contention raised in this para is not correct. After expiry of the lease since there was no renewed clause revised lease rental as per SoR is levied in term of PGLM guidelines.
2	Addressed In this regard, we wish to bring to your notice few of the various letters written to MbPT by our Corporation. 1. Vide letter dated 10.08.2007, we had requested MbPT for renewal of Lease for RR No. 1022 and 1776 as it is due for expiry on 29.02.2008. Thus, prior to the expiry of the lease itself we were following it up with MbPT for renewal of lease on mutually agreed terms and conditions. However, no reply was received to the aforesaid letter from MbPT. Copy of letter dated l0.08.2007 is attached as Annexure-I 2. Vide letter dated 09.10.2007 we had again requested MbPT for renewal of lease forRR No. 1022 and 1776 for a period of 30 years. However, no reply was received to the aforesaid letter from MbPT. Copy of letter dated 09.10.2007 is attached as Annexure-2. 3. Vide letter dated 20.11.2007 we had request MbPT for renewal of lease for RR No.1022 and 1776 as it is due for expiry on 29.02.2008 and also not to link the demand concerning our Lube Strategy Business with renewal of lease pertaining to Wadala. However, no reply was received to the aforesaid letter from MbPT. Copy of letter dated 20.11.200 7is attached as Annex. 3.	The issue of renewal will be dealt with separately on case to case basis by Board of Trustees. There was no renewal clause in the Lease Deed. After expiry of lease BPCL & HPCL & IOCL were called on called several occasions, several meetings were held with Chairman& Dy. Chairman. OMC did not accept proposed revised rents.

	4. Vide letter dated 05.12.2007 we had requested MbPT to inform about the formalities required to be done at our end for renewal of lease for our Wadala Terminal as it being a vital location for catering to essential commodities, However, no reply was received to the aforesaid letter from MbPT. Copy of letter dated OS.12.2007 is attached as Annexure 4. 5. Vide letter dated 27.12.2007 we requested MbPT to advice current status of renewa lof lease for Wadala Terminal. However, no reply was received to the aforesaid letter from MbPT. Copy of letter dated 27.12.2007 is attached as Annexure 5, 6. Vide Letter dated 02.01.2008 we had informed MbPT that the matter of renewal of lease was taken up well in advance to avoid any delay, however no communications from MbPT has been received on the same. Hence it was once again requested to renew lease far our Wadala I Terminal (RR No. 1022 and 1776). However, no reply was received to the aforesaid letter from MbPT. Copy of letter dated 02.01.2008 is attached as Annexure. 7. Thus from the above it is evident that even before expiry of lease, our Corporation was continuously following up with MbPT for renewal of lease pertaining to land for Wadala I Terminal, however there was no response from ' MbPT for the same. 8. Vide letter dated 28.05.2008 we had informed MbPT that our lease has expired and that at our end to the effect that the rates be fixed. we wish to I ciiew the lease. It was alsu mentioned that we continue to pay lease rentals and that there are rio ending arrears in rental. However, no reply was received to the aforesaid letter from MbPT. Copy of letter dated 28.0S,2008 is attached as Annex7. 9. Vide letter dated l0.01.2009 we informed to MbPT regarding our request for renewal of lease. It was also brought on records that during our meeting with MbPT we have been informed regarding revised rental will be in line with judgment passed by Hon'ble Supreme Court order on 13,01,2004 and resolution passed by MbPT. Accordingly it was requested to renew and regularized lease deed for our Wadala I Terminal (RR No.1022 and 1776) and also to provide copies of supreme court judgment along with Gazettee notification issued by MbPT for revised rents. However, no reply was received the aforesaid letter from	

	MbPT. Copy of letter dated l0.01.2009 is attached as Annex.8. 10. Vide letter dated 24.06.2009 reminder for renewal of lease was sent to MbPT. However. no reply was received to the aforesaid letter from MbPT. Copy of letter dated24.06.2009 is attached as Annex 9. 11. Vide letter dated 08.07.2009 MbPT without considering any of our above referred letters merely informed us that as our lease has expired we will be billed as per policy and that our renewal request shall be put to competent authority only after clearing all thedues as billed in respect of subject plot. Copy of the said letter is attached as Annexure lO, 12. Vide letter dated 17.02.2010 it was Informed to MbPT that we have cleared differential payment for said plot and therefore requested them once again to renew our lease for a period of 30 years w.e.f Of.03.2008. However, no reply was received to the aforesaid letter from MbPT. Copy of letter dated 17.02.2010 is attached as Annexure ll. 13. Vide letter dated 19.06.2010 it was reiterated that during our meeting with MbPT has assured us that the proposal for renewal of lease shall be taken up with MbPT Board at the earliest, therefore we requested to expedite the formalities for renewal of lease pertaining to Wadala Terminal 1. However, no reply was received to the aforesaid letter from MbPT. Copy of letter dated 19.06.2010 is attached as Annexure 12. 14. Vide letter dated 29.04.2015 we informed to MbPT that we have deposited Security deposit and lease expenses and requested them for execution of renewal deed, However, no reply was received to the aforesaid letter from MbPT, Copy of letter dated 19.06,2010 is attached as Annex13. 15.Vide Letter dated 12.06.2017 we had again informed that during meeting it was mentioned to us that proposal for renewal of lease shall be taken up with MbPT Board, therefore we once again requested to expedite necessary formalities for renewal of lease. However, no reply was received to the aforesaid letter from MbPT. Copy of letter dated 12.06.2017 is attached as Annexure 14. 16. Vide letter dated 24.07.2017 we had once again requested for expediting the necessary	

	Formalities for renewal of lease agreement. However, no reply was received to the aforesaid letter from MbPT. Copy of letter dated 24.07.2017 is attached as Annex 15 17. Vide letter dated 04.09.2017 we had once again requested for expediting the necessary formalities for renewal of lease agreement. However, no reply was received to the aforesaid letter from MbPT. Copv of letter dated 04.09.2017 is attached as Annexure 16 18. Vide letter dated 04.10.2017 we had once again requested for expediting the necessary formalists for renewal of lease)agreement. However, nB reply was received tolthe aforesaid letter from MbPT. Copv of letter dated 04.10.2017 is attached as Annexure 17 19. Vide letter dated 04.11.2017 we had once again requested for expediting the necessaryformalities for renewal of lease agreement. However, no reply was received to the aforesaid letter from MbPT. Copy of letter dated 04.11.2017 is attached as Annexure 18. 20. Vide letter dated 05.12.2017 we had once again requested for expediting the necessary formalities for renewal of lease agreement. However, no reply was received to theaforesaid letter from MbPT. Copv of letter dated 05.12.2017 is attached as Annexure 19. 21. Vide letter dated 06.01.2018 we had once again requested for expediting the necessaryformalities for renewal of lease agreement. However, no reply was received to theaforesaid letter from MbPT. Copv of letter dated 06.01.2018 is attached as Annexure 20. 22. Vide letter dated 06.02.2018 we had once again requested for expediting the necessary formalities for renewal of lease agreement. However, no reply was received to the aforesaid letter from MbPT. Copy of letter dated 06.02.2018 is attached as Annexure 21. 23. Vide letter dated 06.03.2018 we had once again requested for expediting the necessaryformalities for renewal of lease agreement. However, no reply was received to theaforesaid letter from MbPT. Copy of letter dated 06.03.2018 is attached as Annexure22. 24. Vide letter dated 12.04.2018 we had once again requested for expediting the necessaryformalities for renewal of lease agreement. However, no reply was received to the aforesaid letter from MbPT. Copv of letter	

	dated 12.04.2018 is attached as Annex23. 25. Vide letter dated 07.05.2018 we had once again requested for expediting the necessary formalities for renewal of lease agreement. However, no reply was received to the aforesaid letter from MbPT. Copy of letter dated 07.05.2018 is attached as Annexure 24. 26. Further vide letters dated06.06.2018, 06.07.2018, 06.09.2018. 08.10.2018, 10.11.2018, 06.12.2018, 04.01.2019, 31.10.2020 we had requested for expediting the necessary formalities for renewal of lease agreement. However, no reply was received to the aforesaid letter from MbPT. Copy of said letters are collectively attached as Annex 25.	
3	It was only vide letter dated 26.02.2019 (Attached as Annexure 26 a), that MbPT for the first time demanded arrears of rentals for plot no. RR 1022 and 1776 amounting to Rs. 35.57 crores for the period of March 2008 Dec 2018 and thereafter again MbPT vide letter dated 11.07.2021 (Attached as Annexure 26 b), demanded arrears for the same plot amounting to Rs. 84.41 crores for period of Mar 2008 May 2019 . We had submitted our without prejudice letter dated 17.07.2019 against the demand notice dated 11.07.2019 issued by MbPT Letter of protest dated 15.01.2020 (Attached as Annexure 27) was submitted to MbPT against there exorbitant demand towards increase in rentals. Vide joint industry letter dated 08.02.2020 (Attached as Annexure 28) we had placed our objection to the high increase in rentals. It was also stated that before expiry of lease we have requested MbPT for renewal of lease, however no response was received on same and whileMbPT continued to raise monthly invoices we ensured payments of all bills on tie. Accordingly it was requested to withdraw the demand of arrears. Vide letter dated 02.04.2020 (Attached as Annexure 29) we had stated that having paid all bills at rates unilaterally decided by MbPT it is not reasonable or legal to renew the rates retrospectively. It was also mentioned that for 11 years we were not provided with any offers for rental. We had also clarified that the land is not being used for any other commercial purposes and that is only being used for receipt, storage and distribution of essential commodity, more	There was no renewal clause in the Lease Deed. After expiry of lease BPCL & HPCL & IOCL were called on called several occasions, several meetings were held with Chairman& Dy. Chairman. OMC did not accept proposed revised rents.

	over a major portion of the said land is being used for maintaining inter distances between facilities as per OISD norms for ensuring safety. Accordingly it was requested to withdraw arrears of rentals, offer land on long term lease at mutually agreeable rates, terms and conditions after giving concession as per clause 11.2. (h) of PGLM, 2015 Vide joint industry letter dated IS.l0.2020 (Attached as Annexure 30) regarding the demand for arrears of rental being made retrospectively and the fact that bills raised are being paid regularly without any delays. It was also mentioned that the rate fixed by MbPT for arrear calculations is 186% more that SDRR rates. It was also informed that from a business perspective it is important that we know our rental expenses beforehand to understand the financial viability of continuing at site. Moreover increase in rentals will also impact in rates of petroleum products in the region which will be a heavy burden on public. Accordingly it was requested to withdraw the demand for arrears along with interest and to offer us long term lease prospectively on mutually agreed terms and conditions after giving concession as per clause 11.2(h) of PGLM , 2015 Vide letter dated 31.10.2020 (Attached as Annexure 31) we had requested MbPT to reconsider their proposal for onetime upfront payment towards lease renewal for Wadala 1, considering the size of land occupied by HPCL for more than a century and the fact that we are industry already established on the property.	
4	Vide letter dated 16.01.2021 (Attached as Annexure 32)we have requested MbPT to consider SDRR Rates of 2006 with yearly escalation of 4% for the period of March 2008 to Sept 2017 1i.e. upto mplementation of PGLM) and also for waiving interest levied of Rs. 20.72 crores as timely payments were made by the Corporation to the bills raised by MbPT. In the circumstances, it is abundantly clear that there was no demand raised for any revision during the relevant subject period and the same has been done for the first time now. It is submitted that vide its letter dated 08.02.2019 (Attached as Annexure 33) MbPT has stated that as per clarification from Ministry of Shipping PGLM 2015 land can be allotted by way of fresh lease to entities mentioned in para 11.2(h) of PGLM 2015. Therefore it was mentioned in the aforesaid letter that as per para 11.3 (d) of PGLM 2015 renewal/grant of lease to government bodies be as per latest SOR based on Fair Market Value. In this regard we draw your attention to clause	The revision under SoR 2012-17 is by statutory guidelines issued under PGLM, 2015 and clarifications issued by Ministry from time to time and therefore mandatory and binding on all parties concerned. Every monthly Bills/invoices are sent along with footnote "THIS BILL IS PROVISIONAL AND WITHOUT PREJUDICE TO BOARDS RIGHTS AND CONTENTION TO REVISE THE RENT/COMPENSIONW.E.F 01.10.2012". The issue of renewal will be dealt with separately on case to case basis by Board of Trustees

	11.3 (d) of PGLM, 2015 " in respect of lease agreements with renewal option, the lease can be renewed by the Port Trust Board by treating it as a fresh lease at the latest SoR notified as per para 13(c)." Thus it is amply clear that such leases are to be considered as a fresh lease and SOR as per para 13(c) is Lu be made applicable from the date of execution of fresh lease. It is submitted that the SoR are provided in PGLM 2015 does not mention that the same are to be applicable retrospectively. Therefore, the demand made by MbPT is against the law and applicable guidelines. We also draw your attention to clause 11.3 (j) of PGLM 2015 wherein it is stated that "The process of renewal of existing leases should be initiated by the respective Ports well in advance, before the term of lease expires. The automatic renewal of existing leases should be preferably done within three months of receipt of such application for renewal. Liability to pay compensation for wrongful use by the lessee will not arise, if the delay in renewing such leases is wholly attributable to the Port." Thus the applicable policy itself states that it will be the obligation of respective port to initiate action for renewal of lease before it expires, whereas in the present matter while no action was taken by MbPT when HPCL issued letters much before the expiry of the lease the same was not responded for a period of 11 years even after repeated reminders and meeting with officials of MbPT. As the delay in renewal of lease is solely attributable to Port, demand for arrear of rentals is not valid and legal. Moreover it is submitted that no question for demand of interest arises as our Corporation has been paying the demanded bills on timely manner without any delays. It is reiterated that revision of rentals cannot be done retrospectively as a tenant is to be made aware of the financial obligations arising out of a lease agreement. Moreover, in the absence of any agreement or understanding recorded between HPCL and MBPT to the effect that MBPT would be entitled to seek revision of rates retrospectively it is not open now for MBPT to seek revision of schedule of rates retrospectively.	

