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Tariff Authority for Major Ports

G.No. 625 **New Delhi,** **30 November 2021**

NOTIFICATION

This Authority, in exercise of the powers conferred by Section 49 of the Major Port Trusts Act, 1963 (38 of 1963), has disposed of the proposal received from Mumbai Port Trust (MBPT) for fixation of Schedule of Rates and revision of rent / compensation for the period 01.10.2012 to 30.09.2017 and 01.10.2017 to 30.09.2022 for residential and mixed used occupations on 01 November 2021. However, considering the time involved for notifying the Speaking Order along with the Rent Schedule, approved by this Authority, this Authority decided to notify only the Rent Schedule for MBPT prescribing Lease rentals for the period 01.10.2012 to 30.09.2017 and 01.10.2017 to 30.09.2022 for residential and mixed used occupations. Accordingly, the Rent Schedule for MBPT prescribing Lease rentals for the period 01.10.2012 to 30.09.2017 and 01.10.2017 to 30.09.2022 for residential and mixed used occupations, approved by this Authority on 01 November 2021 was notified in the Gazette of India on 12 November 2021 vide Gazette no.556. It was stated in the said Notification that this Authority will notify the Speaking Order, in due course of time. Accordingly, this Authority hereby notifies the Speaking order connected with the disposal of proposal of MBPT for fixation of Schedule of Rates and revision of rent / compensation for the period 01.10.2012 to 30.09.2017 and 01.10.2017 to 30.09.2022 for residential and mixed used occupations as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports

Case No. TAMP/54/2021-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 1st day of November 2021)

This case relates to a proposal received from Mumbai Port Trust (MBPT) vide its letter No. FA/OEA-L/38(21)/Gen/267 dated 23 September 2021**)** received from Mumbai Port Trust (MBPT) seeking approval for fixation of Schedule of Rates and revision of rent / compensation for the period 01.10.2012 to 30.09.2017 and 01.10.2017 to 30.09.2022 for residential and mixed used occupations.

2.1. The main highlights of the MBPT proposal dated 23 September 2021 are as follows:

(i). Government has issued Policy Guidelines on Land Management 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 Ministry has 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 of 2015 requires the port to refix the SOR once in five years and obtain TAMP's approval thereto.

(ii). As provided in Clause 13 of PGLM, Land Allotment Committee (LAC) has recommended rates for various Ready Reckoner Zones. Same have been approved by MBPT Board. [MBPT has furnished Board Resolution approving the LAC recommendations]

(iii). In this backdrop, the MBPT has come up with the subject proposal for seeking approval for fixation of Schedule of Rates and revision of rent / compensation for the period 01.10.2012 to 30.09.2017 and 01.10.2017 to 30.09.2022 for residential and mixed used occupations which is submitted for approval to the SOR in terms of Clause 13 (c) of PGLM 2015.

2.2 The background and other main points made by the MBPT in its proposal dated 23 September 2021 are summarized below:

A. Background :

(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 and letout lands in outside island city of Mumbai. The said land stretches from Colaba to Wadala, Mahim, Worli, Govandi, Pir Pau, Mahul, Titwala etc. and is divided into 15 administrative units for management of these estates. The landed estates are divided into 2 main categories, viz. (i) lettable land and (ii) non-lettable land. Non-lettable land includes areas 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.

(ii). The Board vide TR 153 of 2021 accorded approval to Schedule of Rates (SoR) for the period from 01.10.2012 to 30.09.2017 and from 01.10.2017 to 30.09.2022 in respect of Mumbai Port Trust letout land falling under various Ready Reckoner Zones applicable to all the Expired leases/Fifteen Monthly leases/Monthly Tenancies/Licenses of the plots for Residential (Home) & Mixed Use (Home + Non-Home) occupations.

B. Policy Guidelines:

(i). 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 (PGLM), which was applicable for all Ports except for the land relating to the township areas 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.

(ii). 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 a 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 the land of major port trust and the township area subject to the condition mentioned in the letter dated 29.04.2019."

(iii). 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:

I). Five factors

"a) State Government'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 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.

II) *The Land Allotment Committee shall, while recommending the latest market value for any land would normally take into account the highest of the 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.*

III). *The Port trust would make a proposal as outlined in Para 13 (a) to 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 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 TAMP".*

C. Legal Issues:

TAMP had vide notification No. TAMP/10/98-Misc of 28.03.2000 issued orders 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 had stayed the applicability of TAMP's order to areas not falling within Port limit and Port approaches. The issue of withdrawal of Writ Petition and necessary advice for the same was been taken up with the Ministry in the light of PGLM 2015. TAMP has since by letter dated 15th 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 28th March 2000 may be seen to have become infructuous. Therefore, the Writ Petition was also withdrawn by High Court order dated 08.08.2019.

D. LAC Report:

(i). Board vide TR 253 of 1991 had approved the compromise policy for settlement of litigation and renewal of leases and fixed SoR rates of Home and Non-Home occupations based percentage return of land values based on M/s Kirloskar consultants report in 1981. In the said TR, the letting rates for Home occupations were 20% of the Non-Home occupation rates. Further, vide TR No.31 dated 10.3.2004, approval was accorded to the acceptance of the Hon'ble Supreme Court Judgment dated 13.1.2004 with percentage return changed from 15% to 10% for Non-Home occupations and 12% to 8% for Home occupations. The said SC Judgment rates were valid for 20 years from 1992 i.e. upto 30.09.2012. Further on representation from residential occupants of MbPT land, Supreme Court vide order dated 09.01.2006, reduced the rate of return from 8% to 3% for residential (Home) occupations. Presently, all Home and Mixed (Home + Non-Home) occupations are billed as rent/compensation as per SC Judgment rates with 4% annual escalation in every October.

(A). The SoR for Home and Mixed (Home + Non-Home) occupations for the period 2012-2017:

(i). In the Ready Reckoner published by State Government, no distinction is made for land values (FMV) of Commercial (Non-Home occupations) and Residential (Home Occupations) lands. The same market value is recommended for residential use/ Home occupations as recommended for

Non-Home occupations of the corresponding ready reckoner zones. Accordingly, the same FMV/SoR may be recommended to Mixed (Home + Non-Home) occupations. Since there is fixed percentage of return on FMV i.e. 6% provided in the PGLM 2015. Therefore, SoR for Home and Mixed (Home + Non-Home) occupations will be same as SoR of Non-Home occupations.

(ii). The proposed SoR for Home and Mixed (Home + Non-Home) occupations for the period 2012-17 is based on 6% of return on land value as per Stamp Duty Ready Reckoner 2012 with annual escalation of 4% p.a. in every October and with revision of SoR every 5 years. Also for comparison, existing billed rates of compensation for these occupations as per SC Judgment rates are also furnished**.** The Comparative statement of existing rates vis-à-vis proposed rates as furnished by MBPT is given below:

COMPARATIVE STATEMENT OF SUPREME COURT RATES AND SOR 2012-17 IN RESPECT OF HOME & MIXED (HOME+NON HOME) OCCUPATIONS

Sr. No	RR Zone	Unit	Letting rate per sq mtr per month (in ₹.) as per Supreme Court Judgment as on 30.09.2012	Proposed letting rates per sq mtr per month (in ₹.) (as per 6 % return p.a. in terms of Land policy) on Land Values as per Ready Reckoner 2012 as on 01.10.2012	Increase in Rates compared with SC Judgment & TR No.105 of 2018 (No. of times)
1	14/101	1	**5.55**	120.0	20.6
2	11/86	1, Bunders	**5.55**	69.0	11.4
3	16/110	1	**5.55**	259.0	45.7
4	11/84	2	**5.55**	332.5	58.9
5	10/79	2,6	**5.55**	168.0	29.3
6	11/85A	3	**5.55**	103.0	17.6
7	10/79 A	8	**5.55**	83.5	14
8	10/80	4,7,8,9, Bunders	**5.55**	84.5	14.2
9	11/85	4,5, Bunders	**5.55**	86.5	14.6
10	10/78B	8	**5.55**	107.5	18.4
11	3/36	8,Docks	**9.64**	134.0	12.9
12	2/23	9, 11, Docks	**9.64**	265.0	26.5
13	3/35	10	**6.38**	244.5	37.3
14	2/9	11	**10.48**	466.5	43.5
15	2/22	11	**10.48**	273.5	25.1
16	1/6	12, Bunders	**9.64**	534.0	54.4
17	1/6A	12	**9.64**	494.5	50.3
18	1/3	12	**11.77**	1266.0	106.6
19	2/12	12	**11.77**	667.5	55.7
20	90/419	1	**5.55**	68.5	11.3
21	96/436	1	**5.55**	115.0	19.7
22	26/81	5	**5.55**	34.5	5.2
23	17/119	14	**9.37**	300.5	31.1

- Note : For comparison purpose, the Letting rate per sq. mtr. per month as per Supreme Court Judgment as on 30.09.2012 need to be increased by 4%.

(B). The SoR for Home and Mixed (Home + Non-Home) occupations for the period 2017-2022:

(i). 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 and comprising of Traffic Manager, FA&CAO, and Estate Manager as members to recommend new Schedule of Rates for Estate lettings. 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 as per based on valuers report for various Ready Reckoner Zones for the year 2017-18 is 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.

(ii). The proposed SoR for Home and Mixed (Home + Non-Home) occupations for the period 2017-22 is based on 6% of return on highest of five factors i.e. Fair Market Value of land as per Valuers report approved by the Board vide various TRs as recommended by LAC with annual escalation of 4% p.a. in every October and with revision of SoR every 5 years. Also, for comparison, existing billed rates of compensation for these occupations as per SC Judgment rates are also furnished.

COMPARATIVE STATEMENT OF SUPREME COURT RATES AND SOR 2017-22 IN RESPECT OF HOME & MIXED (HOME+NON HOME) OCCUPATIONS (in ₹.)

Sr. No	RR Zone	Unit	Letting rate per sq.mtr. per month as per Supreme Court Judgment as on 30.09.2017	Proposed base rates per sqm per month for FSI 1.00 (as per 6 % return p.a. in terms of Land policy) on FMV as 01.10.17	Increase in Rates compared with SC Judgment & SoR 2017-22 (No. of times)
1	14/101	ND -Unit 1	6.75	575	84.19
2	11/86	ND/CD/ Bunders Unit 1, 5,13	6.75	601	88.04
3	11/85A	ND- Unit 3	6.75	892.25	131.19
4	11/85	ND/CD/ Bunders Unit 4, 5,13	6.75	842.25	123.78
5	10/80	ND/CD/ SD/Bunders Unit 4,7,8,9,13	6.75	938.5	138.04
6	10/79	ND/CD- Unit 2, 6,7	6.75	856.55	125.90
7	3/36	SD - Unit 9	6.75	948.165	139.47
8	3/35	SD/Bunders - Unit 9, 10,14	7.78	851.2	108.41

Sr. No	RR Zone	Unit	Letting rate per sq.mtr. per month as per Supreme Court Judgment as on 30.09.2017	Proposed base rates per sqm per month for FSI 1.00 (as per 6 % return p.a. in terms of Land policy) on FMV as 01.10.17	Increase in Rates compared with SC Judgment & SoR 2017-22 (No. of times)
9	3/35B	SD - Unit 9, 10	6.75	948.165	139.47
10	2/22	SD- Unit 11	12.75	955.2	73.92
11	2/13	SD/Bunders Unit 9,11,15	12.75	1313	101.98
12	2/9	SD - Unit 11	12.75	1341.5	104.22
13	2/12	SD - Unit 12	14.32	1453.175	100.48
14	1/6A	SD/Bunders Unit 12, 14	11.73	1453.175	122.89
15	1/3	SD - Unit 12	14.32	1453.175	100.48
16	1/3A	SD - Unit 12	14.32	2693.5	187.09
17	17/119	BD - Unit 14	11.4	950	82.33
18	17/116	BD - Unit 14	11.4	950	82.33
19	90/419 Pir Pau	ND - Unit 1	6.75	269.1	38.87
20	100/471	CD - Unit 5	6.75	779	114.41
21	99/463	CD- Unit 5	6.75	779	114.41
22	26/81 (Thane-Kalyan RR)	Unit 5	6.75	111.245	15.48
23	Jawahardweep	Unit 12	14.32	226.35	14.81

- Note : For comparison purpose, the Letting rate per sq,mtr. per month as per Supreme Court Judgment as on 30.09.2017 need to be increased by 4%.

(C). **Application of FSI factor in calculation of actual quantum of compensation.**

The 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. To study these aspects in detail, vide TR 122 of 2021 the Board has accorded approval for formation of a 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.

D) Port Trust is billing the monthly tenants with MCGM Property Cesses (WBT, SBT, EGC & ED) @ 55.5% of Annual Rent as per SC Judgement and recovery of the same was MbPT's responsibility.

LAC vide report dated 23.08.2021 recommended that same practice is to be followed in future, however, the MCGM cesses will be reworked out in accordance with the proposed SOR 2012-2017 and 2017-2022 as may be approved by the TAMP, in respect of all the monthly tenancies and licenses upto 11 months (home and hon-home occupations) of all the Ready Reckoner zones of Mumbai Port Trust land. The same is approved by the Board vide TR 155 of 2021.

E) All the demand notices of differential arrears as per the revised SoR for 2012-2017 and SoR 2017-2022 will be issued to all monthly tenancies, fifteen monthly leases, expired leases and licenses as a compensation for wrongful use of the premises without interest and giving time limit of 3 months from the date of receipt of demand notices and interest at the applicable rates will be charged for delayed payments subject to TAMP's approval.

2.3. Thus, MBPT has sought TAMP's approval to the SOR approved by the Board vide TR 153 of 2021 for the period from 01.10.2012 to 30.09.2017 and 01.10.2017 to 30.09.2022 for Home & Mixed (Home + Non-Home) occupations. These rates will be applicable to all the Expired Leases, Fifteen Monthly Leases, Monthly Tenancies and Licenses including vacant plots (for calculation of Reserve Price, Annual Rent/Upfront Premium for allotment) of the plots falling under the respective ready reckoner zones. The details of which are as given below:

REVISION OF SOR FOR THE PERIOD FROM 01.10.2012 TO 30.09.2017 FOR HOME AND MIXED (HOME+NON-HOME) OCCUPATIONS (in ₹.)