5	It deserves to be noted here only that the agreed lease rent has been paid for the subject period and even till date i.e. up to 31.08.2021 and there has been no grievance raised by MBPT in this regard, moreover on the contrary MbPT has been giving assurances to Corporation that its proposal for renewal of lease will be submitted to the competent authority at earliest. Without entering into the merits of such claim to revise the schedule of rates, it must be pointed out here only that the same would be expressly barred by law of limitation. The Limitation Act. 1963 and the provision thereunder prohibit any predated claims and or passed claims beyond the period of limitation. Hence, any action by MBPT to demand at revised rates retrospectively for the subject period would be barred under the said Act. The principles of estoppel would also come into play where under MBPT is estopped from seeking any revision to the schedule of rates retrospectively, having accepted the amount duly and diligently paid by HPCL during the said subject period and even thereafter from month to month till date. In the absence of any enabling provision either as an by way of an agreement or understanding with HPCL or under any law in force, MBPT is precluded from proceeding with the exercise by virtue of the present notice to invite comments on proposed revision of rates. In any event, the proposal to revise rent can only be done prospectively i.e. for future period. MBPT in the Instant case has accepted the terms of the lease and have continued in light thereof to honor the obligations set out therein to be performed the parties. In effect, the terms and condition of the original lease have been continued although on revised terms (with reference to the rentals).	The issue of renewal will be dealt with separately on case to case basis by Board of Trustees.
6	The provision of the Transfer of Property Act, 1882 would govern the leases executed by and between the parties. In particular, sections 105 up to section 117 of the said act would be applicable. In the instant cases I.e. the leases in question although have expired by efflux of time/expiry of term, the principle of promissory estoppel entitles HPCL to occupy and continue in the lease premises on payment of the rent. Although, MBPT has never finalized the rates and/or rentals beyond the original period of lease, non-Issuance of any demand notice and/or any proposal of what so ever nature for renewal of the lease for the subject period, and during	Not specific to SOR

	subsistence of the said period, now does not give any right to MBPT to retrospectively finalize the rates and rentals. In view of the actions and/or inactions on the part of MBPT during the relevant period, to not seek revision through renewal of the lease, to now demand revised rates for the period which has passed. It can only be done with reference to future period and that too on renewed terms. The Indian Contract Act, 1872 and the provision there under cannot be ignored and overlooked by MBPT. In the absence of express agreement by and between the parties the proposal for revision is ill founded and without any basis The internal notes, circulars or notifications issued by MBPT, would not be binding on HPCL more so if the same are contrary RSl consistent with any prevalent law. Hence the demand raised vide notice by MBPT is contrary to the settled principles of law, opposed to equity and are arbitrary and unreasonable and therefore being beyond the purview of law not tenable The express terms of the lease agreement also do not contemplate such revision. Needless to state that the entire exercise sought to be carried out belatedly by MBPT is not in line with any agreement or understanding arrived at between the parties, therefore the same is not tenable.	
7	Apart from the grounds of maintainability of the notice as setout herein above, we wish to provide brief comments without prejudice as under: Repeated requests for renewal of leases which has expired on 30.06.2021 are yet to be answered by MBPT 2. I here is no basis, rational or justification torthe arbitrary proposed revision of schedule of rates retrospectively. 3. The instances in the nature of industrial/residential premises cannot be referred to and relied upon in any manner to justify proposed revision of rates. The valuation reports are neither realistic nnr based nn thorough research. An exorbitant rate has been determined erroneously by MBPT in placing reliance on such reports. In the absence of any like, comparable land instances and reports of valuation providing realistic values, the same cannot be even considered. Hence, we strongly object to such documents (valuation reports and instances) being taken account of in determining lease rental rates. 4. Bare perusal of the notice reveals that MBPT is proceeding with predetermined intention to revise the schedule of rates and comments have been invited only with a view to record that the rates have been determined after due notice to all concerned. 5.	Not correct. The Mb+B6:C10PT stand has already been clarified to BPCL. There were several meetings conducted by Chairman and Dy. Chairman and the PGLM guidelines were thoroughly explained to the officials of BPCL elaborately. The contention is not correct PGLM 2015 & Clarifications No. 1 of 2018 dated 14.05.2018 Clarification No. 2 of 2018 dated 09.03.2019, Clarification No. 1 of 2019-20 dated 24.09.2019. Ministry extension of applicability of PGLM. In terms of PGLM guidelines the working of FMV of land value falling in different RR Zone were entrusted to Govt. approved/Register valuer 1. Shri Amit Patwardhan 2. Shri AvinashPendse who have done scientific valuation of the land of different RR Zone and furnished the rates after taking in to consideration the present situation of the land, lack of amenities etc. and discount have been provided. The contention raised in this para is not correct. No instruction was given by MbPT to the valuer. Tender was called for appointment of Govt. Register Valuer in MbPT panel and different RR Zones were entrusted for valuation to different

	The proposed rates are not only exorbitant but also without rational or basis and therefore cannot be accepted. 6. We have strong objection to any demand for interest and/or penalty raised/proposed to be raised/proposed for the first time now. The same cannot be raised in the absence of any agreement to begin with coupled with a demand at the relevant point of time raised for payment of lease rentals. 7. It is an undisputed fact that no demand was ever raised by M BPT for the subject period. Hence, it is not open now to demand and/or penalty. Not only such demand for interest/penalty would be contrary to law but also unjust and unfair.We are ready and willing to participate in any hearing and to substantiate our stand as has been briefly stated hereinabove. We therefore request that our strong objection to the proposed revision be recorded and accepted. We further request that the notice/proposal to impose lease rental retrospectively and interest levied thereon be dropped/withdrawn with immediate effect.	valuers. The Wadala RR zones 14/101, 11/86 and Mahul Division 90/419 was entrusted to M/s Patwardhan consultants Pvt.LtdThe valuation stictly in terms of PGLM 2015. The rates are arrived at by the Govt. approved Valuer on the basis of transactions taken place.
	Other comments	
	A) Revision of SOR for period 2012-2017 For this particular period (2012-2017) MbPT has proposed retrospective revision, the said revision, if implemented, will impact us substantially and due to Covid-19 Pandemic, business is already affected. The Government of India has recently. waived of all retrospective implementations of Taxes. We hereby submit that retrospective change in SOR should not be considered as the said revision will make our business very much unviable. TAMP's proposal for 2012-2017 proposes rate based on the State Government ready reckoner rate for 2012 and increasing every year by 4% MbPT is increasing the rates by 4% every years, whereas all other ports in the country are increasing the land rates by 2% onlyB) Revision of SOR for period 2017-2022 The said revision of proposed SOR for this period is exorbitantly high and again it is considered with retrospect effect. The revision in proposed SOR to Rs. 270/- per SqMtr per month amounts to a whopping 450% increase in lease rent, which is highly exorbitant high. This revision itself will jeopardize sustainability of the business, which will in turn affect the livelihood of thousands of people in the area.	The SoR was due from 01.10.2012 and 30.09.2017 when there was no pandemic. Covid-19 pandemic started from March 2020 and as per present circumstances there has been substantial relaxation given by the Govt. to the trade and general public and most of the premises have been operational. Further (a) any relaxation which the Govt. of India extends under any special circumstances in the case would be applicable to the tenants/lessees, though presently there are no such directions and even in any clarification from MoS&W, Govt. of India on giving any concession, relaxation, compensation and assistance during pandemic time. In this connection, attention is invited to Delhi High Court Judgment, Ramanad and others V/s. Dr. Girish Soni and others dated 21.05.2020 has held that the period of lockdown on account of Covid-19 does not excuse in payment of rental amounts and no concession in rental charges is admissible. b) As the parties have continued to occupy the premises and MbPT being Public body which continued to provide its services in COVID period and rendered the monthly invoices of compensation and also paid the GST on the invoice for the period there is no question of granting any relief. MbPT's expenditure on infrastructure and also liability towards salary/wages, maintenance etc. has continued even in COVID pandemic period. Since rentals from MbPT landed assets are important part of MbPT revenue which is essential for sustenance of MbPT, no such concessions are admissible on

	The above proposal of revision of SOR is based on report prepared by valuer (M/s Patwardhan Consultants Pvt. Ltd.) for small land parcel of land (7.150.23 Sqmtr) along with structures which are more than 30 years old. We would like to submit our observations regarding valuation report as below, a) Highest rate of actual relevant transaction registered in last three years in the Port's vicinity (page 23 of report) The agreement shared by MbPT with valuer for computing land rate is wrongly represented as lease agreement, this agreement charges are towards usage of storage tank along with related infrastructure and the Land. The entire amount of Rs. 14,50,000/ monthly (2014-15) towards lease rent is wrong as 80% of this is towards usage pf storage tank and balance for the Land. Therefore, this working cannot be considered as basis for lease rent b) The rate arrived by the approved valuer based on Income approach (page 24 of report) The rate considered under this valuation Rs.350/- per per month is very high, the said tank and premises is designed for handling petroleum products, for which the prevailing rates are much below. The capitalization rate for the assets is always between 15-20% of the investment made by these company towards building infrastructure. Port has considered a very low IRR of 6% against plant and machinery. Depreciation is considered on book value ignoring the inflation Based on above report MbPT had tendered the said plot along with infrastructure in 2019 but because of the high land valuations nobids were received. Hence this rate is not accepted by the market and cannot be implemented to other land parcels c) As per the Draft Land Policy 2020, the Port should fox the schedule of rates based on Ready Reckoner, which is published by the respective State Govt. d) MbPT is increasing the lease rates by 4% every years, whereas all other major ports in the country are increasing the rates by 2% only Competition from nearby ports and high vessel	this ground in the proposed SoRw.e.f. 01.10.2012. The revision under SoR 2012-17 is by statutory guidelines issued under PGLM, 2015 and clarifications issued by Ministry from time to time and therefore mandatory and binding on all parties concerned. Every monthly Bills/invoices are sent along with footnote "THIS BILL IS PROVISIONAL AND WITHOUT PREJUDICE TO BOARDS RIGHTS AND CONTENTION TO REVISE THE RENT/COMPENSIONW.E.F 01.10.2012". The issue of renewal will be dealt with separately on case to case basis by Board of Trustees. The revision of rates are strictly in accordance with the provision of PGLM 2014-2015 The SoR rates are based on the laid down procedure under para 13 of PGLM 2015, and the same is recommended by the LAC and approved by the Board and further submitted to TAMP for approval. The para 13 of PGLM 2014 clearly states that the highest of 5 factors for determination of rentals on Major Port Trust land i.e. (i) State Govt. RR (ii) Average rate of actual transactions registered in last 3 years in the Port vicinity (iii) Highest accepted tender of Port land for similar transactions (iv) Rate arrived at by an approved Valuer appointed for the purpose of the Port (v) Any other factor. The land values in the Ready Reckoner Zones of MbPT lands are varying from Rs. 19,400 to Rs. 2,80,000 and average value works out to Rs. 1,50,000, whereas land rates of Ready Reckoner Zones outside MbPT lands varies between Rs. 19,400 to Rs. 3,77,200 and average value works out to Rs. 1,98,000. Considering the mean value (RR 2017) of is Rs. 1,74,000 for lands in MbPT area and outside MbPT area. The MbPTvaluers have recommended FMV which are average of Rs. 1,75,718 for lands which ranges between Rs. 53,820 to Rs. 3,31,600. The contention is blatantly incorrect. The rate as on 30.09.2017 is Rs 80.13 per SQM per month whereas the revised rate as on 01.10.2017 workes out to Rs 269 per SQM per month , which is 235 % increase and not 450% increase as contended. The contention raised in this para is not correct. Tender was called for appointment of Govt. Register Valuer in MbPT panel and different RR Zones were entrusted for valuation to different valuers. The Wadala RR zones 14/101,

	waiting at Mumbai Port is becoming a deterrent for cargo to come at Mumbai. In fact, in the recent few months a lot of cargo of Mumbai Port has been diverted to other neighbouring ports. Our business is already taking a hit due to road movement restrictions in Mumbai, high charges, property taxes, high overheads, etc. Neighbouring ports have lower costs better connectivity and storage terminals are offering competitive rates to divert cargoes from Mumbai We therefore strongly convey our objection for this revision of 450% increase in schedule of rates, which will make business unviable and request you to not to accord your approval for this revision of SOR. We also request you to kindly give us an appointment so that we can make a presentation to your goodself in this regard	11/86 and Mahul Division 90/419 was entrusted to M/s Patwardhan consultants Pvt. Ltd. The rates furnished by the valuer are strictly in accordance with the provision of PGLM 2014-2015 i.e. taking in to consideration 5 factors as stipulated in PGLM. At present MbPT is bound by PGLM 2014/15 and clarification issued by Ministry of Shipping. The contentions are not acceptable
	Other Comments	
1	Firstly, we report, reiterate and confirm what is stated by us in our earlier email dated 26/08/2021 and deny all chat are contrary to and/or inconsistent which what is set out in earlier email dated 26/08/2021 and in the present email. Standard bPT replies to the General comments are without any basis and/or without considering any factual aspect.	The comments posted on MbPT website are repeated and reiterated. None of the comments/replies to common comments posted on the website/in the presentation should be deemed to amount to an admission to any of the contentions of the applicants which are contrary to the comments and the facts posted by MbPT. Nothing contained in the representations shall be deemed to be admitted for want of specific traverse.
2	Secondly, the Policy Guidelines for Land Management by Major Ports,2015('the said PGLM 2015') is arbitrary and without any scientific and rationale basis and cannot be taken as the basis to increase the rent. The said PGLM 2015 is unconstitutional and is in gross violation of Article 14 of the Constitution of India.	The PGLM 2015 is a cabinet approved guideline issued by the Govt. under Section 111 of MPT Act and MbPT is bound by the same as its applicability has been extended to the Township areas of MbPT.
3	"3. Thirdly, The calculations as shown in the said common comments and standard MbPT reply are with a motive to cam profit and carryout commercial activities and the same is not permissible for BPT being a statutory organization which is created as a "" Body Incorporate under the Trust Act,1873 and re-constituted by Bombay Pont Trust Act, 1879."	The PGLM 2015 is a cabinet approved guideline issued by the Govt. under Section 111 of MPT Act and MbPT is bound by the same as its applicability has been extended to the Township areas of MbPT. The rates have been arrived at strictly on the basis of provision of PGLM 2015 by taking into consideration the highest of the 5 factors prescribed therein.
4	"4.Fourthly,BPT,being a statutory body, cannot cam profit and carry out commercial activities by increasing the rent as normally done by the ordinary landlord to recover his investment/cost for purchasing the said property. It is pertinent to note that BPT being an instrumentality of State under Article 12 of the Constitution of India, is bound to be reasonable and fair in dealing with lessees and any act including	

	issuance of Notice/Circular contrary to the same is in gross violation of the rights of such lessees including us."	
5	"5. Fifthly, BPT cannot consider rent on basis of actual build up area on the basis of Fair Market Value/Rate of land based on highest of 5 factors as per the said PGLM 2015 for base rate for FSI 1.00 for the period 01-10-2017 and rate of return adopted for arriving at the SOR is 6% per annum which rate will increase by 4% annually every October over the rate for the previous year as the same is in basis of without authority. Further, the constitution mandate requires BPT. being statutory body, to act in a non-arbitrary and reasonable manner as the entire procedure is in gross violation of Article 14 of the Constitution of India."	
6	"6. Lastly, we therefore once again request you to not to implement the same Policy until and unless. the same modified as requested and till then no rent should be enhanced."	The proposition cannot be accepted and TAMP needs to approved the SOR proposed by MbPT.
	Rekab Tower-HO)	
1	We would like to thank you for inviting suggestions from us regarding revision of rates. We would like to bring to your kind notice that we regularly pay ourrents, our accounts is completely clear. We have also paid all our dues in terms of rents as well as all the penalties levied on us. We would like to humbly bring to your notice that we are the residents of REKAB TOWER CHS LTD, a registered society, and current residents of the said plot . The Special Planning Authority has also clearly marked the said plot as residential land in the existing layout as well as the proposed layout. We are not NON-HOME, but HOME tenants. For all these years we have been paying commercial rent. We would request you to consider the same and change our rents from commercial to residential.	Board vide TR 58 of 17.02.1995 sanctioned the fresh lease for 30 yrs in favour of Sirdar Carbonic Gas Co Ltd w.e.f., 01.041994. Plot is reserved for public housing/High density housing in development plan. Vide this office letter dno. EM/U-6/HF-14/05 dated 31.03.1995 the terms & conditions conveyed to lessee and the same were accepted by leer no. BPT/30 dated 20.04.1995
	Ardeshir B Cursetjee (ABC)	**MbPT Reply**
1	The Policy Guidelines for Land Management for Major Ports, 2015 (PGLM, 2015) have not been uploaded on the website of MbPT. Hence you are requested to serve a copy thereof upon our clients and grant reasonably sufficient time to our clients to provide their comments. Despite this we are providing our clients'' comments, for the limited purpose of objecting to the implementation of the draft Policy / SoR and reserve our clients' right to file a more detailed reply.	PGLM, 2015 and its clarifications being public documents are readily available on internet since 2018 and also is uploaded on MbPT website https://www.mumbaiport.gov.in under Downloads -> Circulars-> Estate Circulars, https://www.tariffauthority.gov.in and https://shipmin.gov.in. Hence the content of para is incorrect and hence the contentions are incorrect
2	Our clients have been in use, occupation and possession of their subject plot, since last several years and their lease has expired by efflux of time, and they are entitled to renewal of the said	1. Maharashtra Rent Control Act does not apply to the lettings by the Port Trust. 2. Contentions are incorrect as rent act is not applicable to MbPT

	lease. Our clients continue to be statutory tenants of the subject plot in terms of provisions of Maharashtra Rent Control Act, 1999.	
3	The demand for revised lease rent in terms of Policy Guidelines for Land Management by Major Port Trust, 2015, is not in accordance with the law laid down by Hon'ble Supreme Court in the matter of Jamshedji Hormusji Waida Vs. Board of Trustees, Pot of Mumbai [reported as 2004 Vol. 106(2) Bom. L.R. 376(SC)]. The proposal to increase the monthly lease rent by 60 times of the present lease rent is ex-facie untenable and in contravention of the aforesaid judgement of the Hon'ble Supreme Court. By this unreasonable approach of increasing the lease rent exorbitantly, you are indirectly seeking to evict our clients from the property.	SC judgment rates were valid only for 20 years i.e from 01.10.1992 to 30.09.2012 . • From 01.10.2012 onwards PGLM 2010,2014-15 guidelines issued by MoPSW, GoI are applicable to MbPT and MbPT is free to revise the rentals on the SOR based on PGLM guidelines. • Thus the SOR proposed by MbPT at 6% per annum is fair reasonable and MbPT is well within its rights to revise the rents/compensation w.e.f. 01.10.2012 onwards as per the proposed SOR. • Port trust land is divided in to 23 sub zones as per ready reckoner zones and board accepted the rates given in RR zones 2012 being most authentic reliable and scientific data available and SOR was at 6% per annum for non home occupation was approved by the Board. • Following five factors were considered by LAC i.e. (i) Rentals as on 30.09.2012 as per SC rules, (ii) Based on 6% returns on RR Value 2006 with 4% increase upto 30.09.2012, (iii) Kirloskar land value with 6%, (iv) average market rates per sqm as on 2012 based on index II property transactions within outside MbPT properties and BKC areas and (v) 6% of RR 2012 market value obtained. • Comparative statement of Kirloskar land values of 1980's and RR land values of 2012 for MbPT land. The statement also show RR land values of abutting RR zones outside MbPT land is shown in Wadia judgment rentals were based on MbPT land values as on 1980 which was Rs. 1406 per sqm for FSI 1.33 • Whereas land values increase to Rs 51714 per sqm for FSI 1 as per RR 2012 which is almost 37 times of land values of 1980's. • Whereas the average monthly rents/compensation is Rs. 28.44 per sqm per month for FSI 1 and the same will be revised to Rs. 259 per sqm per month for FSI 1 of the base rate i.e. rents increased only by 9 times compared with wadia judgment rates • Existing low rentals are based on Wadia judgments and very high market rentals leading to profiteering rent racking and exploitation of MbPT land by unauthorized subletting u/a constructions, u/a change of users/a transfers in violations of the tenancy/lease terms and collecting very high rental. • As per the data available on record almost 79% of the lessees tenants committed the measure breaches and continuing their unauthorized occupation even after expiry of the term or termination of lease.

		• Thus it is the lessees and tenants who have committed the violation of SC judgment and the tenancy terms taking shelter under Wadia judgment • SC judgment is not a licenses in perpetuating allowing lessees tenants to go on commuting breaches indefinitely but restricting the MbPT rights to charge rentals based on 1980's land values. This is unfair and absurd proposition and thus MbPT has not violated SC judgment and have followed the guidelines issued by MoPS&W, GoI which are mandatory and binding MbPT under section 111 of MPT act 1963. • SC judgment rates were valid only for 20 yrs i.,e from 01.10.1992 to 30.09.2012 • From 01.10.2012 onwards PGLM 2010,2014-15 guidelines issued by MoPSW, GoI are applicable to MbPT and MbPT is free to revise the rentals on the SOR based on PGLM guidelines. • The SOR is applicable to only MTs, FML ,expired leases and Licenses for the period 01.10.2012 onwards for 5 years that is up to 0.09.2017. That is the period beyond applicability of SC judgement rates. • These occupations are occupying MbPT land without any authorization from MbPT and even after expiry of the leases/termination of enancies/lease. • Bills are sent along with footnote (THIS BILL IS PROVISIONAL AND WITHOUT PREJUDICE TO BOARDS RIGHTS AND CONTENTION TO REVISE THE RENT/COMPENSION W.E.F 01.10.2012). • Circular No.EM/ASG/F-361/5873 dated 28.12.2012 vide which it was informed to all the lessees, tenants and occupants that revision of compensation / rent in respect of all the expired leases, monthly tenancies and fifteen monthly tenancies and licences / tenancies excepting subsisting long term leases of Port Trust premises is due from 01.10.2012 onwards. • Delay in submission of SOR proposal to TAMP was on account of the fact that PGLM 2014/15 were not applicable to Township area of Mumbai Port Trust. • Vide clarification no 1 of 2018 dated 14.06.2018 issued under sec 111 of MoPS&W, GoI extended the PGLM 2015 guidelines to the Township area. • Matter was taken up with Ministry for withdrawal of notification dtd 15.03.2000. • MoS,GoI vide their no secy(s)/visit-Mumbai/land management/2018(333915) letter dated 15.05.2019 directed TAMP to fix the SoR for Mumbai port Trust land w.e.f. 01.10.2012 onwards.

		• Accordingly TAMP vide Their letter dated 15.07.2019 issued a clarification that in view of PGLM 2015 guideline the TAMP notification 28.03.2000 has become infructuous so far as MbPT is concerned and it is not applicable for MbPT for period prior to 01.10.2012 and same may be treated as withdrawn by the TAMP. • High Court writ petition no 1153 of 2000 filed by MbPT challenging TAMP notification was withdrawn vide HC order dated 08.08.2019. • The LAC recommendation dated 13.08.2019 was placed before the Board , however same was deferred by Board by TR 114 of 20.08.2019, TR 149 dated 24.09.2019 and TR 169 dated 01.11.2019.Finally Board gave approval to submit the proposal of SoR 2012-17 to TAMP vide TR 122 dated 03.08.2021. • Accordingly immediately after Board approval the said proposal was submitted to TAMP on 06.08.2021. • Market real estate sale transaction are very high as compare to MbPT rentals as per compromise formula. • Analysis given in TR 222 /2015 lesses/tenants are profiteering by subletting and indulging in unauthorized transfer of the premises • 80% of tenants are unauthorizedly occupying the premises even after the expiry of the lease and unauthorizedly sub-let/assigned and thus profiteering and rack renting at cost of MbPT low rentals based on 1980s land values. • MT, FML and expired leases have no running contracts with MbPT and hence are liable to revision of rates as per PGLM 2015 • Thus MbPT proposed SOR rates are fair and reasonable. • Analysis of the RR rates 2012 is given in the said analysis in Annexure-1 of PPT uploaded on website would show that the RR Rates for 2012 which is the basis of the SoR (letting rates) are amongst the lowest rates (in comparison with adjoining RR zones to MbPT lands). • It is further submitted that a rate of return of 6% is a very reasonable rate. MbPT valuers on panel who worked out the values had visited the site & were conversant with & considered the ground realities of site condition prevailing in respective RR zone including issues like lack of infrastructure, facilities etc.
4	The draft policy is erroneous as it fails to recognise our clients' position as statutory tenants of the subject plot, in terms of provisions	1. Maharashtra Rent Control Act does not apply to the lettings by the Port Trust.