A	B	C	D	E	F	G	H	I	J
Sr. No.	RR Zone	Unit	Description as per Ready Reckoner	Land value of open land as per State Government RR 2012 Per SqM for FSI-1.00 Reckoner 2012	Proposed base rates per sqm per month for FSI 1.00 (as per 6 % return p.a. in terms of Land policy) on land Values as per Ready Reckoner 2012 01.10.12 TO 30.9.13 (6% return on Col 'E')	Rate per sqm per month for FSI-1.00 01.10.13 TO 30.9.14 (4% increase on Col 'F')	Rate per sqm per month for FSI-1.00 01.10.14 TO 30.9.15 (4% increase on Col 'G')	Rate per sqm per month for FSI-1.00 01.10.15 TO 30.9.16 (4% increase on Col 'H')	Rate per sqm per month for FSI-1.00 01.10.16 TO 30.9.17 (4% increase on Col ' I ')
1	14/101	1	All the Portion on East of Harbour Railway Line.	24000	120	124.8	129.79	134.98	140.38
2	16/110	1	North, East & South boundary of Division, on West Harbour	51800	259	269.36	280.13	291.34	302.99

A	B	C	D	E	F	G	H	I	J
			Railway Line (Part) and boundary of the Division.						
3	11/86	1, Bunders	Portion towards East of Harbour Line, On South Acharya Donde Marg (King Edward Road) upto Sewri Railway Station, on East sea, on North boundary of ward and on West Harbour Railway Line. All the portion surrounded.	13800	69	71.76	74.63	77.62	80.72
4	11/84	2	On East Barister Nath Pal Marg, T. Jeevraj Marg, Rafi Ahmed Kidwai Marg, on West G.D. Ambedkar Marg, on North Jerbai Wadia Marg. All the portion surrounded.	66500	332.5	345.8	359.63	374.02	388.98
5	11/85A	3	On East B. P. T. railway line, on West Harbour railway line, on South Division boundary (First Avenue Road).	20600	103	107.12	111.4	115.86	120.49
6	11/85	4,5,Bunders	On East Division boundary, from Sewri Station toward south Hindustan Level Company's East side Road, on West B.P.T. Railway	17300	86.5	89.96	93.56	97.3	101.19

A	B	C	D	E	F	G	H	I	J
			Line, on South Division boundary.						
7	10/79	2,6	On East division boundary (portion of Harbour Railway line and G.D. Ambedkar Marg) on West central railway line, division boundary, on North division boundary, Dattaram Laud Marg, on South Sant Savatmalimarg.	33600	168	174.72	181.71	188.98	196.54
8	10/79 A	8	On East B.P.T. railway line, on West central railway harbour line, on North Division boundary upto First Avenue Road, trangular portion of all the land.	16700	83.5	86.84	90.31	93.92	97.68
9	10/80	4,7,8,9, Bunders	On West B.P.T. Railway Line (East Oilfield Freeway) on East sea on South Jijabhai Mulji Rathod Marg (Wadi Bunder Road) and on North B.P.T. Railway line and first Avenue Road. All the portion Surrounded.	16900	84.5	87.88	91.4	95.06	98.86
10	10/78B	8	On East B.P.T. Railway line, on West Central railway harbour line, on	21500	107.5	111.8	116.27	120.92	125.76

A	B	C	D	E	F	G	H	I	J
			south Jeenabai Rathod Marg (Wadi Bunder Road) trangular portion of all the land.						
11	3/36	8,Docks	All portion of B Ward on Eastside of P.D' Mello Road upto sea shore (Victoria Dock & Princess Dock).	26800	134	139.36	144.93	150.73	156.76
12	3/35	10	Area Between North Boundary of B Ward (Ramchandra Bhatt Marg,2013), South Boundary of B Ward (Lokmanya Tilak Marg,2013), Central Railway Line and P.D'Mello Road.	48900	244.5	254.28	264.45	275.03	286.03
13	2/23	9, 11, 15 Docks	Indira Dock land Portion towards East of P.D'Mello Road upto sea and from G.P.O. to North boundary of Ward.	53000	265	275.6	286.62	298.08	310
14	2/9	11	Shahid Bhagat Singh Marg from Regal Cinema to General Post Office.	93300	466.5	485.16	504.57	524.75	545.74
15	2/22	11	Ballard Estate part. Portion towards East of Shahid Bhagat Singh Marg from Mint to General Post Office upto	54700	273.5	284.44	295.82	307.65	319.96

A	B	C	D	E	F	G	H	I	J
			indira Dock Portion and Dock railway and portion upto division boundary.						
16	2/12	12	Madam Cama Road between Regal Cinema and Gateway of India.	133500	667.5	694.2	721.97	750.85	780.88
17	1/6	12, Bunders	Colaba portion: East portion of Prakash Pethe Marg and Jagannath Bhosale Marg and South portion of Madam Cama Road, except portion of Sub-zone 1/3 above.	106800	534	555.36	577.57	600.67	624.7
18	1/6A	12	On East Sea, on West Shahid Bhagat Singh Road, on South Homi Bhabha Road on North division boundary. (Refer Note No.9)	98900	494.5	514.28	534.85	556.24	578.49
19	1/3	12	Shahid Bhagat Singh Marg from Colaba to Regal Cinema	253200	1266	1316.64	1369.31	1424.08	1481.04
20	90/419	1	All the properties of Mahul village	13700	68.5	71.24	74.09	77.05	80.13
21	96/436	1	All the properties of Aanik village, except Bhakti Park Complex	23000	115	119.6	124.38	129.36	134.53
22	26/81	5	Zone 2A. Division Manda (34)(A) Manda West - All properties on West of Central Railway Line	6900	34.5	35.88	37.32	38.81	40.36

A	B	C	D	E	F	G	H	I	J
23	17/119	14	on South Sitladevi Temple Road, on East Western Railway Line and on North and West Mahim Creek. All the portion surrounded.	60100	300.5	312.52	325.02	338.02	351.54
24	17/116	14	Mahim Bunder	71800	359	373.36	388.30	403.83	419.98
25	1/5	14	Pilot Bunder (Sea Cadet)	214000	1070	1112.80	1157.31	1203.61	1251.75
26	2/13	15	PD'Mello Road	125800	629	654.16	680.33	707.54	735.74

NOTES:

1. Actual quantum of Rent will be worked out on the base rent and factor as may be recommended by the committee appointed for the purpose of applicability of FSI.
2. Taxes, service charges, penalties, interest rates are not included in the above rates.
3. Above rates are not applicable for letout structures constructed/owned by MbPT i.e. P.T. Structures
4. Differential Arrears, liabilities and other dues/charges for a period from 01.10.2012 to 30.9.2017 are calculated based on above rates.
5. These rates are applicable for Home and Mixed (Home and Non-Home) [on pro-rata basis] occupations.
6. Estate lands of Old Sassoon Dock, Ferry Wharf and Jawahar Dweep are excluded from the above rates.
7. These rates are not applicable to occupations given on nominal rents to public bodies and for public amenities.
8. Interest would be chargeable beyond permissible period as per Board's policy from time to time.
9. 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.
10. These rates are subject to Audit verification.

REVISION OF SOR FOR THE PERIOD FROM 01.10.2017 TO 30.09.2022 FOR HOME AND MIXED (HOME+NON-HOME) OCCUPATIONS (in ₹.)

A	**B**	**C**	**D**	**E**	**F**	**G**	**H**	**I**	**J**
Sr. No.	RR Zone	Unit	Description as per Ready Reckoner	Fair market value of open land as per valuers report for the year 2017-18 Per SqM for FSI-1.00 (FMV)	Proposed base rates per sqm per month for FSI 1.00 (as per 6 % return p.a. in terms of Land policy) on FMV as 01.10.17 TO 30.9.18 (6% return on Col 'E')	Rate per sqm per month for FSI-1.00 01.10.18 TO 30.9.19 (4% increase on Col 'F')	Rate per sqm per month for FSI-1.00 01.10.19 TO 30.9.20 (4% increase on Col 'G')	Rate per sqm per month for FSI-1.00 01.10.20 TO 30.9.21 (4% increase on Col 'H')	Rate per sqm per month for FSI-1.00 01.10.21 TO 30.9.22 (4% increase on Col ' I ')
1	14/101	ND -Unit 1	Dadar-Naigaum	1,15,000	575	598.00	621.92	646.80	672.67

A	B	C	D	E	F	G	H	I	J
2	14/101 A	ND – Unit 1	Dadar-Naigaum	1,15,632	578.16	601.29	625.34	650.35	676.37
3	11/86	ND/CD/ Bunders Unit 1, 5,13	Parel-Sewree	1,20,200	601	625.04	650.04	676.04	703.08
4	11/85A	ND- Unit 3	Parel-Sewree	1,78,450	892.23	927.92	965.04	1003.64	1043.78
5	11/85	ND/CD/ Bunders Unit 4, 5,13	Parel-Sewree	1,68,450	842.3	875.99	911.03	947.47	985.37
6	11/84	ND- Unit 2	Parel-Sewree	1,71,310	856.55	890.81	926.45	963.50	1002.00
7	11/84A	ND- Unit 2	Parel-Sewree	1,71,310	856.55	890.81	926.45	963.50	1002.00
8	10/80	ND/CD/ SD/Bunders Unit 4,7,8,9,13	Mazgaon	1,87,700	938.5	976.04	1015.08	1055.68	1097.91
9	10/79	ND/CD- Unit 2, 6,7	Mazgaon	1,71,310	856.55	890.81	926.44	963.50	1002.04
10	10/79A	ND- Unit 3	Mazgaon	1,85,585	927.92	965.04	1003.64	1043.79	1085.54
11	10/78A	CD – Unit-6, 8	Mazgaon	1,70,240	851.2	885.25	920.66	957.48	995.78
12	10/78B	CD- Unit 8	Mazgaon	1,70,240	851.2	885.25	920.66	957.48	995.78
13	3/36	SD - Unit 9	Princess Dock	1,70,240	851.2	885.25	920.66	957.48	995.78
14	3/35	SD/Bunders - Unit 9, 10,14	Princess Dock	170240	851.2	885.25	920.66	957.48	995.78
15	3/35B	SD - Unit 9, 10	Princess Dock	1,89,633	948.17	986.10	1025.54	1066.56	1109.22

A	B	C	D	E	F	G	H	I	J
16	2/22	SD- Unit 11	Fort	1,91,036	955.18	993.39	1033.12	1074.45	1117.43
17	2/23	SD/Bun ers Unit 9, 11, 15	For	2,11,500	1057.50	1099.80	1143.79	1189.54	1237.13
18	2/13	SD/Bun ders Unit 9,11,15	Fort	2,52,500	1262.50	1313	1365.52	1420.14	1476.95
19	2/9	SD - Unit 11	Fort	2,11,500	1057.50	1099.80	1143.79	1189.54	1237.13
20	2/12	SD - Unit 12	Fort	2,90,635	1453.18	1511.31	1571.76	1634.63	1700.02
21	1/6A	SD/Bun ders Unit 12, 14	Colaba	2,90,635	1453.18	1511.31	1571.76	1634.63	1700.02
22	1/4	Bunders Unit-14	Colaba (Pilot Bunder)	2,90,635	1453.18	1511.31	1571.76	1634.63	1700.02
23	1/3	SD - Unit 12	Colaba	2,90,635	1453.18	1511.31	1571.76	1634.63	1700.02
24	1/3A	SD - Unit 12	Colaba	3,31,600	1658.00	1724.32	1793.30	1865.02	1939.63
25	17/119	BD - Unit 14	Mahim	1,90,000	950	988.00	1027.52	1068.62	1111.37
26	17/116	BD - Unit 14	Mahim	1,90,000	950	988.00	1027.52	1068.62	1111.37
27	90/419 Pir Pau	ND - Unit 1	Mahul	53,820	270	280.80	292.03	303.71	315.86

NOTES:

1. Actual quantum of Rent will be worked out on the base rent and factor as may be recommended by the committee appointed for the purpose of applicability of FSI.
2. Taxes, service charges, penalties, interest rates are not included in the above rates.
3. Above rates are not applicable for letout structures constructed/owned by MbPT i.e. P.T. Structures
4. Differential Arrears, liabilities and other dues/charges for a period from 01.10.2012 to 30.9.2017 are calculated based on above rates.
5. These rates are applicable for Home and Mixed (Home and Non-Home) [on pro-rata basis] occupations.
6. Estate lands of Old Sassoon Dock, Ferry Wharf and Jawahar Dweep are excluded from the above rates.
7. These rates are not applicable to occupations given on nominal rents to public bodies and for public amenities.
8. Interest would be chargeable beyond permissible period as per Board's policy from time to time.
9. 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.
10. These rates are subject to Audit verification.

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 01.10.2012 to 30.09.2017 and 01.10.2017 to 30.09.2022 applicable to all Home, Mixed(Home+Non-Home) occupations of the Expired Leases, Fifteen Monthly Leases, Monthly Tenancies and Licenses including vacant plots (for calculation of Reserve Price, Annual Rent/Upfront Premium for allotment) of the plots falling under the respective Ready Reckoner zones.

3.1. 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 this Authority's jurisdiction in respect of framing scale of Rates and Statement of Conditions for use of port properties.

3.2. 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.

3.3. 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.

3.4. 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 the 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.

3.5. In this backdrop, the then 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 14th May 2018, the SOR with effect from 01.10.2012 onwards be fixed by TAMP for all areas of Mumbai Port including Township area.

3.6. In response to the then MOS letter dated 25 March 2019, we had, vide our letter dated 28 March 2019 *interalia*, communicated to the then MOS that TAMP will abide by the directions of the then 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.

3.7. In this backdrop, the then 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, the then 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.

3.8. 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.

3.9. Thus, the MBPT has come up with a Proposal received from Mumbai Port Trust seeking approval for fixation of Schedule of Rates and revision of rent / compensation for the period 01.10.2012 to 30.09.2017 and 01.10.2017 to 30.09.2022 for residential and mixed used occupations. Simultaneously, the MBPT has also filed another 6 proposals seeking approval for (i). Schedule of rates and revision of rent / compensation for the quinquennial periods of 01.10.2012 to 30.09.2017 for non-home occupations in Township Areas of MBPT, (ii). Schedule of Rates and revision of rent / compensation in respect of 7 plots for the period 01.10.2012 to 30.09.2017 and 7 plots for the period 01.10.2017 to 30.09.2022 for let out land falling under various RR Zones, (iii). Schedule of Rates and revision of rent / compensation for the period 01.10.2012 to 30.09.2017 and 01.10.2017 to 30.09.2022 for Port Trust structures falling under various RR Zones, (iv). 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, (v), 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 – 19 RR Zones and (vi). Schedule of Rates (SOR) and revision of rent / compensation for the period 01.10.2012 to 30.09.2017 (12 Zones) and 01.10.2017 to 30.09.2022 (09 Zones) for let out land falling under various Ready Reckoner Zones, which have been dealt separately by this Authority.

4.1. Considering the huge list of registered tenant / lessees as suggested by the MBPT, the MBPT was requested vide letter dated 04 October 2021 to upload subject proposal in its website and intimate to all the registered users / 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.

4.2. Accordingly, the MBPT vide its email dated 07 October 2021 has confirmed that it has informed all Tenants / Lessees about hosting of subject proposal for comments/ opinion of the users on the subject proposal in reference. The MBPT has furnished a copy its Notice No.EM/AS(G)/F-382/1924 dated 06 October 2021, wherein the MBPT has intimated the Tenants/ Lessees about hosting of subject proposal in the website of MBPT and has sought for comments/ opinion of the users on the subject proposal in reference, to be sent to the Authority as well as MBPT.

4.3. 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 23 October 2021 to furnish its reply on the issues raised by various lessees / tenants. The MBPT vide its email dated 23 October 2021 has responded.

5. 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 will be sent separately to them. These details will also be made available at our website http://tariffauthority.gov.in.

6.1. Before going into the analysis of the proposal, it is noteworthy to mention that MBPT in the first week of August 2021 has filed two proposals seeking approval for schedule of rates and revision of rent / compensation for the quinquennial periods of 01.10.2012 to 30.09.2017 and 01.10.2017 to 30.09.2022 for `non-home occupations in Township Areas of MBPT. The said proposals were taken up on consultation with the relevant users/tenants/lessees. We have received numerous representations from various individual tenants/ lessees strongly objecting to the said proposal, on the ground that there is no provision under the Major Port Trust 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 further stated that the retrospective revision and the payment of arrears thereon, would further strain the financial condition of the lessees/ tenants. Thereafter, a joint hearing was held on 03 September 2021 on the said proposal, wherein, users/tenants/ lessees has raised similar issues no other than issues brought out in written submission. Subsequently, users/tenants/lessees were given an opportunity to submit their writing submission, if any, on the power point presentation of the proposal made by MBPT during the Joint Hearing. We have received written submission from the various user/ users/tenants/lessees reiterating the submissions made earlier and during the joint hearing, which have been duly brought to the notice of the Authority.

6.2. An action has already been initiated to notify the said order in the Official Gazette of India. Simultaneously, the MBPT has also filed another 6 proposals seeking approval for Schedule of rates and revision of rent / compensation for the quinquennial periods of 01.10.2012 to 30.09.2017 for non-home occupations in Township Areas of MBPT for let out land falling under various Ready Reckoner Zones, which have been dealt separately.

6.3. The present proposal seeking approval for fixation of Schedule of Rates and revision of rent / compensation for the period 01.10.2012 to 30.09.2017 and 01.10.2017 to 30.09.2022 for residential and mixed used occupations has already been taken up on consultation, which has been formulated on the similar methodology of adopting State Government Ready Reckoner value, 2012 for arriving lease rentals for the period 01.10.2012 to 30.09.2017 and considering highest market value as determined as per PGLM, 2014 for arriving lease rentals for the period 01.10.2017 to 30.09.2018 as done in the case of lease rentals for non-home occupations which has been disposed of by this Authority separately. In other words, the lease rentals proposed by the MBPT for non home occupation is being adopted for the residential and mixed used occupations for the respect quinquennial periods. The users/tenants/lessees have made their submissions similar to that of submission made earlier with regard to proposals of MBPT seeking approval for schedule of rates and revision of rent / compensation for the quinquennial periods of 01.10.2012 to 30.09.2017 and 01.10.2017 to 30.09.2022 for non-home occupations in Township Areas of MBPT, which have been forwarded to MBPT for its comments. The response of the MBPT is also similar to the response given in the earlier similar proposals.

6.4. Since, the submissions made by users/ response of MBPT thereon is akin to the earlier proposals of MBPT seeking approval for schedule of rates and revision of rent /

compensation for the quinquennial periods of 01.10.2012 to 30.09.2017 and 01.10.2017 to 30.09.2022 for non-home occupations in Township Areas of MBPT and given that the proposal in reference has already been taken on consultation with stakeholders, as provided in PGLM, 2014. This Authority has decided not to hold joint hearing on the case in reference

6.5. In this regard it may be noted that, mere non holding of Joint hearing shall not be construed as this Authority having not followed the consultation process.

7. With reference to totality of information collected during the processing of this 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 five separate proposals seeking retrospective fixation of lease rentals for Schedule of Rates and revision of rent/ compensation for non-home occupations/ residential and mixed used occupations/ Port Trust structures 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 present proposal in reference is for fixation of Schedule of Rates and revision of rent / compensation for the period 01.10.2012 to 30.09.2017 and 01.10.2017 to 30.09.2022 for residential and mixed used occupations falling under various RR Zones of MBPT.

(ii). During processing of this case, numerous representations are received from various individual tenants/ lessees strongly objecting to the retrospective fixation of the lease rentals, on the ground that there is no provision under the Major Port Trust 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

In this connection, it is relevant here to mention that the lease rentals approved by the Board of Trustees for the lands of MBPT for the period from 01 October 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.

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 lease rentals 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 period 01.10.2012 to 30.09.2017 and 01.10.2017 to 30.09.2022 for residential and mixed used occupations falling under various RR Zones of MBPT, is taken up for consideration.

(iii). It has been 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 31 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 01.10.2012 to 30.09.2017 and 01.10.2017 to 30.09.2022 for residential and mixed used occupations falling under various RR Zones of MBPT, is being treated in isolation, without getting influenced by the past revision of lease rentals or the pending writ petitions.

(iv). 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 is used for the purposes specified u/s 49 of the said 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.

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

(vi). 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 for implementation with effect from 17 July 2015. The subject proposal of MBPT seeking revision of lease rentals for the period from 01 October 2012 to 30 September 2017 and for the period of 01 October 2017 to 30 September 2020 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).

(vii). 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.

(viii). (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 for the reasons as documented in its Report has decided to determine the market value of the land on the following basis.

(i). Based on the State Government Ready Reckoner, 2012 as applicable for the year 2012 for the 26 RR Zones for arriving the lease rentals for the period 01.10.2012 to 30.9.2017.

(ii). Based on the valuation as per various methods prescribed in PGLM, 2014 recommended by the LAC for the 27 RR Zones for arriving the Lease rentals for the period 01.10.2017 to 30.9.2022.

(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. Ready Reckoner (RR) value as on 2012 in respect of 26 zones as brought out at para no. 8 (viii) (b) (i), Market Value of land based on the valuation report as recommended by the LAC for the 27 RR Zones as brought out at para no. 8 (viii) (b) (ii).

(d). As brought out above, the LAC for the reasons as documented in its Report has recommended to adopt Ready Reckoner, 2012 as applicable for the year 2012 to arrive the land value for 26 RR zones and to consider valuation as per various methods prescribed in PGLM, 2014 for 27 RR zones to determine the market value as 2017 and has recommended lease rentals thereon for the quinquennial periods of 2012-17 and 2017-22 respectively. 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.

(ix). 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 31 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 from 2012 to 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 2012 (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 2012 /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.

Land being a valuable resource, port must strive to ensure the maximum income from its estates. Clause 4(ii) of the LPG 2015 stipulates one of the objective of the said policy is to ensure that optimum value is realised by licensing / leasing of port land and for revision of rates to enable maximum resource generation for ports. Though the MBPT is seen to have adopted the rates based on the single factor of Stamp Duty Ready Reckoner amongst the five factors mentioned in para 13 (a), determining the market value of land based only on a single approach may not always reflect the correct position.

Nevertheless, taking into account the position that the market value of the land based on the State Government Ready Reckoner has been recommended by the LAC and given that the Board of Trustees of MBPT has approved the recommendation of the LAC, this Authority is inclined to prescribe the Lease Rent for the 26 RR Zones for Home and Mixed Occupations for the period 1.10.2012 to 30.9.2017 based on Stamp Duty Ready Reckoner Rates 2012, as proposed by the MBPT.

As regards to 27 RR zones, the lease rentals determined by the Port considering the Fair Market Value (FMV) of land being highest of the 5 factors as per PGLM has been recommended by the LAC and also has been approved by the Board of Trustees of MBPT.

Given that the proposal of the port for fixation of lease rentals is based on the Fair Market Value (FMV) of land being highest of the 5 factors, which is 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 27 RR zones for Home and Mixed (Home and non-home) occupations in Township Areas of MBPT for the period 01 October 2017 to 30 September 2022, as proposed by the port.

(x). As regards objection to the Valuation of the port land as carried out by the Valuer for arriving the market value as on 2017 in respect of 27 RR zones, 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.

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 2012/2017.

Given that the lease rentals are being enhanced for MBPT, the MBPT in consultation with the tenants/ lessees, be 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 2012 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 2012.

(xi). 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 for the respective RR zones as fixed for the year 2012-13 and 2017-18 for the period 1.10.2012 to 30.09.2017 and 1.10.2017 to 30.9.2022 respectively 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 2013 and 01 October 2018 respectively.

(xii). Clause 13 (C) of the amended Land Policy Guidelines, 2014 stipulates that the rates will be revised once in every five years by this Authority. Since the rental is being prescribed with effect from 01 October 2012 in case of 26 RR Zones and form 01 October 2017 in case of 27 RR Zones, 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.

(xiii). 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.

(xiv). 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.

(xv). The MBPT has proposed notes to the effect that the rates are applicable for Home and Mixed (Home and Non Home) Occupations. 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 with slight modification to fall in line with the notes prescribed in the earlier order for revision of SOR for non home occupations.

(xvi). 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.

(xvii). The MBPT has proposed notes to the effect that Rate for let out structures constructed/ owned by MBPT i.e. P.T. Structures is not included in the above rates, the rates are not applicable to the lettings of PT Structures will be mde applicable as per prevailing MBPT regulations, Estate lands of Old Sassoon Dock, Ferry Wharf and Jawahar Dweep are excluded from the above rates, the rates are not applicable to occupations given on nominal rents to public bodies and for public amenities. 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.

(xviii). The MBPT has proposed a note to the effect that differential arrears, liabilities and other dues of charges for a period from 01.01.2017 onwards. The said note seen to be ambiguous Hence, the proposed note is slightly modified to reflect that the differential Arrears, liabilities and other dues/charges for a respective period are calculated based on above rates.

8. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves the Rent Schedule for MBPT prescribing Lease rentals in respect of 26 RR zones for the period 01.10.2012 to 30.09.2017 and 27 RR zones for the period 01.10.2017 to 30.09.2022 for let out of land for residential and mixed used occupations, which has been notified separately vide Gazette No. 556 dated 12 November 2021.

(T.S. Balasubramanian)
Member (Finance)

SUMMARY OF THE COMMENTS RECEIVED FROM THE LESSEES/ TENENTS/ PORT USERS

TAMP/54/2021-MBPT	**:**	**Proposal received from the Mumbai Port Trust (MBPT) seeking approval for fixation of Schedule of Rates and revision of rent / compensation for the period 01.10.2012 to 30.09.2017 and 01.10.2017 to 30.09.2022 for residential and mixed used occupations.**

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.	Similar Representations received from Individual Tenants/ Lessees – Group 1.	Response of MBPT
(i).	At the outset, let us begin by recording that as users of the property being Old RR No. 1388 admeasuring about 1122.7 sq meters, we have always been willing to furnish and pay the basic rent as per the Hon'ble Supreme Court sanctioned compromise proposals. In our case, our landlord originally were the trustees of Estate of Late Khan Bahadur Hormusji Maneckji Bhiwandiwala in whose name the lease originally stood. He lawfully gave out rooms on tenancy basis under due consent and approval of the Board of Trustees of the Port of Mumbai. In or around the year 1986, he requested tenants to attorn tenancy to one Mr. Abdul Kayum Suleman Kodia and without prejudice to the validity of the title of the said Mr. Kodia, the tenants have been paying and/ or have been ready and willing to pay rent to the said Mr. Kodia as per instructions of the lessee/ landlord. In or around the year 1980, an LE & C Suit bearing no. 410/527 of 1980 was decreed in favour of the Port Trust whereafter, Obstructionist Notice was drawn in respect of the flats and the matters have been pending before the Hon'ble Small Causes court in respect of the eviction sought by the Port Trust against the the various actual users of the building known as "Sea View Terrace" situated at 69-71 & 120A-120B-120C of Wodehouse Road & SBS Road. It is a matter of record that as per the mandate of the Hon'ble Supreme Court as laid down in the case of Jamshed Hormusji Wadia v/s The Board of Trustees of the Port of Mumbai, the actual users as of 2004 were to be regularized on the terms stated therein and the fresh leases were to be executed for a period of 30 years w.e.f. 1994 until 2024. However, for reasons best known to the Port	The contents are incorrect and unacceptable, MbPT is bound by PGLM 2015 issued by MoSP&W, GoI which have been scrupulously followed by MbPT while computing SoR. The comparison with the practice followed by Collector of Mumbai, State Govt. and any other PSUs is irrelevant and not applicable in this present case. The Hon'ble Supreme Court order dated 13.01.2004, Board's compromise formula was only valid upto 30.09.2012 (only for 20 years i.e. 01.10.1992 to 30.09.2012) and such there is no violation of S. C. and no permission of S. C. Judgement is necessary for revision of rate from 2012. The Para 13 of PGLM, 2015 has stated the methodology of calculation of latest market value of port land and accordingly as stated in para 4 above, MbPT fixed SoR 2017-22. (b). i) It is observed from the inspection that the market real estate sale transactions are at very high rate as compared to current rent charged by MbPT based on compromise formula upheld by SC judgement, 2004. The erstwhile lessee/tenant who are unauthorizedly holding over the plots even after the expiry of the lease without valid lease agreement or extending their period of occupation beyond the permitted period in the agreement still want to enjoy meagre/

	Trust, regardless of the judgement of the Hon'ble Supreme Court, the MbPT has failed to execute such fresh leases. In fact, the decree in LE & C suit and obstructionist notices have all become infructuous in view of the judgement of the Hon'ble Supreme Court stated aforesaid. It is pertinent to record that the said judgement was one in representative capacity after notice under Order 1 Rule 8 of CPC was issued and therefore, bound every person concerned including the Port Trust. In law, the leases are deemed to be renewed till 2024 and hence, the proposed schedule of rates cannot be proposed by the Port Trust for the period contemplated in the proposal. It is pertinent to note that we had also written to the Port Trust vide our repeated communications that regardless of whether or not the originally lessee is paying the amounts claimed to be due to MbPT, we, as actual users/ residents/ tenants and as members of a collective association of persons ready and willing to form a society, are always ready and willing to pay the amounts as per the compromise proposals. We had also claimed that a lease be executed in favour of our proposed society in tune with the judgement of the Hon'ble Supreme Court. Unfortunately, the MbPT even did not encash one of our demand draft and yet, failed to execute lease in our favour and is now trying to benefit from its own wrong which is not permissible in law. We specifically express our reservation and objection to the proposed increase in the schedule of rates as we are the aggrieved parties entitled to have lease in our names. If any such increase will be allowed in the SOR's as proposed, we will be the end sufferers. Please note that such retrospective proposals are not just immoral but also illegal and against the legitimate expectation from any public body / authority. If such proposals are retrospectively adopted, it would make our rentals a sum of Rs. 1421338/- Calculated at Rs. 1266/- per month per square meter as of 2012 and a sum of Rs. 1662763.608 as of 2017 calculated at Rs. 1481.04 and Rs. 19,80,000/- as of today calculated at Rs. 1700/- per square meter as against the currently calculated amount which is less than a fraction of the amounts proposed which we have always been ready and willing to pay as per the calculation based on the 2004 Supreme Court judgement. By no	concessional rates based on the compromise formula of 1982. ii) It is estimated that 80% of MT, FML, expired leases have unauthorisedly and unlawfully subletted 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 licensees are not having any running contract with MbPT. MbPT had correctly and rightfully worked out the SoR for MT, FML, expired leases and licensees based on PGLM guidelines by adopting the highest of 5 factors as furnished by Govt. approved Valuers who are empanelled 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. (c). So far, MbPT has not resorted to any litigation or coercive action for recovery of dues as per proposed SoR. As proposed by the Board in Para 4(c) of 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. MbPT is duty bound and committed to enforce the applicable law and procedure as laid down in PGLM 2015, and only after notification of final SoR rates by TAMP, MbPT will raise demand of differential arrears giving them the reasonable time for payment of dues of 3 months or as may be allowed/stipulated by the TAMP without charging interest thereon on the differential arrears payable as per SoR. (d). Proposal is for the revision of rentals w.e.f 1.10.2017 based on para 13 of PGLM,2015. The said revision will be applicable to all MT, FML and expired leases in MbPT jurisdiction. The rent/compensation will be computed based on the FSI factors and other parameters as may be decided by MbPT.

	stretch of imagination can this sudden proposed steep increase in tariffs be called reasonable. Be it recorded that we enjoy all protection of the law applicable to old tenants. We maintain that as per the modifications to the Maharashtra Rent Control Act, 1999 which superseded the Old Bombay Rent Act, 1947, section 7(6) thereof defines “local authority” which was earlier not defined in the 1947 Act. Therefore, as the term “local authority” was not defined in the old law, the definition was borrowed from the General Clauses Act and hence, the Port Trust was taken as a “local authority” and as such, exempted from the folds of the Rent Act. However, with the onset of the Maharashtra Rent Control Act, 1999, the Port Trust is not exempt from the folds and clutches of the Rent Act as it does not fall within the new definition of “local authority” laid down under the Maharashtra Rent Control Act, 1999. The Act supersedes all earlier rent laws and has also received the Presidential Assent. In terms of the said Rent Law, an increment of only 4% per year on the rents is permissible and the landlord cannot arbitrarily increase rent in the way and manner it deems fit. Without prejudice to the applicability of the Maharashtra Rent Control Act, 1999 to the Mumbai Port Trust, be it noted that the Mumbai Port Trust, being a public body is subject to the Constitution and is bound to behave fairly and reasonably and cannot behave like private landlord so as to monitize its land and extract maximum rents. In the case of Jayantilal Dharamsey v/s Board of Trustees for the Port of Mumbai, the Hon’ble Supreme Court had held and I quote as under: “…… It cannot be arbitrary or capricious. The underlying philosophy of the Rent Act is to stop private landlords from acting in a particular manner. But for the exemption, the properties held by the authorities mentioned in Section 4 of the Rent Act would equally be covered by the rigorous provisions of the Rent Act. However, it has been held in the aforesaid various judgments and in fact in a series of judgments of the Apex Court and several judgments of different High Courts, no doubt under different Rent Act regimes, that the exempted landlords are so exempted because the Legislature has reposed faith in them of not behaving like private landlords. In other words, though they are free to terminate the leases and recover rent with upward increase from time	(e). Regarding MbPT refixing letting rates retrospectively after 30.09.2012, the matter was referred to respective MbPT advocate dealing in the matter in the Supreme Court for opinion and accordingly, letter dated 15.04.2014 addressed to MoS, GoI requesting them to forward copy of opinion from Ministry of Legal Affairs. Opinion from PT Advocate and AG (Mr. Mukul Rohatgi) was obtained by MbPT on applicability of Wadia Judgment Rates (SCJ) post 30.09.2012 and MbPT’s rights to revise the rentals w.e.f 01.10.2012 onwards. The opinion received from PT Advocate and AG, GoI confirming the Port Trust’s rights to revise rentals w.e.f 01.10.2012. Accordingly, then Chairman, directed to prepare SoR rates for Estate Lettings from 01.10.2012 onwards affected by SC Judgment. The letter dated 09.10.2014 was written to MoS, seeking Ministry’s direction on revision of SoR on township areas of MbPT (Estate lettings). Meanwhile, vide TR No. 123 of 2014 committee of officers was constituted (Chairman, EM and FA) by MbPT for fixation of rentals w.e.f 01.10.2012 onwards. The Ministry sought further information from MbPT on 08.10.2015 which was forwarded to Ministry on 02.12.2015 and Ministry was once again requested to give directions on fixation of SoR from 01.10.2012 and also approve the cases settled under compromise policy by the Board interms of SC Judgment, 2004. However, neither such approval for renewal of settled cases under compromise formula (61 cases) had been received from Ministry nor any directions received from Ministry till the issuance of general clarification circular No. 01 of 2018, PGLM 2015 which was extended to the township areas of MbPT covering the lettings affected by SC Judgment 2004 i.e. MT, FML, Expired leases and licenses. Accordingly, Board vide TR 122/2021 forwarded SoR proposal approved by Board vide TR 222 of 2015 based on the LAC report dated 29.12.2014 which annexed as part of proposal for revision of SoR for the period 2012-17. (f). The contents are incorrect and unacceptable as already stated in earlier para 4, MbPT is bound by PGLM 2015 issued by MoSP&W, GoI which have been scrupulously