	of The Maharashtra Rent Control Act, 1999, after expiry of our clients' lease by efflux of time. Hence you are entitled to enhancement in lease rent of only 4% per annum.	2. Contentions are incorrect as rent act is not applicable to MbPT
5	The draft policy also fails to consider various deductions that are applicable for old and tenanted properties. The rates suggested by the draft SoP are based on newly constructed properties, however for old properties the SoR would have to be reduced by depreciation allowances depending upon the age and condition of the structures on the said plot. Also, deductions would have to be made for areas under the occupation of the tenants and other occupants who are governed by the provisions of the Maharashtra Rent Control Act, 1999.	While computation of SoR 2017-2022 MbPT had engaged Govt. approved Valuers on panel and entrusted the work of valuation of MbPT land as per the jurisdiction of RR zones (36nos.). MbPT is constituted under Major Port Act, 1963 and under supervision and control of MoPS&W. PGLM, 2015 are the statutory direction under Section 111 of Major Port Act. Hence MbPT is bound by such statutory direction for implementation of PGLM, 2015 and accordingly scrupulously followed guidelines issued by Ministry of Shipping and Waterways (MoPS&W),Government of India(GoI) for fixation of current SoR which is approved by Board of Trustees and submitted to the TAMP being statutory authority constituted under section 47 A of Major Port Act for fixation of SoR under section 49 of the said act. The para 13 of PGLM 2014 clearly states that the highest of 5 factors for determination of rentals on Major Port Trust land i.e. (i) State Govt. RR (ii) Average rate of actual transactions registered in last 3 years in the Port vicinity with annual escalation not less than 2%. (iii) Highest accepted tender of Port land for similar transactions. (iv) Rate arrived at by an approved Valuer appointed for the purpose of the Port. (v) Any other factor. The valuer while recommending the Fair Market Value (FMV) for respective zones had considered the present infrastructure and facilities in the area and recommended certain discounts ranging from 10-40 % compared to the transaction rates which are prevailing in the adjoining outside Port Trust areas while recommending the Fair Market Value (FMV). All the relevant facts were examined by Land Allotment Committee (LAC) and LAC had recommended revision of SoR 2017-22. Based on LAC recommendations Board approved the said revision of SoR rates for respective zones for Monthly, Fifteen Monthly Lease (FML), Expired Leases, licenses and vacant plots (for fresh allotment) falling in the respective RR Zones.
6	Our clients reserve their right to file further objections to the draft Policy and SoR. These objections are without prejudice to our clients' right to seek recourse to challenge the draft Policy and SoR in the courts of law.	1. So far MbPT has not taken any legal action for default in payment as per revised SOR as alleged by stakeholders. 2. As per TR 122/2021, three months' time is given for payment of differential arrears as per the final approved SoR and not interest will be levied on the same for the said period. 3. Only after notification by the TAMP on SoR rates MbPT will raise demands of differential

		arrears by give 3 months or as may be stipulated by the TAMP. 4. Legal action for recovery of dues as per proposed SoR notified by TAMP can be initiated if there is violation of orders of TAMP. 5. The renewal of leases will be strictly in accordance with PGLM issued by MoPS&W, GOI and as per extant policy/rules.
	<u>BPCL</u> –Jawahr Dweep	
1	BPCL is having an area of '38543.13 sq mtr at Jawahar Dweep Island for mainly industrial purpose. The Island is 4.2 km from the nearest land i.e. Mahul jetty & hence in our opinion it does not fall under any Division/ward of Municipal Corporation of Mumbai or Greater Mumbai for the purpose of SOR. We are of the strong opinion that being an isolated island where communication is not readily possible by any other transport means other than only sea route rates for this piece of land should be far below the SOR rates as applicable for other municipal wards of Mumbai.	The comment is not relevant/pertains with the present subject SoR 2017-22 proposal of 8 RR zones as the Jawahar Dweep does not falls in any of the said 8 RR zones. Vide referred notice dtd 12.08.2021 the comments on Revision of Schedule of Rates (SoR) for the period from 01.10.2017 to 30.09.2022 (SoR 2017-22) for 8 Ready Reckoner zones of MbPT Estate lands were invited. The Jawahr Dweep (JD) Island does not fall under any Ready Reckoner (RR) zone and therefore not falls under in any of the 8 RR zones of the present subject SoR proposal referred in the reply. The proposal for revision of SoR 2012-17 & SoR 2017-22 for Jawahar Dweep Island is included in the Proposal No. 1 which has been separately submitted to TAMP and the notice dtd 06.10.2021 is also been issued in the matter inviting comments. Therefore, none of the comment is relevant with the present subject SoR 2017-22 proposal of 8 RR zone.
2	Besides that, the absence of road connectivity of the island with mainland enhances operational costs for all type of activities whether maintenance activities through regular staff or any new activity related to our day to day business. There are situations when due to adverse weather conditions the Island remains cut off from main land for days together. In view of the peculiar isolated location of the Island the Land parcel on the Island needs to be valued bearing in mind of the above.	
3	Needless to mention that BPCL has been the most regular customers of MbPT in making rental payments as per demand raised by MbPT from time to time. However MBPT has demanded an amount of Rs 72.57 crore as arrears from April 2014 to December 2020 along with interest. MbPT has also demanded an amount of Rs 324 crore as upfront payment of Rs 324.89 crore for the period 1/1/2021 to 1/1/2050. Any revision in rates should be prospective & not retrospective as our accounts for the respective earlier years are already closed.	
4	The highest rate of transaction in the port's vicinity was MbPT's offer for land at Jawahar Dweep vide letter no EM/U-12/JD-Bunkering /4656 dtd 7th January 2017. at a lease rent of Rs 99.84/sq mtr/month for bunkering business tanks. The offer was as per TAMP regulation & works out to Rs 1198/sq mtr /year in 2017. Applying 4% escalation per year this works out to Rs 1347.68/sq mtr/year for the year 2019-2020.	

	General comments/common issues/objections to proposal	Response of MBPT
1	Information is uploaded on website.	14.08.2021
2	Time period is too short. Proposal is difficult to understand.	15 days time granted after uploading the proposal on MbPT website i.e, upto 28.08.2021 as per directions of the TAMP
3	All documents not uploaded	Following documents uploaded along with DA supporting relevant TR's and LAC reports ,comparative statement of SOR,
4	Extension of time should be granted to file comments	-> SoR 2012-2017 proposal for 23 zones of Non-Home Occupations uploaded on MbPT website on 14.08.2021 and SoR 2017-22 proposals for 08 zones of Non Home Occupations was uploaded on 12.08.2021 . -> 15 days' time was granted after uploading the proposal on MbPT website, i.e. upto 28.08.2021 for SoR 2012-2017 & upto 26.08.2021 for SoR 2017-2022 for giving comments. -> Joint hearing for both proposals was conducted by TAMP on 03.09.2021. -> After conducting the hearing, TAMP directed to upload the presentation of both SoR 2012-17 & SoR 2017-22 proposals, which was done by MbPT on 08.09.2021. -> Further time of 15 days was granted for giving written submissions by the registered tenants / lessees of MbPT, which was valid upto 22.09.2021. -> Thus, sufficient time of 30 days was granted by TAMP and therefore, the contentions are not acceptable. MbPT have perused all the comments received uploading of proposal on MbPT website on 14.08.2021 & 12.08.2021 and have given parawise remarks to TAMP and also the a detailed presentation/PPT of common issues and MbPT's reply thereon was also uploaded on MbPT website on 08.09.2021 as directed by TAMP and further 15 days time was given from date of uploading of PPT i.e 08.09.2021 -> As already mentioned above, more than 30 days' time was granted by TAMP to allow the parties to make their oral / written submissions. -> As it is not possible to hear each party in the course of joint hearing, parties were requested to give their written comments post hearing, i.e. 03.09.2021 and MbPT was directed to upload the presentation on website, which was done by MbPT on 08.09.2021. -> TAMP has given adequate time frame and allowed all stakeholders to submit their representations and each communication is being examined by MbPT and TAMP and has been replied based on the relevant issues before the TAMP, who is conducting hearing for all

		stakeholders in terms of PGLM 2015 for fixation of SoR. -> Thus, sufficient time of 30 days was granted by TAMP and therefore, the contentions are not acceptable. . No extension recommended and it will delay the process.
5	Policy guidelines on PGLM not available on MbPT website	PGLM 2014 and 2015 with its clarifications uploaded on MbPT website https://www.mumbaiport.gov.in
6	Humanity appeal on account of COVID-19 pandemic	• SOR is due from 01.10.2012 TO 30.09.2017 which was prior to pandemic • No legal provision or directions from government of India for granting concessions and relaxations during pandemic time • Delhi high court judgment dated 21.05.2020, no excuse in Payment of rentals, no concession in rental charges. • RAMANAND & ORS. ... Appellants versus DR. GIRISH SONI & ANR. ... Respondents, JUSTICE PRATHIBA M. SINGH on CM APPL. 10848/2020.
7	Revision of rent, rents are exorbitantly high compares to the supreme court judgment dt. 13.01.2004	• Present amount of compensation billed to all the monthly tenancies FML and expired leases and licenses no. 1813 non home occupations as per wadia judgment. • These occupations are occupying MbPT land without any authorization from MbPT and even after expiry of the leases/termination of tenancies/lease. • Running leases with valid registered lease deed and running leases which are not terminated on account of breaches are excluded from proposed SoR revision. • All leases/tenants were informed by Circular No. EM/ASG/F-361/5873 dated 28.12.2012 vide which it was informed to all the lessees, tenants and occupants that revision of compensation / rent in respect of all the expired leases, monthly tenancies and fifteen monthly tenancies and licences / tenancies excepting subsisting long term leases of Port Trust premises is due from 01.10.2012 onwards. • Every monthly Bills/invoices are sent along with footnote "THIS BILL IS PROVISIONAL AND WITHOUT PREJUDICE TO BOARDS RIGHTS AND CONTENTION TO REVISE THE RENT/COMPENSIONW.E.F 01.10.2012". • Wadia judgment rentals were based on MbPT land values as on 1980 which was Rs. 1406 per sqm for FSI 1.33. • Whereas average land values for 23 MbPT zones increased to Rs 51714 per sqm for FSI 1 as per RR 2012 which is almost 37 times of land values of 1980's • Whereas the average monthly rents/compensation is Rs. 28.44 per sqm per month for FSI 1 and the same will be revised to

		an average of Rs. 259 per sqm per month for FSI 1 of the base rate i.e, rents increased only by 9 times compared with wadia judgment rates. • Ready reckoner rates abutting land values RR zones of outside MbPT land are on an average Rs. 81147 per sqm for FSI 1.00 (182% higher than MbPT land). statement 1 • MbPT had fixed rent as 10% return on Kirloskar land values with 4% increase every year from 01.10.1994 onwards in terms of Supreme Court Wadia Judgment. • The returns on 6% of the ready reckoner values (FMV is prescribe under PGLM 2014/2015 by Mos GOI and approved by the board TR 222/2015 TR 105/2018 and TR 122/2021. • SC judgment rates were valid only for 20 yrs i.,e from 01.10.1992 to 30.09.2012 • From 01.10.2012 onwards PGLM 2010,2014-15 guidelines issued by Mos GOI are applicable to MbPT and MbPT is free to revise the rentals on the SOR based on PGLM guidelines • Thus the SOR proposed by MbPT at 6% per annum is fair reasonable and MbPT is well within its rights to revise the rents/compantation w.e.f. 01.10.2012 onwards as per the proposed SOR.
8	MbPT is violating/ not following the supreme court orders dt. 13.01.2004	SC judgment rates were valid only for 20 years i.e from 01.10.1992 to 30.09.2012 . • From 01.10.2012 onwards PGLM 2010,2014-15 guidelines issued by Mos GOI are applicable to MbPT and MbPT is free to revise the rentals on the SOR based on PGLM guidelines. • Thus the SOR proposed by MbPT at 6% per annum is fair reasonable and MbPT is well within its rights to revise the rents/compantation w.e.f. 01.10.2012 onwards as per the proposed SOR. • Port trust land is divided in to 23 sub zones as per ready reckoner zones and board accepted the rates given in RR zones 2012 being most authentic reliable and scientific data available and SOR was at 6% per annum for non home occupation was approved by the Board. • Following five factors were considered by LAC i.e. (i) Rentals as on 30.09.2012 as per SC rules, (ii) Based on 6% returns on RR Value 2006 with 4% increase upto 30.09.2012, (iii) Kirloskar land value with 6%, (iv) average market rates per sqm as on 2012 based on index II property transactions within outside MbPT properties and BKC areas and (v) 6% of RR 2012 market value obtained. • Comparative statement of Kirloskar land values of 1980's and RR land values of 2012 for MbPT land. The statement also show RR land values of abutting RR zones outside MbPT land is shown in Wadia judgment rentals were based

		on MbPT land values as on 1980 which was Rs. 1406 per sqm for FSI 1.33 • Whereas land values increase to Rs 51714 per sqm for FSI 1 as per RR 2012 which is almost 37 times of land values of 1980's • Whereas the average monthly rents/compensation is Rs. 28.44 per sqm per month for FSI 1 and the same will be revised to Rs. 259 per sqm per month for FSI 1 of the base rate i.e. rents increased only by 9 times compared with wadia judgment rates • Existing low rentals are based on Wadia judgments and very high market rentals leading to profiteering rent racking and exploitation of MbPT land by unauthorized subletting u/a constructions, u/a change of users/a transfers in violations of the tenancy/lease terms and collecting very high rental. • As per the data available on record almost 79% of the lessees tenants committed the measure breaches and continuing their unauthorized occupation even after expiry of the term or termination of lease. • Thus it is the lessees and tenants who have committed the violation of SC judgment and the tenancy terms taking shelter under Wadia judgment • SC judgment is not a licenses in perpetuating allowing lessees tenants to go on commuting breaches indefinitely but restricting the MbPT rights to charge rentals based on 1980's land values. This is unfair and absurd proposition and thus MbPT has not violated SC judgment and have followed the guidelines issued by Mos GOI which are mandatory and binding MbPT under section 111 of MPT act 1963.
9	(i) Enhancement of rent retrospectively (ii) Delay in revision of SoR w.e.f 01.10.2012	• SC judgment rates were valid only for 20 yrs i.,e from 01.10.1992 to 30.09.2012 • The revision under SoR 2012-17 & SoR 2017-22 is by statutory guidelines issued under PGLM, 2015 and clarifications issued by Ministry from time to time and therefore mandatory and binding on all parties concerned. • From 01.10.2012 onwards PGLM 2010,2014-15 guidelines issued by Mos GOI are applicable to MbPT and MbPT is free to revise the rentals on the SOR based on PGLM guidelines. • The SOR is applicable to only MTs, FML ,expired leases and Licenses for the period 01.10.2012 onwards for 5 years that is up to 30.09.2017. That is the period beyond applicability of SC judgement rates. • These occupations are occupying MbPT land without any authorization from MbPT and even after expiry of the leases/termination of tenancies/lease. • Bills are sent along with footnote (THIS BILL IS PROVISIONAL AND WITHOUT