	to time, they are expected to behave in fair and reasonable manner." Therefore, even otherwise, the actions of the Port Trust have to be reasonable as even assuming without admitting that they enjoy exemption from the Rent Act, such exemption could only make them at a responsibility of behaving in a manner more fair than a landlord that is governed under the rent act and exempted categories are not made so as to allow them to do as they please but because some categories are assumed to not behave unreasonably. This being said, please also note that from time to time, the Port Trust has tried to indulge in rack-renting and arbitrary increase in rent. This has led to the matter being taken up before the Courts on multiple occasions. The entire litigation history is summarised in the judgement of the Hon'ble Supreme Court in the case of Jamshedji Hormusji Wadia v/s Board of Trustees for the Port of Mumbai. In terms of the judgement of the Supreme Court, compromise proposals were sanctioned and were made binding upon all. Please note that Rule under Order 1 Rule 8 of the CPC was issued and the judgement was made applicable not just to the contesting parties but all tenants and land users of the Port Trust. It is a matter of fact that the Mumbai Port Trust has failed to comply with the said judgement in letter and spirit. As per the judgement, fresh leases were to be executed but the Port Trust miserably failed to do so. On the contrary, the port trust has since then been trying to subvert the judgement and wriggle from its clutches. There have been several litigations even post the judgement rendered by the Hon'ble Supreme Court in the case of Jamshed ji Hormus ji Wadia. In a matter as sensitive as the current one involving thousands nay over a lakh of tenants, a time of 14 days to respond is horrendously dismal and nothing but unreasonable. In fact, notice was served 4-5 days later and 5-6 days have been lost only in logistics out of the 14 days and group of residents like ours have not been able to even assimilate inputs from their members and individuals have not been able to seek instructions from their lawyers/ advisors. This is regardless of the fact that current times are plagued by the Pandemic Situation. Without prejudice to all the above, We were shocked to see the schedule wherein all	followed by MbPT while computing SoR. The comparison with the practice followed by Collector of Mumbai, State Govt. and any other PSUs is irrelevant and not applicable in this present case. The Hon'ble Supreme Court order dated 13.01.2004, Board's compromise formula was only valid upto 30.09.2012 (only for 20 years i.e. 01.10.1992 to 30.09.2012) and such there is no violation of S. C. and no permission of S. C. Judgement is necessary for revision of rate from 2012. The Para 13 of PGLM, 2015 has stated the methodology of calculation of latest market value of port land and accordingly as stated in para 4 above, MbPT fixed SoR 2017-22.

	calculations are being done based on ready-reckoner rates and no heed is given to reasonableness. The percentage of ready reckoner is taken at 6% whereas In the case of residents, the yield should not have been more than 1.8% as is the law in force. It may be appreciated that para-materia when studied reveals that similar lease for Collectors land is taken at 0.25% of ready reckoner. Therefore, clearly the schedules smack of unreasonableness which is unbecoming of a public organization. We may be permitted to refer to the material dealing with Collectors lease rates as and when produced. Further, any old tenant should not be given a steep increase in rentals and basis has to be that which the tenant has been paying/ has expressed willingness to pay. If any revision to the compromise proposal is sought, it should be with the nod of the Hon'ble Supreme Court that sanctioned compromise proposals. WE maintain that the guiding light for TAMP should be the Hon'ble Supreme Court sanctioned compromise proposals and/or similar lessors like Governer of Maharashtra, Railways, etc. and not the rates arbitrarily suggested and proposed by Mumbai Port Trust which is unfortunately interested in monetizing land and not behaving reasonably. Please also appreciate that our land is not that on Port Area and the purpose of a Port Trust is to manage Ports and not rack rent/ profiteer from land. In doing so, the port trust is running contrary to the judgement of the Hon'ble Supreme Court in the case of Dwarkadas Marfatia v/s the Board of Trustees for the Port of Mumbai. Please note that merely levying high rates and failing to recover them is not as good as levying reasonable rates and receiving them from tenants with good will. That is the idea of a welfare state. The Mumbai Port Trust tenants are happy to pay reasonable rents. However, steep increases are but naturally going to be unwelcome and would attract litigation leading to waste of resources of the Port Trust and the tenant concerned and waste of precious judicial time. As per the law related to rentals, an increase of over 4% per year is illegal and the Schedule of Rates proposed for 2012-17 and 2017-22 leads to over 5000% increase in rents which is clearly an arbitrary action for any public organization. The proposal is also faulty because it treats tenants whose leases have allegedly	

	expired at par with fresh allotments notwithstanding renewal obligations created by the Supreme Court judgement. Further, the Port Trust has weighed all tenants with the same weight and has adopted a one-size-fits-all theory which will not work given the number of categories of tenants. Many associations have Written to the Port Trust from time to time and conducted several meetings but in vain as the Port Trust Chairman has changed from time and again and verbal assurances have never been honoured. Various representations have been taken even to the shipping ministry and various leaders of political parties and we have been given positive assurances which have even been reported by the Press from time to time but we are surprised to see that the rates do not reflect any reasonableness. We expected a revision of rates on the downside but are surprised to see an exponential increase. The number of residential and commercial tenants of the port trust and the actual land users exceed 5 Lakh people. Such rates if adopted and accepted will create mayhem and large scale evictions leading to panic situation. There could be large scale protests and revolts due to fear of eviction. As comments have been sought on a proposed Schedule of Rates for 2012-2017 and 2017-2022, we record that we were taken aback to see that extremely high schedule of rates have been proposed on the basis of 6% return on the Ready Reckoner Value of the properties for commercial tenants/ lessees and residential tenants / lessees alike without any intelligible differentia. We request you to kindly consider our grievances so that exemplary schedules are not finalized taking basis of 6% of Ready Reckoner Value. Such acceptance of arbitrary amounts leading to steep increase disregarding totally the last basic rent would be illegal and would only be a ground of litigation that can be obviated. Some points which we invite your attention to are as under:- (a). Rates proposed for renewing leases in respect of Collector's land: Alike the Board of Trustees for the Port of Mumbai, the collector too has a lot of land parcels that are given out on long leases to various lessees, many of which have also come to an end. The collector's model can be of assistance to fix up rates for renewal of	

	leases in respect of land owned by MbPT. The amounts that the State Government has decided for renewal are a fraction of the amounts that the MbPT has proposed. For instance, in respect of the collectors land, the annual lease charge against renewal is taken at 2% of 25% of the Ready Reckoner (RR) Rate on plots admeasuring more than 500 sq. meters and 1% of 25% of Ready Reckoner (RR) Rates on plots admeasuring up to 500 sq. meters for residential users. We request that the rates that the Port Trust proposes are at par or at-least not totally disproportionate with that in respect of similar land owned by the Collector. (b). Levy of Market Rents for Old Tenants / Profiteering/ Behaviour like Private Landlord is not permissible for a Public Body like the Mumbai Port Trust:- If the rates proposed by MbPT on the basis of 6% of ready reckoner are taken, the total amount of lease rent would almost be equivalent to the running leave and license rates in the market making it unaffordable and impossible for the land users to continue to stay forcing many of them out of their properties or forcing them into litigation. Evicting someone who have been possessing a property for decades together since generations in this manner is neither easy nor fair. The Hon'ble Supreme Court in the case of Dwarkadas Marfatia v/s Board of Trustees for Port of Mumbai and also in the case of Jamshedji Hormusji Wadia v/s Board of Trustees for the Port of Mumbai has clearly held that MbPT being a public body is subject to the Constitution and is expected to behave reasonably and not like a private landlord. The Port Trust, being a public organization cannot indulge in rack-renting/ profiteering. (c). Coercive Actions should be kept in Abeyance so that Occupants are not forced to move court every now and then:- IT shouldn't happen that while proposal is made to TAMP for revision of schedule, demands are made based on exemplary schedules at par with market rates on the one hand, pending the participatory process before the MbPT/ TAMP in so far as the quantum of rates are concerned, action under PPE Act is initiated for eviction of tenants. That would not be fair. Without approval, the Port Trustis already making demands self-supposing make rents and Termination notices/ PPE Notices are being	

	issued. This is incorrect and should be deprecated. (d). All Tenants should not suffer for alleged breaches by a few/ One size fits all model shouldn’t be adopted: It is requested that the rates should consider matters on a case-to-case basis and shouldn’t adopt a one -size- fits-all model. It has been observed that in some cases breaches have been carried out by one tenant and due to such breach an entire complex suffers from enhanced charges. Such things should be avoided (e). Retrospective levies should be avoided/ neither legal nor moral:- Retrospective levies with effect from a past period should be avoided as it is neither permissible legally nor is it morally correct. The Port Trust may endeavour to work out all policies only after mutual consultations and that too from a prospective date and not from retrospective dates. (f). Compromise Proposals are the way forward: A similar panic situation had been created in the 1990’s when the Port Trust and the Tenants worked on a compromise which eventually was sanctioned even by the Hon’ble Supreme Court in the 2004 celebrated case of Jamshedji Wadia v/s BPT (Compromise Formula Case). At that point in time, the situation was resolved through mutual compromise. IT is requested that once again, there is a need for working out compromise proposals to ensure peace for the tenants even if the Port Trust is not willing to behave reasonably and follow the principles of the Rent Act. For such purpose, meeting between port trust authorities and tenants/ tenant representatives is the need of the hour to prevent unwarranted litigation at a mass scale. WE are confident that you would consider our difficulties and suggestions and adopt a reasonable, humanitarian and pragmatic approach so that we tenants are not constrained to rush to the courts to protect their livelihood. A mutually acceptable win-win situation can be arrived at which would be much appreciated by everyone.	

2.	**Similar Representations received from Individual Tenants/ Lessees – Group 2.**	**Response of MBPT**
(i).	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	Though the core activity of the Port relates to Dock and Shipping activity, land management is a supplementary activity and the returns on the land are utilized in Managing and expanding the core functions, carrying out the activities in terms of the objectives of the Major Port Trust Act, maintenance of the existing infrastructures, creation of new infrastructures, besides taking care of salaries and wages of its existing workforce and pension of retirees.
(ii).	The said premise was primarily allotted to us by the Welfare Officer of MBPT to serve the tenants and employees of MBPT to conduct a specific trade which bounds us to have a limited business from the said premise. Raised rent may affect our service to the colonies' tenants.	The proposed revision of rent is strictly in accordance with the provision of PGLM 2014-2015. 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. Once TAMP approves/ notifies the SoR, the details will be worked out and communicated to all the affected tenants and lessees and all the tenants/ lessees would be liable to pay the rates as may be approved. Since rentals from MbPT landed assets is important part of MbPT revenue which is essential for sustenance of MbPT, no concessions are admissible on the grounds raised in the representation. Further there is no such provision in PGLM 2014-2015
(iii).	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 MBTP 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.	Charge certificate is only a certificate of handing over of the premises mentioned in the said certificate and the terms governing the letting are contained in the terms and conditions under which the letting is allowed to continue. Once the contract period of letting expires, the holding over continues at then applicable lettings rates/SOR and is recovered as compensation as the tenants continue to occupy the premises without a valid contract. The new rates always depends upon the policy and the Schedule of rates prevalent at the relevant time.
(iv).	Bringing to your 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.	The annual increase of 4% is in terms of the compromise proposals upheld by the Supreme Court by its judgement dated 13.01.2004 in the rent revision matter of MbPT and the same only partly offsets the inflation over a period of time. The basic land value has remained frozen since 1980 which has led to a sharp erosion in the values of rents fixed under the compromise proposals which even otherwise were only valid till 30.09.2012 and the revision were due from 01.10.2012.
(v).	Being in the good faith I hereby declare that I have never breached the MBPT tenancy by	The billing only in respect of plots/premises which has been let out to tenants/lessees and

2.	**Similar Representations received from Individual Tenants/ Lessees – Group 2.**	**Response of MBPT**
	Sub-letting my tenancy and always have been abide to the MBPT. 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.	in which cases the leases have expired and the paid up capital of such tenants/lessees is more than Rs.1 Crore are being billed w.e.f. September 2006 at 6% return per annum on land value as per Supreme Court and in all the other cases the bills are raised strictly in terms of the compromise proposals. In respect of the case of Shop No.5, Tejas Nagar, the tenancy being a Port Trust structure, the bills are raised at the rates applicable for Structures under the compromise proposals upheld by the Supreme Court.
(vi).	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 letting rates that has been charged it is in the bad faith because, in scenario of a Regular property the property tax is borne by the owner of the property and not the tenant. Whereas, I being a sincere tenant still abiding the Bye Laws of MBPT have been paying property tax of the property hold regularly.	As per the provisions of BMC Act, 1888, if the tenure of a letting is less than a year, the burden of paying municipal taxes lies on the landlord who can recover the same from the tenant and if the tenure of letting is more than a year the burden of paying the taxes lies upon the tenant. Either way, the tenant is liable for payment of both the rent for the premises let out and the taxes as per municipal assessment either directly or indirectly. In the cases of leave and licences, the landlord factors the element of taxes in the rent being recovered by recovering higher rent. MbPT has been raising bills strictly in terms of the provision of Compromise Proposals under which in respect of monthly tenancy only cesses are being recovered and not property taxes, the burden of which is borne by MbPT under the quinquennial assessment of MCGM.
(vii).	MBPT does not facilitate maintenance or repair of said premise, cleanliness of surrounding area and general urinals, improvement in sewerage facility which in turn results in severe floods every monsoon causing heavy damage to our goods and furniture every year. There is no compensation provided by MBPT for the said damage.	Under the compromise proposals upheld by the Supreme Court, in respect of Port Trust structures the letting rates are 2.5 times the letting rates applicable to the plots and the tenants are allowed to retain 0.5 times the letting rate towards maintenance of the structures and are required to pay 2 times the letting rate applicable to land. Thus the liability of maintenance of the structure lies upon the tenants. As regards complaints with regard to cleanliness, maintenance of urinals, sewerage, drainage, etc. the same is looked after by the local site office of the Civil Engineering Department who attends to the same from time to time and also on specific complaints.
(viii).	Bringing to your 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	This has been covered under the reply to item 6 above.

2.	**Similar Representations received from Individual Tenants/ Lessees – Group 2.**	**Response of MBPT**
	liable to paid, but in tenancy of MBPT such charges are imposed on the tenant and MBPT does not play any role in paying such expenses.	
(ix).	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 BMC, BMC allows the consideration for additional FSI and Built Structure. But the same cannot be applied with the said land of BPT as it is contradictory to the MBPT bye laws which could lead into breach of tenancy.	The rates given in the Ready Reckoner for developed land are for 1 FSI and it can be seen that there is a vast difference in the rates given in the Ready Reckoner for land and structure. It needs to be noted that the rates would increase proportionate to the increased FSI being utilized. One cannot carry out any development beyond the permissible FSI.
(x).	It is suggestible to collect the outstanding rent from tenants who are irregular towards their rent payment rather than introduce a raise in rent for the tenants who are regular towards their rental payments.	The revised SoR are applicable to all cases Monthly Tenancies, 15 Monthly lease, expired long leases and licences. MbPT is strictly bound by the provisions of PGLM and there is no provisions as proposed in the present representation in the PGLM.
(xi).	Therefore I suggest MBPT to rethink on the revised SoR which had been proposed for the year 2012-2017 and year 2017-2022 and take a step in good faith of me and other tenants.	The revised SoR being strictly in terms of the provisions of PGLM no review is possible. TAMP is the authority to take a decision on the proposal submitted in terms of the PGLM.

3.	**Similar Representations received from Individual Tenants/ Lessees – Group 3.**	**Response of MBPT**
(i).	This has reference to notice dated 06.10.2021 whereby comment to the proposal for Revision of Schedule of Rates (SOR) 2017-2022 as per ready reckoner zones for let out areas of Non-Home occupations in estate lands of Mumbai Port Trust.	No comments.
(ii).	By the present proposal the MBPT is trying to revise schedule of Rates retrospectively i.e., for the period from 2017-2022 and levy of interest for the said period which is unlawful, unjust and without any plausible reason.	Regarding MbPT refixing letting rates retrospectively after 30.09.2012, the matter was referred to respective MbPT advocate dealing in the matter in the Supreme Court for opinion and accordingly, letter dated 15.04.2014 addressed to MoS, GoI requesting them to forward copy of opinion from Ministry of Legal Affairs. Opinion from PT Advocate and AG (Mr. Mukul Rohatgi) was obtained by MbPT on applicability of Wadia Judgment Rates (SCJ) post 30.09.2012 and MbPT's rights to revise the rentals w.e.f 01.10.2012 onwards. The opinion received from PT Advocate and AG, GoI confirming the Port Trust's rights to revise rentals w.e.f 01.10.2012. Accordingly, then Chairman, directed to prepare SoR rates for Estate

3.	**Similar Representations received from Individual Tenants/ Lessees – Group 3.**	**Response of MBPT**
		Lettings from 01.10.2012 onwards affected by SC Judgment. The letter dated 09.10.2014 was written to MoS, seeking Ministry's direction on revision of SoR on township areas of MbPT (Estate lettings). Meanwhile, vide TR No. 123 of 2014 committee of officers was constituted (Chairman, EM and FA) by MbPT for fixation of rentals w.e.f 01.10.2012 onwards. The Ministry sought further information from MbPT on 08.10.2015 which was forwarded to Ministry on 02.12.2015 and Ministry was once again requested to give directions on fixation of SoR from 01.10.2012 and also approve the cases settled under compromise policy by the Board interms of SC Judgment, 2004. However, neither such approval for renewal of settled cases under compromise formula (61 cases) had been received from Ministry nor any directions received from Ministry till the issuance of general clarification circular No. 01 of 2018, PGLM 2015 which was extended to the township areas of MbPT covering the lettings affected by SC Judgment 2004 i.e. MT, FML, Expired leases and licenses. Accordingly, Board vide TR 122/2021 forwarded SoR proposal approved by Board vide TR 222 of 2015 based on the LAC report dated 29.12.2014 which annexed as part of proposal for revision of SoR for the period 2012-17.
(iii).	The proposed revision for SOR for the period of 2017-2022 is in respect of Non-Home occupation (Commercial Occupation) and leaving all the Home -Use (Residential Occupations) and Home and Non-Home (mixed user occupations) and occupation given on nominal rents to Public Bodies and for Public amenities kept out of the purview of proposed revision. It is clearly discriminatory in nature and will affect only Non-Home occupation without any reason or rhyme given by the MBPT.	The revision of SOR is applicable to all MT,FML, Licenses and expired leases who are not having any running contract with MbPT. The subject revision is also applicable to all Govt. organisation and public bodies. However it not applicable to running leases. Hence the contentions raised are incorrect.
(iv).	It is double waxing as it will affect the genuine persons who were and are regularly paying the rent. By proposed revision the MBPT is trying to recover the rent for the past period for which tenants, lessees or licensees have already paid the rent at the prevalent rate and also proposing to charge the interest thereon which is totally unjust and against the principle of natural justice.	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

3.	Similar Representations received from Individual Tenants/ Lessees – Group 3.	Response of MBPT
		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" Hence all the lessees and tenant were very well aware of the revision of the rentals and had not objected to the notices issued and the invoices raised with disclaimers.
(v).	The Proposed revision of SOR Period from 01.10.2017 to 01.10.2022 is contra to the Compromise Proposal and Judgment of Hon'ble Supreme Court in the for case of Jamshed Wadia for the sake of brevity relevant part of the judgment is produced hereinafter: "The summary of the "compromise proposals", which is based on a detailed note submitted by the office of the BPT for being placed before the Board, is as under: - "(i) Nature of occupations may continue as at present on revised rents. Development may be in accordance with the Development Plan and the Development Control Regulations and BPT Master Plan including restructuring from time to time to cater for port's and city's needs. (ii) Occupations may be classified for the purpose of levy of rents either as 'NonHome Occupation' or as 'Home Occupation' as defined in the Development Control Regulations on the basis of actual use. (iii) Letting rates for 'Non-Home Occupation' per sq. metre of floor space per month of built-up area (as derived from valuation by Kirloskar Consultants) shall be as under for the period 1.10.1982 to 30.9.1992. (a) Sassoon Dock Estate: Rs.22.03 (b) Wellington & Apollo Reclamation Estates: Rs.26.91 (c) Ballard and Mody Bay Estates : Rs.24.00 (d) Elphinstone Estates (TPS) : Rs.14.44 (e) Bunders South : Rs.21.38 (f) All other Estates: Rs.12.66 Letting rate for 'Home Occupation' may be at 20 per cent of the above rates. Letting rates for future years from 1.10.1992 to 30.9.2012 for 'Non-Home Occupation' and 'Home Occupation' shall be as given in the Annexures". Notwithstanding the fixation of letting rates for 20 years for good and sufficient reasons, Board may review and revise the letting rates All the appeals are directed to be disposed of in terms of the following directions: - (i) by this judgment and in these proceedings the	(a). The compromise formula modified under Wadia Judgement/Supreme Court Order dated 13.01.2004, was valid for the period of 20 years, i.e. from 1992 to 30.09.2012. MbPT had sought advice of P.T. advocate, Supreme Court regarding applicability / validity of S.C. judgement before LAC report dated 29.12.2014 and before TR 222 of 2015 were passed, which has categorically confirmed that MbPT is not bound to levy lease rentals beyond 30.09.2012 at the SoR rates applied by the Supreme Court (Wadia Judgement). The said advice was based on Addl. Solicitor General of India, Shri Trivedi opinion dated 07.02.2005 which clearly stated that compromise proposal was for period ending 2012 and therefore fresh revision is expected to be fair and reasonable, thereafter. MbPT had obtained the opinion of learned Attorney General of India Shri Mukul Rohatgi on 29.07.2016 confirmed that SC judgment Rate was valid only upto 30.09.2012 and opined that the Board is empowered to re-fix the rentals / compensation rates w.e.f. 01.10.2012. (b). MbPT is governed by policy guidelines issued by Ministry from time to time and MbPT has honoured the Supreme Court judgement till its validity, i.e. 30.09.2012. (c). Also as per guidelines issued by MoSP&W, GoI, and rates approved by TAMP. The TAMP is authorised to approve the SoR retrospectively w.e.f. 01.10.2012 onwards, 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 simultaneously submitted to TAMP. 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

3.	Similar Representations received from Individual Tenants/ Lessees – Group 3.	Response of MBPT
	controversy as to the rates of rent applicable to the lessees shall be deemed to have been resolved for the period 1.4.1994 to 31.3.2000; (ii) the 'Compromise Proposals' as approved by the Board of Trustees of the Port of Mumbai in their meeting held on 13.8.1991 which are very fair, just and reasonable, subject to the modification that the revision in rent from 1.4.1994, shall be on the basis of rates of return at 10% for non-residential uses and 8% for residential uses, based on Kirloskar Consultants' report, instead of 15% and 12% respectively as was suggested in the 'Compromise Proposals'. The 'Compromise Proposals' so modified shall bind the parties, and all the lessees even if not parties to these proceedings in view of the proceedings taken by the High Court under Order 1 Rule 8 of the C.P.C.; (iii) the rates of rent for the period upto 31.3.1994 shall remain as suggested in the 'Compromise Proposals'; (iv) the interest chargeable by the Board of Trustees of the Port of Mumbai in respect of arrears of rent for the period commencing 1.4.1994 upto the date of actual payment shall be calculated at the rate of 6% per annum, (v) subject to the abovesaid modifications, all other terms and conditions of 'Compromise Proposals', shall remained unchanged; (vi) within a period of eight weeks from today lease deeds consistently with the 'Compromise Proposals', subject to the modifications as above said, shall be executed by the lessees and even if lease deeds are not executed the terms of 'Compromise Proposals' shall bind the lessees; (vii) such of the tenants as may wish to contend 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 the Bombay Port Trust under a written acknowledgement. The Bombay Port Trust shall maintain a register of all such representations filed. No representation filed after the expiry of six weeks from today shall be received or entertained. (viii) We request the High Court to appoint a retired Judge, preferably (and not necessarily) of the rank of District Judge, as a Sole Adjudicator of the	PGLM 2015 issued by MoSP&W, GoI. The validity of rates under S.C. judgement was only upto 30.09.2012 and thereof MbPT is bound to follow the guidelines as per PGLM, 2015 issued by MoSP&W, GoI. PGLM 2015 guidelines are very clear in fixation of SoR/Revision of SoR as per Para 13 and MbPT is following the same. Hence the contentions raised are irrelevant. (d). Supreme court judgement is not an indefinite licence to lessees and tenants to go on committing the major breaches of lease terms and occupying the premises even after the expiry indefinitely and multiple transfers and still want to enjoy meagre/ concessional lease rentals based on 1980 land values and regularisation of breaches as per compromise rates of 1982 and restrict Port Trust to major revenue return on its let out land. Therefore, contentions raised are incorrect.

3.	Similar Representations received from Individual Tenants/ Lessees – Group 3.	Response of MBPT
	objections/representations filed in terms of the above decision. The High Court shall appoint a place of sitting and the amount of remuneration to be paid per case (and not on per day basis) to the Adjudicator. The fee shall be paid by each lessee filing the representation for decision. The requisite secretarial and clerical assistance shall be provided by the Bombay Port Trust or as directed by the High Court. The learned Adjudicator shall commence his proceedings on expiry of eight weeks from today and on the record of representations being made available to him and shall conclude the same within a period of 4 months thereafter. The Adjudicator shall not be bound to record evidence and may determine and dispose of the representations by summary hearing, receiving such affidavits and documents as required by him, and/or carrying out inspection of the leased properties, if he deems fit to do so. The Adjudicator shall examine and decide to what relief in the rate of rent and/or any other term of lease such representing lessee is entitled. 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) The abovesaid procedure is not to be utilised as justification for withholding the payment of any arrears of rent to be calculated in terms of these directions. The payments have to be made and made regularly. Any amount becoming due for refund in terms of any relief granted by the Adjudicator shall be refunded or adjusted thereafter. (x) We expect the lessees to cooperate in finalisation of the disputes. We also expect the lessees to desist from preferring immaterial or frivolous objections or objections just for their sake. If any one does so the learned Adjudicator may impose costs on him which shall be payable to and recoverable under law by the BPT as arrears of rent. (xi) For the purpose of appointing an Adjudicator and dealing with application, if any, seeking resolution of difficulties, in terms of the preceding direction, we request the learned Chief Justice of the High Court of Bombay at Mumbai to assign this matter for being placed before any learned judge of his Court. We, on our part, suggest in the interest of expeditious disposal, that the matter may be assigned to any one of the judges available	

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	in the High Court out of those who had earlier dealt with the matter (i.e., the learned Single Judge who passed the order dated 1/4-10-1990, the two learned Judges who passed the judgment dated 11/12-3-1993 and the two learned judges who passed the order dated 1-8- 2000). His acquaintance with the facts of the case would accelerate the hearing and disposal. However, this is only a suggestion and is not in any manner intended to fetter the power of the learned Chief Justice to assign the matters for hearing in the High Court. (xii) The issue as to the applicability of the Maharashtra Rent Control Act, 1999, to the Port of Mumbai and the property held by it is left open to be decided in appropriate proceedings. The appeals and all the pending applications shall stand disposed of. There shall be no order as to costs in these proceedings.	
(vi).	As per the Jamshed Wadia's judgment, the Hon'ble Supreme Court has accepted the Compromise Proposal and the controversy regarding the rate of rent applicable to the lease resolved for the period from 01.01.1994 to 31.03.2000. As per the compromise formula as produced in the said judgment the MBPT was given the liberty to review and revise the letting rates from 1.10.2021 however it does not mean to revise the rate of rent in the year 2021 (after more than 9 years). In the said judgment the issue of applicability of Maharashtra Rent Control Act, 1999 to the Port of Mumbai and the property thereof was left open to be decided in the appropriate proceedings. The said issue of applicability is pending before the Hon'ble Supreme Court in the SLP No. 20645 of 2017 (Hussainali Punjwani/MBPT). As per the Maharashtra Rent Control Act, 1999. The Rent has to be fixed by the Hon'ble designated Courts i.e., Small causes Courts, at Mumbai. At present the Number of Suits is pending for the adjudication against the tenants/ occupants before the Hon'ble Small Causes Court, at Mumbai. The proposed revision for SOR will be therefore illegal. So far as the proceedings pending before the Ld. Eviction Officers, under the Public Premises Act is concerned, the proposed revision for SOR for the Period from 01.10.2017 to 01.10.2022 has to be as per the Judgment of Banatwala & Co. vs. LIC of India. In the Banatwala & Co. it is held that	As already stated the validity of Supreme Court Jamsedji Wadia Judgement 2004 was only up to 30.9.2012. With respect to applicability of Maharashtra Rent Control Act following are the comments: (a). i. 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 and 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.

3.	Similar Representations received from Individual Tenants/ Lessees – Group 3.	Response of MBPT
	"In the circumstances, we hold as follows: - (a) The provisions of the Maharashtra Rent Control Act, 1999 with respect to fixation of Standard Rent for premises, and requiring the landlord not to cut off or withhold essential supply or service, and to restore the same, when necessary, are not in conflict with or repugnant to any of the provisions of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. (b) The provisions of the Public Premises Act, 1971 shall govern the relationship between the public undertakings covered under the Act and their occupants to the extent they provide for eviction of unauthorised occupants from public premises, recovery of arrears of rent or damages for such unauthorised occupation, and other incidental matters specified under the Act. (c) The provisions of the Maharashtra Rent Control Act, 1999 shall govern the relationship between the public undertakings and their occupants to the extent this Act covers the other aspects of the relationship between the landlord and tenants, not covered under the Public Premises Act, 1971. (d) The application of appellant and similar applications of the tenants for fixation of Standard Rent or for restoration of essential supplies and services, when necessary, shall be maintainable under the Maharashtra Rent Control Act, 1999.	(b). ii. 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. Contentions are incorrect as rent act is not applicable to MbPT.
(vii).	As per the aforesaid said Judgment by Hon'ble Supreme Court, the Maharashtra Rent Control Act, 1999 govern the relationship between the public undertakings and their occupants to the extend the rent act covers and the other aspects of the relationship between the Landlord and tenants which are not covered under the Public Premises Act, 1971. Therefore, Application for the fixation of the standard rent should be maintainable under the Maharashtra Rent Control Act, 1999. The present revision therefore is not tenable in law, in view of the provision the Maharashtra Rent Control Act, 1999.	The issues are already clarified in para 6.
(viii).	The Proposed revision of SOR for the Period from 01.10.2017 to 01.10.2022 is based on Ready Reckoner, whose authenticity is in question and the same is generic in nature and cannot be sole basis for proposed revision. The proposed revision should be based on physical verification and inspection	The propose SOR 2017 is based on the valuation report submitted by the registered Valuers as per the provision of para 13 of PGLM, 2015. The valuer while recommending the Fair Market Value (FMV) for respective zones had considered the present infrastructure and facilities in the area and

3.	Similar Representations received from Individual Tenants/ Lessees – Group 3.	Response of MBPT
	of the conditions and circumstances of the premises and the lands in question.	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. Hence the contentions are incorrect.
(ix).	Most of the Plots of lands of the MBPT are subject matter of the litigation either before the Hon'ble Small Causes Court, at Mumbai or Ld. Eviction Officer, in short sub judice. It is therefore necessary for revision of the rent through the intervention of the Courts wherein the land is sub judice.	The proposed revision is 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.
(x).	On the factual aspects, since March, 2020 both Covid -19 and lockdown thereafter has made bad impact on the business of the tenants and occupants of the Non-Home occupants and constrained them to shut down their businesses. The proposed revision of SOR would add to their agonies and sufferings which may lead to the complete destruction of the business as well personal lives of the tenants, lessee, and licensees. It is therefore the question of Right to life as guaranteed by Article 21 and Article 19(1)(g) of the constitution of India is at stake. Secondly, the proposed revision of SOR would lead to the multiple litigations as several proceedings are pending before Small Causes Court at, Mumbai and before the Eviction Officers at Mumbai.	The SoR was due from 01.10.2017 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 2017. (a). 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 and no concession in rental charges is admissible. (b). ii. 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.