		PREJUDICE TO BOARDS RIGHTS AND CONTENTION TO REVISE THE RENT/COMPENSION W.E.F 01.10.2012). • Circular No.EM/ASG/F-361/5873 dated 28.12.2012 vide which it was informed to all the lessees, tenants and occupants that revision of compensation / rent in respect of all the expired leases, monthly tenancies and fifteen monthly tenancies and licences / tenancies excepting subsisting long term leases of Port Trust premises is due from 01.10.2012 onwards. • Delay in submission of SOR proposal to TAMP was on account of the fact that PGLM 2014/15 were not applicable to Township area of Mumbai Port Trust. • Vide clarification no 1 of 2018 dated 14.06.2018 issued under sec 111 of MoS, GoI extended the PGLM 2015 guidelines to the Township area. • Matter was taken up with Ministry for withdrawal of notification dtd 15.03.2000. • MoS,GoI vide their no secy(s)/visit-Mumbai/land management/2018(333915) letter dated 15.05.2019 directed TAMP to fix the SoR for Mumbai port Trust land w.e.f. 01.10.2012 onwards. • Accordingly TAMP vide Their letter dated 15.07.2019 issued a clarification that in view of PGLM 2015 guideline the TAMP notification 28.03.2000 has become infructuous so far as MbPT is concerned and it is not applicable for MbPT for period prior to 01.10.2012 and same may be treated as withdrawn by the TAMP. • High Court writ petition no 1153 of 2000 filed by MbPT challenging TAMP notification was withdrawn vide HC order dated 08.08.2019. • The LAC recommendation dated 13.08.2019 was placed before the Board , however same was deferred by Board by TR 114 of 20.08.2019, TR 149 dated 24.09.2019 and TR 169 dated 01.11.2019.Finally Board gave approval to submit the proposal of SoR 2012-17 to TAMP vide TR 122 dated 03.08.2021. • Accordingly immediately after Board approval the said proposal was submitted to TAMP on 06.08.2021.
10	Levy of market rent for Revised SOR to existing old Lessees/tenant who occupies for several decades/profiteering/ behaviour like Private landlord is not permissible for a Public Body like MbPT .	1. Market real estate sale transaction are very high as compare to MbPT rentals as per compromise formula. 2. Analysis given in TR 222 /2015 lesses/tenants are profiteering by subletting and indulging in unauthorized transfer of the premises . 3. 80% of tenants are unauthorizedly occupying the premises even after the expiry of the lease and unauthorizedly sub-let/assigned and thus

		profiteering and rack renting at cost of MbPT low rentals based on 1980s land values. 4. MT, FML and expired leases have no running contracts with MbPT and hence are liable to revision of rates as per PGLM 15 . 5. Thus MbPT proposed SOR rates are fair and reasonable.
11	Port Trust should charge as per Ready Reckoner	Analysis of the RR rates 2012 is given in the said analysis in Annexure-1 of Presentation uploaded on MbPT website would show that the RR Rates for 2012 which is the basis of the SoR (letting rates) are amongst the lowest rates (in comparison with adjoining RR zones to MbPT lands). It is further submitted that a rate of return of 6% is a very reasonable rate.
12	TR 127/2006 is challenged by 47 Writ petition s and matter is still subjudice in High Court	Not relevant to the present proposal
13	MbPT is bound by Maharashtra Rent Control Act	1. Maharashtra Rent Control Act does not apply to the lettings by the Port Trust. 2. Contentions are incorrect as rent act is not applicable to MbPT
14	MbPT has not raised invoices / demand notices and therefore this claim is invalid and no interest will be charged for differential arrears / on increased portion for the period 2012.	1. Pending approval of SoR 2012-17 by TAMP MbPT has not raised invoices /demand notices. 2. After approval of the TAMP to the proposed SOR demand notices will be conveyed for the differential arears giving 3 months time to the parties for payment. 3. As per TR 122/2021, no interest will be levied for differential arrears till 3 months from the date of raising of the demand notice after approval of the TAMP. 4. The demand notices will be issued after approval of TAMP and any delay in the payment after 3 months, interest will be charged as per the said TR/ Board’s policy.
15	Revision of rent should be based on Compromise Proposal or method adopted by Collector, Mumbai City/BMC Policy.	1. MbPT is bound by PGLM 2015 and accordingly SoR 2012-2017 as per para13 is computed. 2. Comparison with practices followed by PSU, Collector of Mumbai are irrelevant.
16	Coercive action by MbPT for recovery of arrears	1. So far MbPT has not taken any legal action for default in payment as per revised SOR as alleged by stakeholders. 2. As per TR 122/2021, three months’ time is given for payment of differential arrears as per the final approved SoR and not interest will be levied on the same for the said period. 3. Only after notification by the TAMP on SoR rates MbPT will raise demands of differential arears by give 3 months or as may be stipulated by the TAMP.
17	No Eviction under PPE Act or by Eviction suits by MbPT and all leases should be renewed as per the compromise proposal	1. Legal action for recovery of dues as per proposed SoR notified by TAMP can be initiated if there is violation of orders of TAMP. 2. The renewal of leases will be strictly in accordance with PGLM issued by MoSP&W, GOI and as per extant policy/rules.

18	Compromise proposal as way forward	1. There is no provision of compromise proposal in PGLM 2015 issued by MoSP&W, GoI.
19	Lease is subsisting as per the terms & conditions issued by MbPT under Compromise policy and the revised SoR will not applied in our case upto 30.09.2024	1. TAMP is authorize to fix the SoR Rates for MbPT land falling under the respective RR zones for FSI 1.00 as a base rate. 2. Board will accordingly decide SoR/Rental on case to case basis. 3. The SOR as per the Board resolutions will be applicable to all the MT, FML, expired leases and Licenses. 4. Running leases with valid registered lease deed and running leases which are not terminated on account of breaches are excluded from proposed SoR revision.
20	SOR rate should be for Land for FSI 1, and the super structure thereon constructed by lessees. Therefore higher FSI should not be considered for rental/SOR.	1. TAMP is authorize to fix the SoR Rates for MbPT land falling under the respective RR zones for FSI 1.00 as a base rate. 2. Board will accordingly decide quantum of Rental/compensation on case to case basis as per approved SoR of land considering the factor for higher or lower FSI.
21	As per Section 27 of MPT Act 2021, The fixation and implementation of SOR/fees shall be in consonance with the norms as may be prescribed and that the same shall not be with retrospective effect and shall not be inconsistent with the provisions of any other law for the time being in force.	The MPA Act 2021 is yet to be notified for its implementation and hence not relevant to present proposal
22	Water body rates are not provided in the SoR	In case of leases with water body concessions as admissible under Para 12(I) of PGLM 2015 is proposed to be processed on case to case basis by Board.
23	GST and property tax MbPT's liability will increase on account of increase of GST due to revision	MbPT is duty bound to act constitutionally as per the applicable laws including GST laws, Property Tax as per BMC Act
24	TAMP's jurisdiction in fixation of SoR for township areas of MbPT.	As brought out in para 4(a) of TR 122/2021, MoS, Govt. of India has directed TAMP to approve the SoR retrospectively w.e.f. 01.10.2012. The writ petition was withdrawn by MbPT on 08.08.2019.
25	Township policy should be considered by MbPT/TAMP	The contentions are not relevant to the present SoR proposal. • Matter was taken up with Ministry for withdrawal of notification dt. 15.03.2000. • MoS, GoI vide their letter no secy(s)/visit-Mumbai/land management/2018(333915) dated 15.05.2019 directed TAMP to fix the SoR for Mumbai port Trust land w.e.f. 01.10.2012 onwards. • Accordingly TAMP vide their letter no dated 15.07.2019 issued a clarification that in view of PGLM 2015 guideline the TAMP notification 28.03.2000 has become infructuous so far as MbPT is concerned and it is not applicable for MbPT for period prior to 01.10.2012 and same may be treated as withdrawn by the TAMP.

		• High Court writ petition no 1153 of 2000 filed by MbPT challenging TAMP notification was withdrawn vide HC order dated 08.08.2019. • Accordingly immediately after Board approval the said proposal was submitted to TAMP on 04.08.2021.
	BPCL comments	**Response of MBPT**
1	We are in receipt of your Notice No. EM/AS (G)/ F-382 dated 12/08/2021 from MbPT regarding submission of our comments on revision of Schedule of Rates for period 01.10.2017 to 30.09.2022 by MbPT to TAMP on or before 26.08.2021. Thereafter, vide letter no. OMC/WAD-1/MBPT-Lease1 dated 21.08.2021 we had sought for an extension for submission of our comments and you have vide email dated 24.08.2021 acceded to our request and granted time till 10.09.2021 for submission of our comments/ objections. We are hereby submitting our comments/objections to the revision in Schedule of Rates for the period of 01.10.2017 to 30.09.2022. At the further outset it may be noted here only that under the provisions of Section 5 r/w Section 7 Burmah Shell Act, 1976 the term of the lease stood continued and renewed for further term, on the same terms and conditions. The said lease period post renewal (statutory) is still subsisting. Consequently there is no question of raising any demand for revised lease rental and no such occasion has arisen. Kindly note that we are submitting our comments for the Plots described hereunder only, and comments as mentioned in the SOR for 2017-2022 only for plots leased to BPCL in SewreeWadala complex.	Contentions raised in this para are not correct. After expiry of the lease, since there was no renewal clause, revised lease rental as per SoR is levied in terms of PGLM guidelines. The issue of renewal will be dealt with separately on case to case basis by Board of Trustees.

2	Thus a total area of 300726 SQMT has been leased to BPCL by MbPT for our Sewree and Wadala Terminals. It is submitted that only lease for land at plot no. 1735 admeasuring 34245 SQMT expired on 07.07.1999, while the other leases continued to be valid duringthe period of revised SOR period i.e. 2017-2022. At the outset, we deny that MBPT is entitled to seek revision of schedule of rates of rent payable retrospectively forthe period of 01.10.2017 up to 30.06.2021 for plot no. 1735 and also submit that for the remaining plots as mentioned in the table above the leases were valid till 30.06.2021 therefore the rentals will be governed by the agreement.Kindly note that for the plot mentioned at Sr. No.1 in the aforesaid table, we have addressed various correspondences for the renewal of lease of said plots and fixation of rates up to 2017. Now, with regard to your notice regarding revision of SOR for plot numbers mentioned under S. No 2-7of the table provided above, we submit as under: 1) It is submitted that much before the expiry of leases for plots as mentioned under S. No. 2-7 of the above mentioned table, we had vide letter dated 09.11.2020 requested MbPT to provide us lease renewal offer for plot no. , Old RR 1860, 2040, Consolidated 919,1563,1584& 203,2012, 2061, Old RR 808 & 890, Old RR no 1917 & 1774 before the expiry of current lease period. 2) Vide letter dated 31.10.2020 we had once again extended our willingness for renewal of leases for all plots at mutually agreed rates, terms and conditions. During such period no attempt was made on the part of MBPT either to respond to such requests forrenewal of leases.	The revision under SoR 2012-17 is by statutory guidelines issued under PGLM, 2015 and clarifications issued by Ministry from time to time and therefore mandatory and binding on all parties concerned. Every monthly Bills/invoices are sent along with footnote “THIS BILL IS PROVISIONAL AND WITHOUT PREJUDICE TO BOARDS RIGHTS AND CONTENTION TO REVISE THE RENT/COMPENSIONW.E.F 01.10.2012”. The issue of renewal will be dealt with separately on case to case basis by Board of Trustees.
3	It was only vide letter dated 11.07.2019, that MbPT for the first time demanded arrears of rentals for plot no.RR 1735 amounting to Rs.31.22 crore for the period of March 2004 – August 2020. It is notable fact that Corporation is paying regular rentals as per the demand of MbPT however, Corporation submitted application dated 17.08.2020 for renewal of lease for plot no. RR 1735 along withapplication fees of Five Lakh. However MbPT demanded an amount of Rs.608.68 Crores towards leasefor 30 years period from 01.10.2017. We submitthatthe said demand by MbPTwas completely irrational,arbitrary and unreasonable, based on incorrect assessment. This conduct shows that MbPT had predetermined the rentals as per their own whims and fancies and without even following the principles of natural justice as no supporting documents were provided to us confirming thebasis of revision of rentals.	The bills raised by MbPT after expiry of the lease are provisional in nature. MbPTSoR revision is pending and therefore in each of the monthly bills issued in respect of expired leases, it is pointed out in footnote that the amount billed are provisional revision as would be approved by the Board would be payable. The contention raised that the demands of upfront Amount of 30 years in respect of RR 1735 i.e. Rs.608.68 crores was completely irrational, arbitrary and unreasonable based on incorrect assessment is blatantly incorrect one and it is further reiterated that the Upfront Amount Statement in respect of RR 1735 was calculated taking on a/c proposed rentals arrived and taking into consideration discounting factor @ G- Sec rate as stipulated in para 13 C of PGLM guidelines