3.	**Similar Representations received from Individual Tenants/ Lessees – Group 3.**	**Response of MBPT**
		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. 01.10.2017.
(xi).	As per the Proposal available on the website of the BPT and TR 105 of 2018, the reason for excluding residential occupation (home-use) and Mixed user occupation (Home and Non-Home) and occupations given on nominal rates to public bodies for public amenities for want of New Township Policy. However, in the case of non-home occupants, the revision of SOR is proposed without the New Township Policy.	The proposed revision of rentals is on policy in vogue i.e. PGLM,2015. This has no relevance to "New Township Policy".
(xii).	It is also noteworthy that tenants will be further burden with the revision of Schedule of Rates (SOR) for the period 2017-2022. The revision is therefore for the 10 years all together and which will make the life of the Non-Home occupants difficult.	It is to state that the unregistered sale transactions are happening at the rate which is much higher than the proposed SOR. Also the Ready Recknor rates of adjoining MCGM land is 3 to 4 times higher as compared to the Ready Recknor rated in the MbPT areas. These rates are also comparable to the proposed SOR 2017-2022. MbPT being a public body is asking for the fair and just rent by undertaking valuation as per provision PGLM, 2015.
(xiii).	In view of the aforesaid submission, it is most humbly submitted that the proposed revision is contrary to law of the land and also against the principal of natural justice and hence it should be cancelled	The proposed revision is as per provision PGLM, 2015.

4.	**Similar Representations received from Individual Tenants/ Lessees – Group 4.**	**Response of MBPT**
(i).	I say and submit that 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 1of 2018, Clarification 1 of 19-20 and Clarification 2 of 19-20 also could not be seen on the website. You are requested to upload these documents so as to facilitate comments. Further, at the very outset, considering the complexities involved and in face of a recent corrigendum issued, the time of 12 days for inviting comments seems to be very short and unreasonable. You are requested to kindly upload all the documents and thereafter, provide a time of at least 3 months to make comments. Please appreciate that in the absence of such	The Proposal no 1 to 4 were uploaded on MbPT website on 06.08.2021. 15 days time granted after uploading the proposal on MbPT website i.e, upto 20.10.2021 as per directions of the TAMP 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. No extension recommended and it will delay the process PGLM 2015 with its clarifications uploaded on MbPT website https://www.mumbaiport.gov.in.

4.	Similar Representations received from Individual Tenants/ Lessees – Group 4.	Response of MBPT
	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 understand the problems involved and the difficulties.	
(ii).	(a). I say that we are the legal heirs Janardan Parshuram Salunke and continuous possession, use and occupation of the premises being Shop No-15, BPT Bldg, lying and being Area of 34 SQM, and Unit No.15 , Mallet Bunder Road, Mumbai (the "said 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. I 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. I say that you are issuing Bills/Invoices to me under the Code No. 41412113. (b). Instead of following the orders of the Hon'ble Supreme Court and settling the matters as directed, you have 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.	(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). Analysis of the RR rates 2012 is given in the said analysis in PPT 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 petitions and matter is still subjudice in High Court, Not relevant to the present proposal.
(iii).	The proposed revision of SOR, as per Ready Reckoner value is not acceptable to me. a) The charges as calculated based on	The SoR was due from 01.10.2012 and 30.09.2017 when there was no pandemic. Covid-19 pandemic started from March 2020

4.	**Similar Representations received from Individual Tenants/ Lessees – Group 4.**	**Response of MBPT**
	the SOR proposed by you 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 adhoc 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 higher percent 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. b) Financial condition due to COVID-19 pandemic i) I say and submit that due to the COVID-19 pandemic and the lockdowns, my business is gradually decreased. Hence, I will not be in a position to make payment of the proposed revision of SOR, as the same is higher than the current rent which I am paying pursuant to the Supreme Court Judgment.	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 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 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.
(iv).	It is further stated that the Schedule of rent/lease charges has to be decided in	The letting rates under the Compromise Proposal had been fixed taking into account

4.	Similar Representations received from Individual Tenants/ Lessees – Group 4.	Response of MBPT
	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, you are increasing 4% of the rent in every year, which is reasonable.	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.
(v).	The Port Trust ought to be conscious of the fact that there are tenants who are occupying properties since 50-60 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	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
(vi).	As stated herein above, 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	

4.	**Similar Representations received from Individual Tenants/ Lessees – Group 4.**	**Response of MBPT**
	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.	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, 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).	In order to decide the further road map, we request the Port Trust 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.	MbPT is bound by PGLM 2015 issued by MoPS&W,GoI and accordingly SoR 2017-2022 as per para 13 is computed.
(viii).	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.	
(ix).	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.	
(x).	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	There is no provision of compromise proposal in PGLM 2015 issued by MoPS&W, GoI. 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 MoPS&W and MbPT is bound to implement PGLM 2015

4.	Similar Representations received from Individual Tenants/ Lessees – Group 4.	Response of MBPT
	person or through our counsel if a personal hearing is provided by TAMP	Guidelines issued by MoPS&W, GoI which are mandatory directions to MbPT Under Section 111 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.
(xi).	In view of what is stated hereinabove, I plead as follows: a) 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 your notice no. FA/OEA-I/38(21)Gen/270 dated 23rd September,2021 ,EM/AS(G)/F-382/1923 dated 6th October, 2021, Proposal No.2:P.T. Structures Occupations, as they being unacceptable, arbitrary and without any substantial basis. b) Not to implement/issueany TR on the basis of the revisions of Schedule of Rates, as proposed in your notices nos nos. FA/OEA-I/38(21)Gen/270 dated 23rd September,2021 ,EM/AS(G)/F-382/1923 dated 6th October, 2021, Proposal No.2:P.T. Structures Occupations, as the same is not acceptable being capricious, arbitrary and without any basis; c) 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; d) Implement the directions passed by the Hon'ble Supreme Court in the letter and spirit and in the interest of all affected parties.	
(xii).	This draft 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, you were to seek further information on my status as tenant/lessee I would urge you to peruse your digital records being my Code no. 41412113.	MbPT is bound by TAMPs final order in the matter and directives given under PGLM 2015 issued by MoPS&W.
(xiii).	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.	

4.	**Similar Representations received from Individual Tenants/ Lessees – Group 4.**	**Response of MBPT**
(xiv).	I would anticipate your favourable response in view of the long term relationship enjoyed between me and MbPT and accept rents on a periodical basis without any dispute, demur or protest.	

5.	**Similar Representations received from Individual Tenants/ Lessees – Group 5.**	**Response of MBPT**
(i).	At the outset it may be recorded that we are in occupation of RR No. 693 and have been paying our rent from time to time as per the compromise proposal sanctioned by the Hon'ble Supreme Court. Our lease is expired and pending renewal. Moreover, in our case, due to the existence of a super structure which is protected under the section 4(4A) of the Rent Act, the new schedule cannot be allowed as the Rent Act permits only an increase of 4% year on year with such further permitted increases as considered reasonable.	The Rent Control Legislation and all the entities that have 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. 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.
(ii).	Without prejudice to the above, at the outset, it may be recorded that as per the Supreme Court judgement of 2004 in the case of Jamshed Hormusji Wadia v/s Board of Trustees for the Port of Mumbai, the Port Trust was supposed to execute fresh leases for a period of 30 years with effect from 1994. The Port Trust has failed to do that and now, cannot take advantage of their own wrong and contend that the lease has expired. It may also be noted that in the 2004 judgement, breaches/ change of user etc. up to 2004 were to be regularized. Our Lease expired in the year 2000 and all	The issue raised is not relevant to present proposal. TAMP is requested not to grant additional time to stakeholders to file reply as this will negatively impact rental income to the public exchequer.

5.	Similar Representations received from Individual Tenants/ Lessees – Group 5.	Response of MBPT
	formalities for renewal had been submitted within the stipulated period, objections to the same were also complied and set proper, however after paying all dues and several reminders over the years for transferring the property to the name of Heirs and change of registered address the same has not been done. Further, at the very outset, considering the complexities involved the time of 14 days for inviting comments seems to be very short and unreasonable. You are requested to kindly grant at least 3 months to make comments.	
(iii).	Please appreciate 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, and to go through old documents and papers it would also be advisable to hold physical meetings to understand the problems involved and the difficulties. From a lay person point of view, all we can say is that the proposed rates are absolutely arbitrary, unreasonable and not sustainable.	After receipt of instructions from TAMP, MbPT had uploaded the proposal on MbPT website on 06.10.2021 and time limit of 15 days was granted to the stakeholders for filing reply as per the directions of TAMP which ended on 26.08.2021. The entire proposal submitted to TAMP along with all the DA of the Proposal such as (i) supporting TRs (ii) LAC reports and (iii) statements of SOR were uploaded on MbPT website. The said information can be downloaded from MbPT website with access to all Registered lessees/ tenants/ occupants and all stake holders. (ii) All the registered lessees/tenants/occupants were served with notice informing them last date for submission of comments on 20.10.2021. Also 15 days' time granted by TAMP is more than sufficient and no further time is required for submission of comments by the Registered lessees/ tenants/ occupants, any further extension of time in the matter will unnecessarily delay the process. Therefore TAMP is requested not to grant any such extension of time for submission of comments and may proceed as per the scheduled hearing date.
(iv).	Besides, please note that the charges as calculated based on the Schedule of rates proposed by you 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	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. MbPT is constituted under Major Port Act, 1963 and under supervision and control of MoSP&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 (MoSP&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

5.	**Similar Representations received from Individual Tenants/ Lessees – Group 5.**	**Response of MBPT**
	exponentially higher than the amounts the tenants were paying under the original contract. It may be appreciated that market rent / rack renting cannot be adopted by the MbPT which is clearly held by the Supreme Court in the case of Dwarkadas Marfatia v/s Board of Trustees of the Port of Mumbai and also in the case of Jamshed Hormusji Wadia v/s Board of Trustees for the Port of Mumbai. Moreover, market rates (ready reckoner value) for Free Hold land cannot be equated with or made a yardstick for determining the market rates of Leasehold land. Besides, it is a fact that for the collector's land- lease is being renewed by charging 0.25 % of ready reckoner rates with 4% increment year on year whereas in the case of the Port Trust, it is proposed at 6% of market value (which is even higher than ready reckoner value) with yearly increase and despite charging such heavy rates, the port trust doesn't even make a whisper if they are renewing leases by executing fresh lease deeds.	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. Present monthly rental are as per valuation report of 1980's which are no way comparable with present market rate. An 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. 10.5/- per sqm per month for FSI 1.00 which will be revised to on an average of Rs. 878 per sqm per month for FSI 1.00 i.e. increase by almost 82 times. 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. 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
(v).	We have been regularly paying rent as per the compromise proposals sanctioned by the Hon'ble Supreme Court which are binding on tenants as well as MbPT. In fact, we have never refused to pay whatever is reasonable and all impositions of rentals etc. must satisfy the test of reasonableness. Arbitrarily imposing such a high schedule of rates is not reasonable and conscionable and we do not welcome any such exponential increase in rents that has been arbitrarily proposed by the Port Trust. Please also appreciate, and we say this at the cost of repetition, that, as per the judgement of the Hon'ble Supreme Court in the case of Dwarkadas Marfatia v/s Board of Trustees of the Port of Mumbai, the Port Trust being a public authority cannot behave like a private landlord and cannot indulge in profiteering or levying rack-rents. The Hon'ble Supreme court has clearly held that being a public body, the Port Trust cannot resort to profiteering or rack renting like a private landlord and cannot charge market rents to existing tenants. Therefore, such imposition of rents based on market values and ready reckoner rates is not the solution to the current issue.	

5.	Similar Representations received from Individual Tenants/ Lessees – Group 5.	Response of MBPT
		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. 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. Also the comparison with the practice followed by Collector of Mumbai, State Govt. and any other PSUs is irrelevant and not applicable in this present case. Thus there is no violation of SC Judgement 2004 by effecting the revision as per SOR w.e.f. 01.10.2017 as per applicability of PGLM 2014-2015 issued by Ministry time to time which obligatory directives under Section 111 of MPT act and is bound by the said directives for implementation.
(vi).	It may also be recorded that the ready reckoner rates of the State Government cannot be made the parameter based on which rents are to be collected. If that be so, then the state government lease renewal is done at merely 0.25 % of that rate. 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 H Wadia vs. The Board of Trustee of the Port of Bombay (2004) (3) SCC 214 and based on the principles of the said judgement, the rates need to be computed with 4% yearly enhancement or in any event, they can be decided now by working out a fresh compromise proposal by and between the tenants/ lessees on the one	The contents are incorrect and unacceptable, MbPT is bound by PGLM 2015 issued by MoSP&W, GoI which have been scrupulously followed by MbPT while computing SoR. The comparison with the practice followed by Collector of Mumbai, State Govt. and any other PSUs is irrelevant and not applicable in this present case. The Hon'ble Supreme Court order dated 13.01.2004, Board's compromise formula was only valid upto 30.09.2012 (only for 20 years i.e. 01.10.1992 to 30.09.2012) and such there is no violation of S. C. and no permission of S. C. Judgement is necessary for revision of rate from 2012. The Para 13 of PGLM, 2015 has stated the methodology of calculation of latest market value of port land and accordingly as stated in para 4 above, MbPT fixed SoR 2017-22.

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	hand and the Port Trust on the other. As of recently, after working 4% increment of rent year on year, the current rent as per the current regime works out to about Rs. 37.50 per square meter per month , inclusive of GST AS of October 2021, bill which is already very high and enough to take care of the charges of the port trust. Looking at the SOR, one can observe that the rental for the zone 1/6A associated with RR No. 693 i.e. the ready reckoner entry corresponding to our plot, is likely to be R.494.50 /- as of Rs. 1.10.2012 and Rs.578.49 /- per square meter as of 1.10.2017 and after 2017 a flat rate of Rs. 1700.02 p. per square meter per month till 2022.	There is no provision of compromise proposal in PGLM 2015 issued by MoSP&W, GoI. The validity of rates under S.C. judgement was up to 30.09.2012 and thereof MbPT is bound to follow the guidelines as per PGLM, 2015 issued by MoSP&W, GoI. The renewal of lease shall be granted as per the procedure laid down in Para 11, 12 and 13 of PGLM 2015 guidelines.
(vii).	WE fail to understand how the return of 6% has been made a benchmark for residential users. It is submitted that the Trust resolutions uploaded on the website are not clear and are full of legal jargons which are impossible for ordinary tenants to comprehend and it would be appreciated if there is more clarity and simplicity in the manner in which the Port Trust proposes to levy rents/ lease charges. Such charges and schedules from 2012 onwards should be based on a factor of what was being paid up to 2012 as per the Hon'ble Supreme Court's sanctioned compromise formula and should be based on some reasonable percent increment taking the amount of rent paid in 2012 as a benchmark. The port trust is seeking to impose rates which are exponentially higher than those charged by similar land owners and order of magnate times higher than the current rates.	MbPT is constituted under Major Port Act, 1963 and under supervision and control of MoSP&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 (MoSP&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. Hence the suggestion given by stakeholder cannot be accepted.
(viii).	It is also requested that clarity be got in so far as the amounts are concerned pertaining to each of the units owned by the Port Trust, separately. We suggest that every property would have a different calculation based on the merits of the matter of such property and hence a generic working and a one-size-fits-all approach is not possible nor desirable. It is also a matter of concern as to how the residents residing on land allegedly owned by BPT since 80-100 years are served these notices with just about a couple of weeks' time to respond	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 accordingly decide SoR/Rental on case to case basis. Land values of any plot in Mumbai city is directly linked to its potential permissible FSI and consumed FSI of authorised structure since the FSI on MbPT land varies from 0.5 to 5 or even more in some exceptional cases. MBPT has proposed the SOR rates for FSI 1 as a base rate for TAMP's approval.The calculation of higher FSI/ more than FSI 1 or less than FSI 1 shall be worked out as per para 5 of TR 122 of 2021 approved by the board on 03.08.2021 which stated that a committee will be constituted for working out appropriate factor for determination of actual

5.	Similar Representations received from Individual Tenants/ Lessees – Group 5.	Response of MBPT
		rental based on FSI consumed by Authorised structure on the premises. The final rental will be worked out on case to case basis as decided by the Board. Also the lessee/ tenants and unauthorised occupants had been enjoing the occupation of MbPT premises by payment of rent fixed as per 1980's valuation report. 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" Hence the contention raised are incorrect.
(ix).	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. "Housing for All" is a part of the national policy and it is surprising that where on the one hand the Central Government is coming up with schemes like "Pradhan Mantri Awaas Yojana", on the other hand, instrumentalities of the central government like the Board of Trustees for the Port of Mumbai are proposing rates which will lead to mass scale eviction of lakhs of tenants thereby running contrary to the national policy. Tenants are also adding to the exchequer by paying rent from time to time. Further, these tenants are not just directly but also indirectly contributing to the nation in the form of taxes. revenue and employment which is likely to suffer if tenants are put under such enormous stress.	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. There is no violation of SC Judgement 2004 by effecting the revision as per SOR w.e.f. 01.10.2017 as per applicability of PGLM 2014-2015 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.
(x).	Moreover, please note that in so far as the Schedule of rates from 2012-2017 that is proposed is concerned, the same cannot be	Regarding MbPT refixing letting rates retrospectively after 30.09.2012, the matter was referred to respective MbPT advocate

5.	**Similar Representations received from Individual Tenants/ Lessees – Group 5.**	**Response of MBPT**
	enhanced retrospectively as the same is opposed to the constitutional scheme. In recent judgements, the Hon'ble Supreme Court has struck down retrospective taxations. The same ratio is applicable to levy of retrospective rents. 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.	dealing in the matter in the Supreme Court for opinion and accordingly, letter dated 15.04.2014 addressed to MoS, GoI requesting them to forward copy of opinion from Ministry of Legal Affairs. Opinion from PT Advocate and AG (Mr. Mukul Rohatgi) was obtained by MbPT on applicability of Wadia Judgment Rates (SCJ) post 30.09.2012 and MbPT's rights to revise the rentals w.e.f 01.10.2012 onwards. The opinion received from PT Advocate and AG, GoI confirming the Port Trust's rights to revise rentals w.e.f 01.10.2012. Accordingly, then Chairman, directed to prepare SoR rates for Estate Lettings from 01.10.2012 onwards affected by SC Judgment. The letter dated 09.10.2014 was written to MoS, seeking Ministry's direction on revision of SoR on township areas of MbPT (Estate lettings). Meanwhile, vide TR No. 123 of 2014 committee of officers was constituted (Chairman, EM and FA) by MbPT for fixation of rentals w.e.f 01.10.2012 onwards. The Ministry sought further information from MbPT on 08.10.2015 which was forwarded to Ministry on 02.12.2015 and Ministry was once again requested to give directions on fixation of SoR from 01.10.2012 and also approve the cases settled under compromise policy by the Board interms of SC Judgment, 2004. However, neither such approval for renewal of settled cases under compromise formula (61 cases) had been received from Ministry nor any directions received from Ministry till the issuance of general clarification circular No. 01 of 2018, PGLM 2015 which was extended to the township areas of MbPT covering the lettings affected by SC Judgment 2004 i.e. MT, FML, Expired leases and licenses. Accordingly, Board vide TR 122/2021 forwarded SoR proposal approved by Board vide TR 222 of 2015 based on the LAC report dated 29.12.2014 which annexed as part of proposal for revision of SoR for the period 2012-17.
(xi).	In order to decide the further road map, we request the Port Trust 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	There is no provision of compromise proposal in PGLM 2015 issued by MoSP&W, GoI. The validity of rates under S.C. judgement was up to 30.09.2012 and thereof MbPT is bound to follow the guidelines as per PGLM, 2015 issued by MoSP&W, GoI. The renewal of lease shall be granted as per the procedure laid down in Para 11, 12 and 13 of PGLM 2015 guidelines.

5.	**Similar Representations received from Individual Tenants/ Lessees – Group 5.**	**Response of MBPT**
	forward and a second compromise formula can be arrived at taking the Supreme Court's formula of 2004 as a benchmark and guiding force.	
(xii).	We also observe that 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 Bombay Port Trust. 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.	The issues raised are already justified in para 4 and 5 above.
(xiii).	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.	The issue is irrelevant and cannot to be acceded too by MbPT as they are contrary to the PGLM 2015
(xiv).	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.	So far, MbPT has not resorted to any litigation or coercive action for recovery of dues as per proposed SoR. As proposed by the Board in Para 4(c) of 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. MbPT is duty bound and obligated to follow the due process of law for resorting to eviction action under PPE provision only in respect of major violation of breaches and default in payment of MbPT dues of lease terms. Legal action for recovery of dues as per proposed SoR notified by TAMP can be initiated if there is violation of orders of TAMP. MbPT is revising the charges payable for compensation for wrongful use of the premises even after the expiry of the lease and even though validity of occupation period is over for MT, FML and expired leases even after termination notices issued. The renewal of leases will be strictly in accordance with PGLM issued by MoSP&W, GOI and as per extant policy/rules.

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(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.	TAMP is requested cannot to entertain the demands from the stakeholders as they are contrary to provisions of PGLM, 2015
(xvi).	Needless to say, should the port trust seek to arbitrarily impose the schedule of rates suggested and should such arbitrary and unreasonable SOR be allowed 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.	Similar Representations received from Individual Tenants/ Lessees – Group 6.	Response of MBPT
(i).	At the very outset, I/ we state that I/ we are most shocked and surprised that such onerous, retrospective, steep and arbitrary Proposal is 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 (including mine/ ours) have been tremendously affected by the pandemic and they 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 within the meaning of Article 12 of the Constitution of India) 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	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 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

6.	Similar Representations received from Individual Tenants/ Lessees – Group 6.	Response of MBPT
	and forbearance towards their tenants/ licensees/ lessees etc. in these trying times. By no stretch of imagination can retrospective fixation/ framing of steep, unlawful and arbitrary rates of rent be justified under present circumstances of the on-going pandemic of Covid-19. It is well settled that an Instrumentality of State such as MbPT has to be fair, just and reasonable in all their activities; and all their 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 business of MbPT's lessees/ tenants/ occupants, on their ability to absorb the proposed heavy, steep, onerous, unlawful and unreasonable rentals; and whether in such circumstances or even otherwise should MbPT's captioned Proposal be accepted by TAMP? It may also be noted that MbPT permits us to carry out only fish-industry based activity (and no other activity) from our premises, and that the Government of India as well as MbPT shuts down the docks for a period of three (3) months during every monsoon season. During such a period, we are forced to shut down since there is no business. This aspect has been not at all been considered by MbPT under the Proposal under reply.	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 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. In case of Sasson Dock (RR zone 1/6A), the valuer in his valuation report had recommended to consider 80 % of land rate of Ready Reckoner (i.e. 20% reduction on the Ready Reckoner rate) in view of the Sassoon Dock is reserved for Fishing Industries in the Development Plan. LAC had considered the valuers recommendation and recommended only 80% land rate of Ready Reckoner rate and same was approved by Board.
(ii).	At the further outset, it is submitted 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 said 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 (viz. "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	Present monthly rental are as per valuation report of 1980's which are no way comparable with present market rate. An 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. 10.50/- per sqm per month for FSI 1.00 which will be revised to on an average of Rs. 878 per sqm per month for FSI 1.00 i.e. increase by almost 83 times. Apart from the fact that the Port Trust tenancies have never been covered by the Rent Control Legislation that

6.	**Similar Representations received from Individual Tenants/ Lessees – Group 6.**	**Response of MBPT**
	applicable to all the lessees of MbPT even if they were not parties to the proceedings. As such, MbPT is therefore obligated under the law declared by the Hon'ble Supreme Court in Wadia's Case (supra) to strictly adhere to the ratios, principles and directions set out therein and settle the cases and grant lease for a period of 30 years w.e.f. 1.04.1994 with annual 4% increases on rents as set out in the Compromise Proposals even beyond 2012 right upto 31.03.2024. What is shocking to say the least is that the said judgement of the Hon'ble Supreme Court in Wadia's Case (supra) (& its ratios, principles and directions) has not even been referred to, or followed by the MbPT in the Proposal under reply.	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.
(iii).	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. It may be noted that the Hon Supreme Court, has further and in express terms at para 18 thereof, held that:- "18……The State and its instrumentalities, as the landlords, have the liberty of revising the rates of rent, so as to compensate themselves against the loss cost by inflationary tendencies. They can - and rather must – also save themselves from negative balances caused by the cost of maintenance, payment of taxes and cost of administration………..However, the State cannot be seen to be indulging in rack-renting, profiteering and indulging in	

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	whimsical and unreasonable evictions or bargains." The aforestated ratio in the Hon'ble Supreme Courts' Judgment in Wadia's case circumscribes the principles for fixation of rent in respect of MbPT properties- which has not only clearly been lost sight of, but has clearly been ignored and transgressed.	
(iv).	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 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 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.	(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. 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 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. TR 31/2004 is only direction for implementation of the SC judgement and the rates where valid only till 30.09.2012. Therefore TR 31/2004 and TR 127/2006 are not applicable There is no provision of compromise proposal in PGLM 2015 issued by MoPS&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 MoPS&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.
(v).	Further, it is also shocking that even MBPT's own said T.R. No. 31 of 2004 has not been mentioned by MbPT under the captioned Proposal.	(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
(vi).	TAMP may kindly examine (in letter and spirit);- the content, purport and the true	

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	effect of the said judgement of the Hon'ble Supreme Court in Wadia's case (supra), 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.	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. 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 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. TR 31/2004 is only direction for implementation of the SC judgement and the rates where valid only till 30.09.2021. Therefore TR 31/2004 and TR 127/2006 are not applicable There is no provision of compromise proposal in PGLM 2015 issued by MoPS&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 MoPS&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.
(vii).	Pertinently, under the MbPT's own T. R. 105 of 2018; 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	The MoS Letter dated 18.02.2014 bearing no. PD/11020/34/2013 MbPT, directing MbPT to seek clarification in respect of interpretational issues such as refixing letting rates after 30.09.2012, the matter was referred to respective MbPT advocate dealing in the matter in the Supreme Court for opinion and accordingly, letter dated 15.04.2014 addressed to MoS, GoI requesting them to forward copy of opinion from Ministry of Legal Affairs. Opinion from PT Advocate and AG (Mr. Mukul Rohatgi) was obtained by MbPT on applicability of Wadia Judgment Rates (SCJ) post 30.09.2012 and MbPT's rights to revise the rentals w.e.f 01.10.2012 onwards. The opinion received from PT Advocate and AG, GoI confirming the Port Trust's rights to revise rentals w.e.f 01.10.2012. Accordingly, then Chairman, directed to prepare SoR

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	order of the Hon'ble Supreme Court dated 13.01.2004 without any further delay."; and further that "the Port should also seek clarification from the Hon'ble Supreme Court in respect of any interpretational issues such as re-fixing the letting rates after 30.09.2012 arising out of the said judgement" It is submitted 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 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.	rates for Estate Lettings from 01.10.2012 onwards affected by SC Judgment. The letter dated 09.10.2014 was written to MoS, seeking Ministry's direction on revision of SoR on township areas of MbPT (Estate lettings). Meanwhile, vide TR No. 123 of 2014 committee of officers was constituted (Chairman, EM and FA) by MbPT for fixation of rentals w.e.f 01.10.2012 onwards. The Ministry sought further information from MbPT on 08.10.2015 which was forwarded to Ministry on 02.12.2015 and Ministry was once again requested to give directions on fixation of SoR from 01.10.2012 and also approve the cases settled under compromise policy by the Board interms of SC Judgment, 2004. However, neither such approval for renewal of settled cases under compromise formula (61 cases) had been received from Ministry nor any directions received from Ministry till the issuance of general clarification circular No. 01 of 2018, PGLM 2015 which was extended to the township areas of MbPT covering the lettings affected by SC Judgment 2004 i.e. MT, FML, Expired leases and licenses. Accordingly, Board vide TR 122/2021 forwarded SoR proposal approved by Board vide TR 222 of 2015 based on the LAC report dated 29.12.2014 which annexed as part of proposal for revision of SoR for the period 2012-17.
(viii).	On a thorough reading of the said Proposal 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.	
(ix).	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 Officer viz. Shri A.D. Vasaigara dated 9th July 1998 and 29th June 2000, 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.	
(x).	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	

6.	**Similar Representations received from Individual Tenants/ Lessees – Group 6.**	**Response of MBPT**
	Supreme Court in Wadia's Case, and in particular - qua the MbPT's own "Compromise Proposals".	
(xi).	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 Ready Reckoner rates published by the State Govt. cannot be accepted as a parameter or criteria for fixation of the lease rents as has been proposed by MbPT; and that too certainly not with retrospective effect.	
(xii).	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:- MbPT's failure to settle matters as directed by the Hon'ble Supreme Court in Wadia's Case, and 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.	Pending Writ Petitions challenging TR 127/2006 are not relevant to the proposed SoR revision. There is no stay from any court for the recovery of rent/ compensation from any court based on SoR rates under PGLM 2015 by MoS, GoI.
(xiii).	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, these Petitions, including the Writ Petitions filed by several obstructionists, and by lessees/ tenants not	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.

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	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.	
(xiv).	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 compromise formula modified under Wadia Judgement/Supreme Court Order dated 13.01.2004, was valid for the period of 20 years, i.e. from 1992 to 30.09.2012. MbPT had sought advice of P.T. advocate, Supreme Court regarding applicability / validity of S.C. judgement before LAC report dated 29.12.2014 and before TR 222 of 2015 were passed, which has categorically confirmed that MbPT is not bound to levy lease rentals beyond 30.09.2012 at the SoR rates applied by the Supreme Court (Wadia Judgement). The said advice was based on Addl. Solicitor General of India, Shri Trivedi opinion dated 07.02.2005 which clearly stated that compromise proposal was for period ending 2012 and therefore fresh revision is expected to be fair and reasonable, thereafter. MbPT had obtained the opinion of learned Attorney General of India Shri Mukul Rohatgi on 29.07.2016 confirmed that SC judgment Rate was valid only upto 30.09.2012 and opined that the Board is empowered to re-fix the rentals / compensation rates w.e.f. 01.10.2012. MbPT is governed by policy guidelines issued by Ministry from time to time and MbPT has honoured the Supreme Court judgement till its validity, i.e. 30.09.2012.Also as per guidelines issued by MoSP&W, GoI, and rates approved by TAMP. The TAMP is authorised to approve the SoR retrospectively w.e.f. 01.10.2012 onwards, 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

6.	**Similar Representations received from Individual Tenants/ Lessees – Group 6.**	**Response of MBPT**
		SoR 2012-17 simultaneously submitted to TAMP. 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 MoSP&W, GoI. The validity of rates under S.C. judgement was only upto 30.09.2012 and thereof MbPT is bound to follow the guidelines as per PGLM, 2015 issued by MoSP&W, GoI. PGLM 2015 guidelines are very clear in fixation of SoR/Revision of SoR as per Para 13 and MbPT is following the same. Hence the contentions raised are irrelevant.Supreme court judgement is not an indefinite licence to lessees and tenants to go on committing the major breaches of lease terms and occupying the premises even after the expiry indefinitely and multiple transfers and still want to enjoy meagre/ concessional lease rentals based on 1980 land values and regularisation of breaches as per compromise rates of 1982 and restrict Port Trust to major revenue return on its let out land. Therefore, contentions raised are incorrect.
(xv).	In fact, at least in our particular case (as is 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. 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.	Already stated in para 14 above.