4	We submit that from time to time we have been requesting MbPTto come forward for renewal of leases and to offer land on long term lease at mutually agreeable rates, terms and conditions after giving concession as per clause 11.2. (h) of PGLM, 2015. However, even after our repeated written and oral requests, MbPT failed to concede to our request. We submit the revised SOR for 2017-2022 are has been uploaded on TAMP website, which claims to be as per provisions of PGLM 2015 are at Rs. 1, 15,000/- per SQM. We refer to clause 13(a) of PGLM 2015 which is as follows i. State Government's ready reckoner of land values in the area, if available for similar classification/ activities. ii. Highest rate of actual relevant transactions registered in last three years in the Port's vicinity (the vicinity of the Port is to be decided by the respective Port Trust Boards), with an appropriate annual escalation rate to be approved by the Port Trust Board. iii. Highest accepted tender-cum-auction rate of Port land for similar transactions, updated on the basis of the annual escalation rate approved by the Port Trust Board. iv. Rate arrived at by an approved valuer appointed for the purpose by the Port. v. Any other relevant factor as may be identified by the Port. As per said PGLM guidelines, LAC has to consider the above mentioned factors for determining the fair market value ofthe port land. The above guidelines are very clear and evident to do necessary assessment of "Fair Market Value" of subject plots. The LAC is relied on the valuation report of valuer which is the highest of the factors as per above clause. We have perused the valuation report of M/s. Patwardhan Consultants Pvt. Ltd. As per valuer the highest rate of actual relevant transactions registered in last three yearsin the port's vicinity which is one ofthe factors as persub-clause (ii) quoted hereinabove.	There was no renewal clause in the Lease Deed. After expiry of lease BPCL & HPCL & IOCL were called on called several occasions, 4 meetings were held with respective Chairman & Dy. Chairman. OMC did not accept proposed revised rents. PGLM 2015 issued by MoS&W, GoI. The validity of rates under S.C. judgment was upto 30.09.2012 and thereof MbPT is bound to follow the guidelines as per PGLM, 2015 issued by MoS&W, GoI. TAMP is given power for framing the rate/ rectify the rates. As per PGLM's guidelines of 2014 with subsequent clarifications issued by the Ministry of Shipping, MbPT has adopted highest value among the 5 factors.

5	We now submit our objections to the said LAC report and as to why the said report should not be considered by TAMP for revision of SOR for plots mentioned at Sr. no 1 for 1.10.2017 to 30.09.2022 and for remaining plots (S. No. 2-6) effective 01.07.2021 to 30.09.2022. 1) We state that the as per clause 13(a) (i) the LAC is to consider "State Government's ready reckoner of land values in the area, if available for similar classification/ activities". The SDRR for the area is Rs. 40,200/- per SQM considering FSI as 1. We state that as per land allotment letter dated 11.10.1991 under clause (v) while the approved FSI should not exceed 0.5, however, land occupied by BPCL for all the above mentioned plots are having FSI of less than 0.4. Therefore, the SDRR needs to be suitably considered by LAC before formulating any revision to SoR 2) We state that as per clause 13(a)(ii) the LAC is to consider "Highest rate of actual relevant transactions registered in last three years in the Port's vicinity (the vicinity of the Port is to be decided by the respective Port Trust Boards), with an appropriate annual escalation rate to be approved by the Port Trust Board.". It is submitted that as per report given by valuer to LAC the below mentioned transactions were considered Upon perusal of aforesaid transactions, we submit that "relevant transaction" shall always mean and include comparable properties or similar properties, and hence the reliance of placed by LAC on above transactions are incorrect and consequently entire assessment becomes defective and incorrect for the following reasons: a) That the said transactions pertains to constructed facilities occupying FSI>1 therefore cannot be referred to as these exist in densely populated and developed areas whereas plots leased to us have FSI of less than 0.4 moreover are located in an uninhabited areas. Therefore, there being no similarities on the referred plots and lease plots, the rationale adopted by LAC is not only illogical but also not in accordance with law. b) That the size of the transacted area referred to in the above table vis- a –vis the size of the plots leased to us are not comparable for the reason that the transacted areas are in the sizes of 53.54 SQM to 130.43 SQM whereas plots leased to BPCL are of total size 300726 SQM. Therefore, it canbe seen that the comparison is completely	PGLM 2015 issued by MoSP&W, GoI. TAMP is authorize to fix the SoR Rates for the entire land of MbPT falling under the respective Ready Reckoner Zones for FSI 1.00 as a base rate and Board will decide SoR/Rentals on case to case basis. PGLM 2010,2014-15 guidelines issued by MoS, GoI are applicable to MbPT. , it is once again to state that: 1. TAMP is authorize to fix the SoR Rates for MbPT land falling under the respective RR zones for FSI 1.00 as a base rate. 2. Board will accordingly decide SoR/Rental for actual FSIconsumed and a committee of officer has been formed to deliberate on this, on case to case basis. 3. The SOR as per the Board resolutions will be applicable to all the MT, FML, expired leases and Licenses. 4. Running leases with valid registered lease deed and running leases which are not terminated on account of breaches are excluded from proposed SoR revision. The valuer has arrived at the land rate by using the appropriate method as per the valuation principles. The rate obtained from the registered sale transaction in the vicinity of the plots being valued .

	incorrect and should not have been adopted by LAC. c) Moreover the nature of transactions in the said transacted area are in the form of leave and license agreements orsale deeds, whereas our Corporation had been allotted plots on long leases by MbPT. 3) We state that as per clause 13(a)(iii) the LAC to consider "Highest accepted tender-cumauction rate of Port land for similar transactions, updated on the basis of the annual escalation rate approved by the Port Trust Board." As stated in the SOR there is no transaction carried out by MbPT and hence there is no submission is made under the said provision 4) We state that as per clause 13(a)(iv) the LAC to consider "Rate arrived at by an approved valuer appointed for the purpose by the Port." As stated in the LAC report that the valuer M/s. Pathwardhan Consultants have arrived at rate of Rs. 1,15,000/- per SQM based average of the above transacted areas carried out (@Rs. 14000/ SQFT) and arrived at Rs. 57,500/- per SQMT considering restricted usage of land by BPCL of 0.5 FSI However, as we have pointed out earlier the areas transacted earlier cannot be comparedor used for reference for determination of SoR for BPCL allotted lands. Further, in the valuation report of M/s. Pathwardhan Consultants they have arrived at Rs. 45,506/- per SQM based on certain assumptions. We wish to state that the basis of these assumptions are incorrect as the cost of operating the facilities is considered as 30% which is very low in comparison with other facilities of BPCL. There is no basis provided for justifying the 30% operating cost. 5) We state that as per clause 13(a)(v) the LAC to consider "Any other relevant factor as may be identified by the Port." It is to be noted that BPCL is to be considered under public utility services engaged in supply and marketing of essential commodities under the Essential Commodities Act. Moreover, as Mumbai being densely populated and the product being handled by the said terminal are not only highly hazardous but also extremely flammable therefore it is necessary that our depots/terminals are located at a less populated area to avoid any untoward accident. This factor should have been considered by LAC before revision of SoR as land being under the ownership of MbPt forms part of land under the ownership of State.	

	The facilities of BPCL are in existence and in operation since more than 90 years at the plots allotted to us and not a fresh incumbent planning to set up facilities.	
6	It is imperative that the Ready Reckoner Guideline factors affect valuation and should be read along with Ready Reckoner Value to arrive at proper valuation. The same are not considered, which resulted in erroneous calculation of calculation as the SDRR for FSI 1 was considered whereas the FSI being occupied by BPCL is less than 0.4 (approved is maximum of 0.5). Accordingly, due to application of incomplete guidelines of SDRR (Stamp Duty ReadyReckoner) the method used to ascertain the valuation of the immovable property is incorrect and incomplete. Hence, it is submitted that the assessment of the 'SOR' for the period 2017 to 2022 is erroneous.	Ready reckoner is one of the factor considered by Valuer during valuation.
7	We reserve our right and contentions to produce our counter valuation report mentioning thediscrepancy in the method of calculation.Now, having said the above with regard to the LAC report and as to why the same should be rejected byTAMP, we put before your additional points for consideration1) As far as Plot RR No. 1735 is concerned, we state that in absence of any agreement orunderstanding recorded between BPCL and MBPT to the effect that MBPT would be entitled toseek revision of rates retrospectively or in future(in absence of any renewal terms agreed uponbetween the parties); it is not open now for MBPT to seek revision of schedule of rates for plotof land as mentioned in Sr.No 1 of the tablea. It being barred by limitation b. Revised rentals cannot be decided unilaterally and retrospectivelyc. Even after request by BPCL to renew the leases, MbPT failed to take any actionor even respond to our request. Therefore the same cannot be revised by themwithout any rationale or basis and that too retrospectively. Any revisions in rentalsare to be prospectively and mutually agreed. 2) With regard to plots as mentioned in S. No 2-7 of the above-mentioned table, we state that therentals for the allotted plots were to be governed by the provisions of clause iii of land allotmentletter dated 11.10.1991 till the validity of lease period i.e. till 30.06.2021. As far as question ofimplementation of revised SoR effective 01.07.2021 is concerned we place reliance on clause (iii)as per clause 11.3 (j) of PGLM 2015 it is stated that "The process of renewal of existing leasesshould be initiated by	Please refer para above in respect of Retrospective revision, Renewal of lease, Valuation report.

	the respective Ports well in advance, before the term of lease expires. Theautomatic renewal of existing leases should be preferably done within threemonths of receiptof such application for renewal. Liability to pay compensation for wrongful use by thelessee will not arise, if the delay in renewing such leases is wholly attributable to the Port."As till date there is no action taken by MbPT on repeated request to renew the lease, anyrevision on lease rental (on mutually agreed terms and condition) can now be madeeffective three months from the date of finalization of the said rates or strictly as per termsof lease. 3) That MbPT in submission for revised SoR has not explained/clarified the basis forconsidering 6% land rental value and 4% escalation on annual basis.It is worthy to note we are the enterprise of Government of India, involved in the business of refining andmarketing of Petroleum products in the interest of Public and Nation. It is also notable fact MbPT is alsoone of state instrumentalities and their actions should be fair, transparent and reasonable, however, inthe instant case same is grossly not followed by MbPTStrictly, without prejudice to and in the alternative to the above, it is most humbly submitted thatundoubtedly our acts, performs and discharges its duties, powers and functions directly under thesuperintendence of Ministry of Petroleum and Natural Gas. We also submits that MbPT's too acts,performs and discharges its duties, powers and functions directly under the superintendence of Ministryof Major Port. Thus, both of us are the Central Government Department and/or an extended arm ofCentral Ministry and hence, issue has to be settled amicably.Without entering into the legality of such claim to revise the schedule of rates, it must be pointed outhere only that the same would be expressly barred by law of Limitation.The principles of estoppel would also come into play where under MBPT is stopped from seeking anyrevision to the schedule of rates retrospectively, having accepted the amount duly and diligently paid byBPCL during the said subject period and even thereafter from month to month till date.In the absence of any enabling provision either as by way of an agreement or understanding with BPCLorunder any law in force, MBPT is precluded from proceeding with the exercise by virtue of the presentnotice to invite comments on proposed revision of rates.In any event, the proposal to revise rent can only be done prospectively i.e. for future period. MBPT inthe instant case has accepted the terms of the lease and have continued in light thereof to honor the Obligations set out therein to be performed the	

	parties. In effect, the terms and condition of the originallease have been continued although on revised terms (with reference to the rentals).The provision of the Transfer of Property Act, 1882 would govern the leases executed by and betweenthe parties. In particular, sections 105 up to section 117 of the said act would be applicable.In the instant cases i.e. the leases in question although have expired by efflux of time/expiry of term, theprinciple of promissory estoppel entitles BPCL to occupy and continue in the lease premises on paymentof the rent.Although, MBPT has never finalized the rates and/or rentals beyond the original period of lease, non-issuance of any demand notice and/or any proposal of what so ever nature for renewal of the lease forthe subject period, and during subsistence of the said period, now does not give any right to MBPT toretrospectively finalize the rates and rentals.In view ofthe actions and/or inactions on the part of MBPT during the relevant period, to notseek revisionthrough renewal of the lease, to now demand revised rates for the period which has passed. It can onlybe done with reference to future period and that too on renewed terms.The Indian Contract Act, 1872 and the provision there under cannot be ignored and overlooked by MBPT.In the absence of express agreement by and between the parties the proposal for revision is ill foundedand without any basis.The internal notes, circulars or notifications issued by MBPT, would not be binding on BPCL, more so ifthe same are contrary or inconsistent with any prevalent law.Hence the demand raised vide notice by MBPT is contrary to the settled principles of law, opposed toequity and are arbitrary and unreasonable and therefore being beyond the purview of law, not tenable.The express terms of the lease agreement also do not contemplate such revision.	
8	Needless to state that the entire exercise sought to be carried out belatedly by MBPT is not in line with any agreement or understanding arrived at between the parties, therefore the same is not tenable. Apart from the grounds of maintainability of the notice as setout herein above, we wish to provide brief comments without prejudice as under: 1. Requests for renewal of leases which has expired on 30.06.2021 are yet to beanswered by MBPT 2. There is no basis or justification for the arbitrary proposed revision of scheduleof rates retrospectively. 3. The instances or nature of transaction relied upon cannot be considered for reasons detailed herein above.	The issue of renewal will be dealt with separately on case to case basis by Board of Trustees. The revision under SoR 2012-17 is by statutory guidelines issued under PGLM, 2015 and clarifications issued by Ministry from time to time and therefore mandatory and binding on all parties concerned. Every monthly Bills/invoices are sent along with footnote “THIS BILL IS PROVISIONAL AND WITHOUT PREJUDICE TO BOARDS RIGHTS AND CONTENTION TO REVISE THE RENT/COMPENSIONW.E.F 01.10.2012”. The issue of renewal will be dealt with separately on case to case basis by Board of Trustees. PGLM 2015 issued by MoSP&W, GoI. TAMP

	4. The valuation reports are neither realistic nor based on thorough research. An exorbitant rate has been determined erroneously by MBPT in placing reliance on such reports. In the absence of any like, comparable land instances and reports of valuation providing realistic values, the same cannot be even considered. Hence, we strongly object to such documents (valuation reports and instances) being taken account of in determining lease rental rates. 5. Bare perusal of the notice reveals that MBPT is proceeding with predetermined intention to revise the schedule of rates and comments have been invited only with a view to record thatthe rates have been determined after due notice to all concerned. 6. The proposed rates are not only exorbitant but also without rational or basis and therefore cannot be accepted. We are ready and willing to participate in any hearing and to substantiate our stand as has been briefly stated hereinabove. We therefore request that our strong objection to the proposed revision be recorded and accepted. We further request that the notice/proposal to revise SoR for the period of 2017-2022 be dropped/withdrawn with immediate effect.	is authorize to fix the SoR Rates for the entire land of MbPT falling under the respective Ready Reckoner Zones for FSI 1.00 as a base rate and Board will decide SoR/Rentals on case to case basis. PGLM 2010,2014-15 guidelines issued by MoS, GoI are applicable to MbPT. , it is once again to state that: 1. TAMP is authorize to fix the SoR Rates for MbPT land falling under the respective RR zones for FSI 1.00 as a base rate. 2. Board will accordingly decide SoR/Rental for actual FSI consumed and a committee of officer has been formed to deliberate on this, on case to case basis. 3. The SOR as per the Board resolutions will be applicable to all the MT, FML, expired leases and Licenses. 4. Running leases with valid registered lease deed and running leases which are not terminated on account of breaches are excluded from proposed SoR revision. The valuer has arrived at the land rate by using the appropriate method as per the valuation principles. The rate obtained from the registered sale transaction in the vicinity of the plots being valued. PGLM 2015 issued by MoSP&W, GoI. TAMP is authorize to fix the SoR Rates for the entire land of MbPT falling under the respective Ready Reckoner Zones for FSI 1.00 as a base rate and Board will decide SoR/Rentals on case to case basis. The valuer has arrived at the land rate by using the appropriate method as per the valuation principles. The rate obtained from the registered sale transaction in the vicinity of the plots being valued. The contention raised in this para is not correct. No instruction was given by MbPT to the valuer. Tender was called for appointment of Govt. Register Valuer in MbPT panel and different RR Zones were entrusted for valuation to different valuers. The Wadala RR zones 14/101, 11/86 and Mahul Division 90/419 was entrusted to M/s Patwardhan consultants Pvt. Ltd. Present monthly rental are as per valuation report of 1980's which are no way comparable with present market rate. Thus the SOR proposed by MbPT at 6% per annum is fair reasonable and MbPT is well within its rights to revise the rents/compensationw.e.f. 01.10.2017 onwards as per the proposed SOR. The para 13 of PGLM 2014 clearly states that the highest of 5 factors for determination of rentals on Major Port Trust land i.e. (i) State Govt. RR (ii) Average rate of actual transactions registered in

		last 3 years in the Port vicinity (iii) Highest accepted tender of Port land for similar transactions (iv) Rate arrived at by an approved Valuer appointed for the purpose of the Port (v) Any other factor.
	IOCL COMMENTS	**Response of MBPT**
1	We are in receipt of Notice No EM/AS (G) F-382 dated 12/08/2021. from MbPT regarding submission of our comments on revision of Schedule of Rates for period 01.10.2017 to 30.09.2022 by MbPT to TAMP Accordingly we hereby submit our comments/objections to the revision in Schedule of Rates for the period of 01.10.2017 to 30 09 2022.	Not specific comment
2	LBP Trombay is situated on leased land measuring 25,979.78 sqmts of Mumbai Port Trust (MbPT). The said land (Billing Code 10104101) was leased to erstwhile IOBL by MbPT for the period from 01 07 1963 to 30 06. 1993. This lease agreement was not renewed as some tenants had filed case in Supreme Court against rental fixed by MbPT Since the case was pending before Supreme Court, lease agreement was not renewed and rental invoices were continued to be raised by MbPT as per the terms of earlier lease agreement. Supreme Court gave its judgment on 13.01.2004 but there was no demand on IOBL till FY. 2006 when IOBL was acquired by IOCL On acquisition, IOCL continued to pay the lease rent as per expired lease deed till December 2009. Due to continuous follow up for renewing the lease agreement, MbPT advised to submit fresh application in March 2019 On receipt of lease renewal application, MbPT issued fresh demand notice for upfront. premium of Rs. 168.41 Crores for leasing the land for 30 years from July 2019 to June 2049 A team from LC Mumbai also met the Advisor (Estate) of MbPT and submitted a letter of representation towards downward revision of upfront premium amount the above demand. However, we wish to bring to your notice some of the correspondences addressed to MbPT by our Corporation during the period. Vide letters ref no LBPT/MbPT/Long Lease dated 24 07 2019 03.10.2019 06.02.2020 and 21.08 2020, 02 11 2020, 05 12 2020, 27 01 2021 and 20.07.2021 we have been requesting MbPT for reduction monthly rental, waiver of interest downward revision of upfront premium amount and confirmation on reconciliation of accounts.	There was no renewal clause in the lease. After expiry of lease only compantation for the wrongfull use and occupation was sent and rental invoice were raised by MbPT after 01.07.1993.
3	It is notable fact that Corporation is paying regular rentals as per the demand of MbPT	Vide Demand Notice dated 12.07.2019 only arears of billed compensations in to

	Demand Notice No. EM/U-1/PP-66/11/1624 Dated 12 Jul 2019 was given by MbPT towards arrears payment of Rs 32,28,82 359.84 (Thirty two crore twenty eight lakh eighty two thousand three hundred fifty nine and paise eighty four only) for the period up to 30.06.2019. Demand Notice No. EM/U-1/PP-66/11/1624 Dated 12 Jul 2019 was given by MbPT towards arrears payment of Rs 32,28,82 359.84 (Thirty two crore twenty eight lakh eighty two thousand three hundred fifty nine and paise eighty four only) for the period up to 30.06.2019. Demand Notice No. EM/U-1/PP-66/111/1667 Dated 16 Jul 2019 was given by MbPT towards provisional upfront premium payable towards grant of land lease for 30 years amounting to Rs.168,41,17,953.37 (One sixty eight crore forty one lakh seventeen thousand nine hundred fifty three and paisa thirty seven only).Thus total amount of claim by MbPT became Rs. 200, 70, 00,314/-[Rs 32,28,82,360. (Demand Notice No. EM/U-1/PP-66/11/1624, Dated 12 Jul 2019 PLUS Rs 168, 41, 17,954 (Demand Notice No EM/U-1/PP-66/11/1667 Dated 16 Jul 2019).	consideration interest for delayed pay rant was conveyed therefore the mount was Rs. 32,28,82,360/- i.e. 32.28 Crores including the revision @ applicable rates as per SOR 2012 (w.e.f.01.10.212) upto 30.09.2017 &SoR 2017 (w.e.f.01.10.2017 upto March 2019) whereas vide this office 16.7.2019 the upfront amount for 30 years from 01.07.2019 upto 30.06.2049 conveyed which amount to Rs.168,41,17,945/- i.e. Re.168.41 Crores.
4	The demand of Rs 200,70,00,314 00 is completely irrational, arbitrary and unreasonable, based on incorrect assessment. This conduct shows that MbPT have predetermined the rentals as per their own which and no due opportunity were given to us for submitting necessary objection against the same There after MbPT continued to raise the Bill in respect of monthly rent and other statutory / contractual charges payable in respect of the aforesaid premises, which were enhanced from time to time, and we continued to pay the same as demanded by MbPT from time to time all the while holding the possession of the aforesaid premises as a monthly tenant Thus, undisputedly after purported expiry of the contractual term of the Lease as above, we continued to hold on to the aforesaid Premises as a monthly tenant by holding over. The above relationship of Lessor and monthly Lessee by holding over has continued uninterruptedly increase in rentals. It was also stated that before expiry of lease we have requested MbPT for renewal of lease, however no response was received on same and while maintaining inter distances between facilities as per OISD norms for ensuring safety Accordingly it is requested to withdraw interest on non issuing demand notice, offer land on long term lease at mutually agreeable rates, terms and conditions after giving concession as per clause 11.2 (h) of PGLM 2015 Vide joint industry letter dated 15.10.2020 regarding the demand for arrears of rental being made retrospectively and the fact that bills raised are being paid regularly	The contention raised in blatantly is correct. This has already been clarified that PGLM guidelines 2015 was issued by Ministry. MbPT is bond by the said guidelines. The rates are arrived at by the Govt. approved Valuer on the basis of transactions taken place in vicinity of the Port Trust land. MbPT is bound by PGLM 2015 guidelines. There is no scope in the Policy guidelines to arrive at any mutually agreeable rates as contended in the said para by IOCL. The SDRR 2017 rates for RR Zone 90/419,Mahul Division is Rs. 19,400/- per. Sq. mtrs. and the SoR rates approved by Board and submitted to TAMP is Rs. 53,820/- it is 177% more (not 186%) than SDRR rates. It to state that the Govt. approved SDRR rates or based on relevant transaction going on in the market whereas in the MbPT leasehold plots no official transaction/ alienation was allowed for several years. Therefore SDRR rates do not shown correct picture in terms of PGLM 2015 Govt. Register Valuer M/s Patwardhan Consultants Pvt. Ltd. was entrusted to carry out valuation after taking in to consideration 5 factors as stipulated in PGLM 2015. The rates furnish by the Valuer is examined by the land allotment committee (LAC) and LAC recommended the SoR rates which rates is approved by the Chairman and Board of Trustees and it is submitted before TAMP for its approval. As regards the issues regarding IOCL's contention that increase in rental of MBPT subject plot will impact increase in rates of Petroleum products

	without any delays. It was also mentioned that the rate fixed by MbPT for arrear calculations is 186% more that SDRR rates. It was also informed that from a business perspective it is important that we know our rental expenses beforehand to understand the financial viability of continuing at site. Moreover increase in rentals will also impact in rates of petroleum products in the region which will be a heavy burden on public. Accordingly it was requested to withdraw the demand for arrears along with interest and to offer us long term lease prospectively on mutually agreed terms and conditions after giving concession as per clause 11.2(h) of PGLM, 2015	in Mumbai Region which is a vague statement and no calculation were forwarded. Vide this office letter dated 09.07.2021, EM(I/c) has return to Gen. Manager IOCL to furnish calculation/working to justify/corroborate their contention that Petrol price will be increase due to increase in rentals of MbPT subject plots.
5	We submit that the SOR rates applied by the Land Allotment committee is not in line with correct formula and assessment as per prevailing SDRR norms and guidelines. It is worthy note that the LAC has amved to SOR on consideration of Fair Market Rate of Rs.53,821/- per SqMts based on the third party valuation i.e. M/s Patwardhan Consultant Pvt. Ltd. and in view of PGLM Guidelines-2015 issued by the Ministry. As per said PGLM guidelines, LAC has to consider the following factors for determining the fair market value of the port land. The text of clause 4 (1) is reproduced as under As per the PGLM-2015, the Land Allotment Committee is required to consider the following factors for determining the market value of the Port land (a) State Goverment's Ready Reckoner of land values in the area, if available for similar classification/ activities (b) Highest rate of actual relevant transactions registered in the last 3 years in the ports vicinity (the vicinity of the Port is to be decided by the respective Port Trust Boards) with an appropriate annual escalation nate to be approved by the Port Trust Board. (c) Highest accepted tender-cum-auction rate of Port land for similar transaction updated on the basis of the annual escalation rate approved by the Port Trust Board. (d) Rate arrived at by an approved valuer appointed for the purpose by the Port. (e) Other relevant factor as may be identified by the Port. It is a notable fact that the valuer has effected the valuation at the instruction of Mbpt and basis the documents inputs given by them and thus the integrity and impartiality of valuer is in question. Further while assessing the said valuation valuer has not sure whether the area shown and mentioned in the lease is remained to be same or not and same is considered basis the old leases which is completely incorrect. It is material to note before assessing the rentals it is expected that necessary demarcation and measurement shall be carried so as to know	PGLM 2014-15 guidelines issued by Mos GOI are applicable to MbPT and MbPT is free to revise the rentals on the SOR based on PGLM guidelines. SoR 2017-2022 MbPT had engaged Govt. approved Valuers on panel and entrusted the work of valuation of MbPT land as per the jurisdiction of RR zones. The para 13 of PGLM 2014 clearly states that the highest of 5 factors for determination of rentals on Major Port Trust land i.e. (i) State Govt. RR (ii) Average rate of actual transactions registered in last 3 years in the Port vicinity (iii) Highest accepted tender of Port land for similar transactions (iv) Rate arrived at by an approved Valuer appointed for the purpose of the Port (v) Any other factor. Based on LAC recommendations Board approved the said revision of SoR rates for respective zones for Monthly, Fifteen Monthly Lease (FML), Expired Leases, licenses and vacant plots (for fresh allotment) falling in the respective RR Zones.

	status actual lands, as leases are granted prior 70- 80 years and thus on account of serious developments in town planning and thus area of leased lands may be reduced under set back or for other concern, and thus on this account also the valuation assessed by the valuer is incorrect. It is worthy to note that the assumptions considered by valuer on page no. 18 of valuation report are very material and self-explanatory to shows that land is not measured as on date, and entire valuation is carried out at the instruction of Mbpt, and thus no due opportunity were tendered to us for answering over the said assessment. Thus, in the light of said defects valuation report is not acceptable and tenable, while assessing the standard rates for the period 2017 to 2022.	
6	It is imperative that the Ready Reckoner Guideline factors affect valuation and should be read along with Ready Reckoner Value to arrive at proper valuation. The same are not considered, which resulted in erroneous calculation. Accordingly, due to application of incomplete guidelines of SDRR (Stamp Duty Ready Reckoner) the method used to ascertain the valuation of the immovable property is incorrect and incomplete. Hence, it is submitted that the assessment of the 'SOR for the period 2017 to 2022 is erroneous amount and we reserve our right and contentions to produce our counter valuation report mentioning the discrepancy in the method of calculation. It appears that the guidelines of Ready Reckoner was not considered while assessing the valuation of said land and thus methodology adopted is in violation of statutory guidelines of Ready Reckoner Rates Hence, this assessment is not tenable and is incorrect requiring re-assessment and re-fixation as per the correct method Post expiry of leases the renewed terms can be entered into and executed at revised rates. Thus for determination of the terms and conditions with regard to the renewal of the leases and the rates to be agreed thereunder, the relevant period can be 01.09 2021 onwards only and in no manner prior thereto. It deserves to be noted here only that the agreed lease rent has been paid for the subject period and even till date i.e. up to 31 08 2021 and there has been no grievance raised by MBPT in this regard It is worthy to note we are the enterprise of Government of India, involved in the business of refining and marketing of Petroleum products in the interest of Public and Nation. It is also notable fact MbPT is also one of state instrumentalities and their actions should be fair, transparent and reasonable, however, in the instant case same is grossly not followed by	PGLM 2014-15 guidelines issued by Mos GOI are applicable to MbPT and MbPT is free to revise the rentals on the SOR based on PGLM guidelines. SoR 2017-2022 MbPT had engaged Govt. approved Valuers on panel and entrusted the work of valuation of MbPT land as per the jurisdiction of RR zones. The para 13 of PGLM 2014 clearly states that the highest of 5 factors for determination of rentals on Major Port Trust land i.e. (i) State Govt. RR (ii) Average rate of actual transactions registered in last 3 years in the Port vicinity (iii) Highest accepted tender of Port land for similar transactions (iv) Rate arrived at by an approved Valuer appointed for the purpose of the Port (v) Any other factor. Based on LAC recommendations Board approved the said revision of SoR rates for respective zones for Monthly, Fifteen Monthly Lease (FML), Expired Leases, licenses and vacant plots (for fresh allotment) falling in the respective RR Zones.

	MbPT Strictly without prejudice to and in the alternative to the above, it is most humbly submitted that undoubtedly our acts, performs and discharges its duties, powers and functions directly under the superintendence of Ministry of Petroleum and Natural Gas We also submits that MbPT's too acts, performs and discharges its duties, powers and functions directly under the superintendence of Ministry of Major Port. Thus, both of us are the Central Government Department and/or an extended arm of Central Ministry and hence, issue has to be settled amicably Without entering into the legality of such claim to revise the schedule of rates, it must be pointed out here only that the same would be expressly barred by law of Limitation. The Limitation Act, 1963 and the provision thereunder prohibit any predated claims and or passed claims beyond the period of limitation. Hence, any action by MBPT to demand at revised rates retrospectively for the subject period would be barred under the said Act.	
7	The principles of estoppel would also come into play where under MBPT is estopped from seeking any revision to the schedule of rates retrospectively, having accepted the amount duly and diligently paid by IOCL d uning the said subject period and even thereafter from month to month till date. In the absence of any enabling provision either as and by way of an agreement or understanding with IOCL or under any law in force, MBPT is precluded from proceeding with the exercise by virtue of the present notice to invite comments on proposed revision of rates. In any event, the proposal to revise rent can only be done prospectively Le for future period MBPT in the instant case has accepted the terms of the lease and have continued in light thereof to honor the obligations set out therein to be performed the parties In effect, the terms and condition of the onginal lease have been continued although on revised terms (with reference to the rentals). The provision of the Transfer of Property Act. 1882 would govern the leases executed by and between the parties. In particular, sections 105 up to section 117 of the said act would be applicable. In the instant cases ie the leases in question although have expired by efflux of time/expiry of term the principle of promissory estoppel entitles IOCL to occupy and continue in the lease premises on payment of the rent. Although, MBPT has never finalized the rates and/or rentals beyond the original period of lease non- issuance of any demand notice and/or any proposal of what so ever nature for renewal of the lease for the subject period, and during subsistence of the said period now does not give	The revision under SoR 2012-17 is by statutory guidelines issued under PGLM, 2015 and clarifications issued by Ministry from time to time and therefore mandatory and binding on all parties concerned. Every monthly Bills/invoices are sent along with footnote “THIS BILL IS PROVISIONAL AND WITHOUT PREJUDICE TO BOARDS RIGHTS AND CONTENTION TO REVISE THE RENT/COMPENSIONW.E.F 01.10.2012”.

	any right to MBPT to retrospectively finalize the rates and rentals. In view of the actions and/or inactions on the part of MBPT during the relevant period to not seek revision through renewal of the lease, to now demand revised rates for the period which has passed it can only be done with reference to future period and that too on renewed terms. The Indian Contract Act, 1872 and the provision there under cannot be ignored and overlooked by MBPT In the absence of express agreement by and between the parties the proposal for revision is ill founded and without any basis. The internal notes, circulars or nonfications issued by MBPT, would not be binding on IOCL, more so if the same are contrary or inconsistent with any prevalent law.Hence the demand raised vide notice by MBPT is contrary to the settled principles of law opposed to equity and are arbitrary and unreasonable and therefore being beyond the purview of law not tenable.	
8	The express terms of the lease agreement also do not contemplate such revision. Needless to state that the entre exercise sought to be carried out belatedly by MBPT is not in line with any agreement or understanding arrived at between the parties, therefore the same is not tenable Apart from the grounds of maintainability of the notice as setout herein above, we wish to provide brief comments without prejudice as under 1) There is no basis, rational or justification for the arbitrary proposed revision of schedule of rates retrospectively. 2) The instances in the nature of industrial/residential premises cannot be referred to and relied upon in any manner to justify proposed revision of rates. The valuation reports are neither realistic nor based on thorough research. An exorbitant rate has been determined erroneously by MBPT in placing reliance on such reports Not single instance sought to be relied upon by MBPT pertains to any land nearby to the leased premises. The instances of lease/license/sale are neither comparable with the leased premises nor are anywhere even close to or in proximity in terms of distance and/or size of the lands. In fact industrial gala, and or flat cannot be taken into account for any purpose much less in determining lease rental values and rates. Thim in the absence of any like, comparable land instances and reports of valuation providing realistic values, the same cannot be even considered Hence we strongly object to such documents (valuation reports and instances) being taken account of in determining lease rental rates	The contention is incorrect. Mumbai Port Trust has scrupulously followed PGLM 2015 issued by MoPS& WW. The revision under SoR 2012-17 is by statutory guidelines issued under PGLM, 2015 and clarifications issued by Ministry from time to time and therefore mandatory and binding on all parties concerned. The valuer has arrieved at the land rate by usng the appropriate method as per the valuation principles. The rate obatined from the registered sale transaction in the vicinity of the plots being valued. The contention raised in this para is not correct. No instruction was given by MbPT to the valuer. Tender was called for appointment of Govt. Register Valuer in MbPT panel and different RR Zones were entrusted for valuation to different valuers. The Wadala RR zones 14/101, 11/86 and Mahul Division 90/419 was entrusted to M/s Patwardhan consultants Pvt. Ltd. MbPT is billing with 4% annual escalation on lease rent. It is clearly stated in the proposal that, interest will not be charged on differential arrears giving 3 months time for payments and interest would be charged if differential arrears are not paid within 3 months from the date of billing. The revision under SoR 2012-17 is by statutory guidelines issued under PGLM, 2015 and clarifications issued by Ministry from time to time and therefore mandatory and binding on all parties concerned. Every monthly Bills/invoices are sent along with footnote "THIS BILL IS PROVISIONAL AND WITHOUT PREJUDICE TO BOARDS RIGHTS AND CONTENTION TO REVISE THE RENT/COMPENSION W.E.F 01.10.2012".

	3) Bare perusal of the notice reveals that MBPT is proceeding with predetermined intention to revise the schedule of rates and comments have been invited only with a view to record that the rates have been determined after due notice to all concerned 4) The proposed rates are nos only exorbitant but also without rational or basis and therefore cannot be accepted. 5) We have strong objection to any demand for interest and/or penalty raised/proposed to be raised for the first time now. The same cannot be raised in the absence of any agreement to begin with coupled with a demand at the relevant point of time raised for payment of lease rentals 6) It is an undisputed fact that no demand was ever raised by MBPT the subject period. Hence, it is not open now to demand and/or penalty. Not only such demand for interest/perally would be contrary to law but also unjust and unfairWe are ready and willing to participate in any hearing and to substantiate our stand as has been brieflystated hereinabove. We therefore request that our strong objection to the proposed revision be recorded and accepted. We further request that the notice proposal to impose lease rental retrospectively and interest levied thereon be dropped/withdrawn with immediate effect.	
	IOCL WADALA COMMENTS	**Response of MBPT**
1	We submit that the SOR rates applied by the Land Allotment Committee (LAC) are not in line as per prevailing SDRR norms and guidelines it is wot'thy note that the LAC has arrived ta SOR on consideration of Fair Market Rate of Rs.1,15,000/- per Sq. Mts. based on the third party valuation of M/s. Patwardhan Consultant Pvt. Ltd. and in view of Policy Guidelines for Land Management (PGLM) Guidelines – 2015 issued by the Ministry. However it appears that the guidelines of Ready Reckoner were not considered while assessing the valuation of said land and thus methodology adopted is violation of statutory guidelines of Ready Reckoned Rates which resulted in erroneous calculation.	PGLM 2014-15 guidelines issued by Mos GOI are applicable to MbPT and MbPT is free to revise the rentals on the SOR based on PGLM guidelines. SoR 2017-2022 MbPT had engaged Govt. approved Valuers on panel and entrusted the work of valuation of MbPT land as per the jurisdiction of RR zones. The para 13 of PGLM 2014 clearly states that the highest of 5 factors for determination of rentals on Major Port Trust land i.e. (i) State Govt. RR (ii) Average rate of actual transactions registered in last 3 years in the Port vicinity (iii) Highest accepted tender of Port land for similar transactions (iv) Rate arrived at by an approved Valuer appointed for the purpose of the Port (v) Any other factor. Based on LAC recommendations Board approved the said revision of SoR rates for respective zones for Monthly, Fifteen Monthly Lease (FML), Expired Leases, licenses and vacant plots (for fresh allotment) falling in the respective RR Zones.

2	Any renewal of land lease rentals has to be based on existing rates and some inflation. Such a huge inflation is not advisable as it might have a bad impact on financial out flow with recovery in price built in products being dealt. It is proposed to have a fresh view to finalize the land lease rental rates to resolve this issue amicably.	In this regard, vide letter dated 09.07.2021 Oil companies were requested to provide substantial evidence that how the lease rentals impact prices of petroleum products.
3	Till the land lease rates are finalized, it is proposed for submission of bills as per existing rates. If anything to be paid further as arrears shall be without interest or penalty.	MbPT is billing with 4% annual escalation on lease rent. It is clearly stated in the proposal that, interest will not be charged on differential arrears giving 3 months' time for payments and interest would be charged if differential arrears are not paid within 3 months from the date of billing.

*****