6.	**Similar Representations received from Individual Tenants/ Lessees – Group 6.**	**Response of MBPT**
(xvi).	In light of the aforesaid, these Proposal under reply, therefore, warrant immediate and outright rejection by TAMP.	The contention are denied and the SoR as proposed needs to be approved.
(xvii).	Without prejudice to our aforesaid contentions/ objections; we further wish to point 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 '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 under reply and its enclosures thereto, it appears that it is the LAC who has "formulated" the Proposal 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 not only to be hollow and illusory; but a hurried and unlawful attempt to seek approval of TAMP under the MPT Act, 1963; knowing fully well that :- The MPA Act, 2021 has been passed by both Houses of Parliament, assented to by the President, and also Gazetted; The MPA Act, 2021 prohibits (in clear terms) any retrospective fixation of rents / SOR's, TAMP will cease to exist once the MPA Act, 2021 will come to effect. MbPT had itself (in its WP 1153 of 2000 filed before the Hon Bombay High Court);- challenged the Order issued by TAMP dated 15th March 2000 upholding its Jurisdiction to frame Scale of Rates; wherein it had decided that:- "4. In the result, and for the reason given above, based on a collective application of mind, this authority hereby decides as follows:-	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.

6.	**Similar Representations received from Individual Tenants/ Lessees – Group 6.**	**Response of MBPT**
	For purposes of framing Scale of Rates and Statement of Conditions, this Authority has jurisdiction over all the properties and assets, wherever located, of a Major Port Trust. Under section 49(1) of the Major Port Trust Act, this Authority will frame Scale of Rates and Statement of Conditions for use of the following categories of properties :- Property belonging to the Board. Property in possession of the Board. Property in occupation of the Board. Property in any place within the limits of the ort area or Port Approaches. For purpose of framing Scale of Rates and Statement of Conditions, all lease cases (irrespective of any time limitation) relating to all the properties of the Major Port Trust shall be seen to fall within the jurisdiction of this Authority. This order shall come into force with immediate effect after notification in the Gazette of India." (Hence the very authority and jurisdiction of TAMP to frame scale of rates in respect of properties of the MbPT (wherever located) had been challenged by MbPT themselves. This Order impugned under the said W.P. came to be stayed by the Hon Bombay High Court by its Order dated 2nd May 2000, and the stay continued until recently and for reasons which are now apparent; the MbPT thought it now fit to withdraw the said W.P. – which request for withdrawal came to be allowed by the Hon Bombay High Court by its Order dated 8th August 2019.) The aforesaid decision to withdraw the said challenge and their WP 1153 of 2000, is also indicative of MbPT's undue haste & convenient positioning - in proceeding unlawfully with the said Proposal No. 2.	
(xviii).	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	There is no provision of compromise proposal in PGLM 2015 issued by MoSP&W, GoI.

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	the "Compromise Proposals" as upheld with downward modifications by the Hon'ble Supreme Court;- we are strongly opposed to the same, and place on record our further strong objections in respect to MbPT's Proposal/s under reply, as follows:- 1. 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.	
	4 (2) There is no provision in the MPT Act, 1963 or the Rules thereunder, or under any delegated/ subordinate legislation thereunder; enabling the framing/ fixation of the SORs retrospectivity.	The MPA Act 2021 is yet to be notified for its implementation and hence not relevant to present proposal
(xix).	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 17.02.2021 and has been published, for general information in the official gazette on 18.02.2021. 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 fixation and also bars any fixation contrary to Statute or settled law. In the light of the aforestated, it may be appreciated that in the Land Allocation Committee Report dated 18.08.2021 it is stated (at para 4 thereof) that :- "4. However, since till date new Township Policy from Ministry of Shipping, Govt. of India and the matter of seeking	

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	approval of TAMP fo the SoR 2012-2017 and 2017-22 has remained pending and the TAMP is likely to cease to function after the notification of Major Port Authorities Act, 2021 comes into effect and it is necessary to obtain approval of TAMP to the SoR for the period 2012-2017 and 2017-22 for one sq. mtr. of land for each RR zone with FSI 1.00 as a base rate ” From the above statement it is abundantly clear that the very reasoning and basis (for MbPT hurriedly and on legally unsustainable grounds); seeking approval of TAMP to the SOR for the said 2 periods - are fallacious and misconceived viz. that : a) New Township Policy is not received, and b) Matter of seeking approval of TAMP to the SOR for the two periods has remained pending, and c) TAMP is likely to cease to function after coming into effect of MPA Act, 2021. Merely because Township Policy is not received is no reason at all for the proposed action. The fact that matter of seeking approval has remained pending is also no reason at all much less to penalise the tenants / lessees for MbPT’s own wrongs. And the fact that TAMP is likely to cease to function is also no ground to make a hurried and unlawful decision in the matter, particularly when the MbPT had itself challenged the very jurisdiction and authority of TAMP to fix scale of rates by its WP 1153 0f 2000 before the Hon Bombay High Court in the aforesaid terms.	
(xx).	5. A Division Bench of the Hon’ble Bombay High Court in Ratti Pallonji Kapadia v. 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.”	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 free-medical facility to all
(xxi).	6. The said judgment in Ratti Pallonji’s Case has been cited with approval by the	

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	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 investments without charging exorbitant rates based on the prevalent market prices of land…".	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.
(xxii).	7. 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.	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 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. 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.
(xxiii).	8. Considering that it is well settled that increase/ fixation of rents based on hypothetical market values of land, and that too retrospectively from 2012 - is itself unlawful, unsustainable in law and violative of Art. 14 of the Constitution of India; there is no question of TAMP approving the scale of rents under MbPT's Proposal under reply. It may be appreciated by TAMP that the tenants/ lessees/ occupants 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. Even after the express directions of the Hon'ble Supreme Court judgment in Wadia's case MbPT failed to renew the	

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	lease/s. Returns on MbPT lands can thus be nowhere near, nor be compared with other freehold / leasehold occupations enjoying all the incidents of ownership / leasehold rights, as well as security of tenure.	
(xxiv).	The said Proposal under Reply does not even consider the State Governments / Collectors / MCGM's Lease renewal policy/ies for expired leases which fixes much much lower rates as compared to the rates sought to be approved under the Proposal under reply - which are not only unlawful, but artbitrary, capricious, discriminatory and utterly unaffordable.	The contents are incorrect and unacceptable as already stated in earlier para 4, MbPT is bound by PGLM 2015 issued by MoPS&W, GoI which have been scrupulously followed by MbPT while computing SoR. The comparison with the practice followed by Collector of Mumbai, State Govt. and any other PSUs is irrelevant and not applicable in this present case.
(xxv).	We do not therefore accept the principles/s, the basis, the computation of SOR etc, and /or the valuation reports either considered, justified, or recommended by the LAC for approval by TAMP - as being unsustainable in law.	The contentions are denied and the SoR as proposed needs to be approved.
(xxvi).	In the light of our aforestated objections/ comments, which may be kindly appreciated by TAMP in their true light, it is humbly requested that MbPT's Proposal No.1 under reply be outright rejected by TAMP; as being unlawful, arbitrary, capricious, exorbitant, unaffordable, ultra vires and unconstitutional. I/We reserve our right to alter, amend, add, modify and/or delete any and all of our reasons, comments and/or objections. I/We also crave leave for a personal hearing in the matter before any final decision is taken in respect of the Proposal under reply. Nothing contained in the Proposal under reply (including the documents annexed thereto and/ or referred to therein, and/ or uploaded on the MbPT Website in connection thereto, and/or their content thereof), - shall be deemed to have been admitted by us or accepted as applicable in our case - for want of specific traverse. Needless to submit that, if you do proceed to impose the above schedule of revised rates as proposed by MbPT, I/we shall be constrained to take legal recourse as may be advised in law which shall be entirely at your cost and consequence - which may please be noted.	

7.	**Specific comment from OLD RR 1953, HEIRS and LEGAL REP OF SHRI HAJI ESSA MOOSA**	**Response of MBPT**
1.	I am in receipt of your notice dated 6/10/2021 and I would like to dispute the same as it is totally unfair to charge us the rent retrospectively. As per section 27 (f)(i) of Major Port Trusts Act, 2021, imposition of rates cannot be with retrospective effect. I request the tariff authority of Major Ports (TAMP) and Mumbai port trust to not revise the rates of MBPT estate for a period from 01.10.2012 to 30.09.2017 and 01.10.2017 to 30.09.2022 from retrospective effect as Maharashtra Rent Control Act which came into effect from March 31, 2000 does not allow the landlords to increase the rent and recover from the tenants which makes it impossible for the land lords to pay MBPT estate rentals. In the current scenario, the majority of our tenants are facing financial difficulties and to burden them with this retrospective rent collection is totally unfair and inhumane.	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 MbPTland without any authorization from MbPTand 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 expiredleases, monthlytenancies and fifteen monthly tenancies and licences / tenancies excepting subsisting long term leases of Port Trust premises is due from 01.10.2012 onwards. Maharashtra Rent Control Act does not apply to the lettings by the Port Trust. Contentions are incorrect as rent act is not applicable to MbPT.
2.	As the lease agreement has not been renewed or no provision for change of name or transfer the lease to legal heirs is not being executed in MBPT. I request you to kindly have the same tariff till clarity is provided to the lessees/land lords of the land by MBPT and the rights are provided to change the tenants for nonpayment of maintenance of building or increase rent as per the increasing MBPT rent.	Contentions are not relevant to Current Proposal of SoR.
3.	Without prejudice to the above, at the outset, it may be recorded that as per the Supreme Court judgement of2004 in the case of Jamshed Hormusji Wadia v/s Board of Trustees for the Port of Mumbai, the Port Trust was supposed to execute fresh leases for a period of30 years with effect from 1994. The Port Trust has failed to do that and now, cannot take advantage of their own wrong and contend that the lease has	(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. Further the said

7.	Specific comment from OLD RR 1953, HEIRS and LEGAL REP OF SHRI HAJI ESSA MOOSA	Response of MBPT
	expired. It may also be noted that in the 2004 judgement, breaches/ change of user etc. up to 2004 were to be regularized. The Port Trust cannot seek to rely upon termination notices of l 980's and alleged change of user to contend that the lease has expired. Therefore, the new SOR is totally in-applicable to our case as we are covered under the Supreme Court judgement atleast until 2024. Further, at the very outset, considering the complexities involved the time of 14 days for inviting comments seems to be very short and unreasonable. You are requested to kindly grant at least 3 months to make comments.	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 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.
4.	Finally, we are paying rent to MBPT whereas MCGM is collecting property tax and Repair Cess from us. We are requesting for a single governing body to collect the tax/rent for the same as the landlords cannot collect double rent from its occupants and we need to get away from this double taxation.	MbPT is duty bound to act constitutionally as per the applicable laws including GST laws, Property Tax as per BMC Act
5.	I, Damodar Shetty, along with the tenants would like to humbly request to please roll back this notice and give us an opportunity to survive in these tough times. We are would like you to please consider our genuine request and revise the proposal for future rent collection in such way that it unfair, reasonable and affordable to all tenants and stakeholders. 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	The applicant does not have locus standii with Mumbai Port trust. 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 regulate all tariffs, both vessels related and cargo related, and rates for lease

7.	Specific comment from OLD RR 1953, HEIRS and LEGAL REP OF SHRI HAJI ESSA MOOSA	Response of MBPT
		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.

8.	Specific comment from Ikbal ebrahim	Response of MBPT
1.	Strongly Object to revision. Covide-19 pandemic. Property is declared as slum and inhabitants are very poor people. It is very difficult for them to pay their rent.	The Plot No 39 was granted to Shri Farukh Ebrahim and 1 Other monthly basis. The registered tenants have Subletted the premises to various occupants illegally. Due to breaches of U/A subletting, Change of user, U/A construction, a termination notice dated13.08.2018 was issued to Party and all illegal occupants. 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. Also 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 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 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

8.	Specific comment from Ikbal ebrahim	Response of MBPT
		expenditure on infrastructure and also liability towards 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.
2.	Previous Proposals 1 & 2 not received.	The said proposals are not applicable to this stakeholder.

9.	Category/Grouping of Comment-Specific Comment (From Pravin Agalave)	Response of MBPT
1.	Praposal No.3, Plot No 10, H& LR of vasant bhikaji Bagkar & Other and Code No.31202248 We have recieved your notice ref: EM/AS(G)/F-382/ 1924, asking for comment on Revision Schedule of Rate of MbPT. we here by declearing that we are not agree for the Revision Schedule of Rate.	MbPT is bound by PGLM 2015 issued by MoPS&W,GoI and accordingly SoR proposal is submitted to TAMP in terms of para 13 of PGLM 2015.

10.	Specific comments from Ganpati A. Prabhu	Response of MBPT
1.	The building comprising of shops on the ground floor & residences on three upper floors is located on Plot bearing C.S. No.154/1 at the junction of Barrister Nath Pai Marg & Dockyard road. The building is known as Prabhu Building and the plot area is 320.51 square metres or thereabout. The plot was leased to us from 11th July 1939. The Port Trust has revised lease rentals from time to time. We have been paying these lease rentals regularly. Vide its notice under no. EM/AS(G)/F382/1924 dt.06.10.2021, Mumbai Port Trust has proposed revision of rates from 01.10.2012 to 30.09.2017 and from 01.10.2017 to 30.09.2022. Both the revision from 01.10.2012 onwards & from 01.10.2017 onwards are several times more than what is paid by us at present. The first revision of rates is 14 times & the later 138 times. Both the 2012 and 2017 rates are prepared based on 6% of R.R. rates for respective years by MBPT. Again 4% increase annually on these rates is proposed. Other major public bodies owning large chunk of lands in Mumbai are Maharashtra State	(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 in PPT would 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).

10.	**Specific comments from Ganpati A. Prabhu**	**Response of MBPT**
	Govt. and Municipal Corporation of Greater Mumbai.	(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.
2.	Both these Public bodies charge much less lease rentals in case of renewal of lease. We may further submit that out of the 15 residential tenants in our building, 10 are single room tenements with common toilet. Thus most of the tenants are belonging to Lower Income Group & few others are middle Income Group. Out of the seven shops on ground floor, six shops are mainly convenience shops catering to day to day requirements of the locality. This clearly indicates that most of the tenants will not be able to afford the steep increase in the rentals. Earlier the development in the locality, both on Port Trust lands and the adjoining lands of different landlords comprised of a mix of industrial, warehousing and residential development. Industries were flourishing, businesses thriving and jobs were easily available. Peoples income levels showed an upward trend. In last few years practically all industries have closed down, businesses have fully and/or partially closed down. People in the locality have to travel long distances in search of jobs. Income levels of population have dropped down. People will thus be unable to pay very high rents proposed by the authorities. The issue of tenants in the existing old buildings needs to be looked at sympathetically by the authorities. In view of above stated facts, we request the authorities not to introduce revised SOR and continue with the present formula of 4% increase per annum. Thanking you for the opportunity given to us to present our views.	The rates are arrived at by the Govt. approved Valuer on the basis of transactions taken place in vicinity of Port Trust land. The revision of rates are strictly in accordance with the provision of PGLM 2014-2015. 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. Once TAMP approves/ notifies the SoR, the details will be worked out and communicated to all the affected tenants and lessees and all the tenants/ lessees would be liable to pay the rates as may be approved.

11.	**Specific comments from Smt. Preeti Shenoy**	**Response of MBPT**
1.	With reference to the above Notice, I would like to bring to your Notice that we (Shri V V Shenoy) my Grandfather are residing on Mbpt Plot No RR 1550 Makani Chambers , 1st Floor, Reay Road, Mumbai 400 033 from 1942 and at that time M/s Jamnadas Kherajbhai was the Lessee and later from 1954 Rabiabai Makani. We have made our payment i.e. Rent, Water bill right from 1942	The issues brought out in the representation has no relation with the proposed revised SoR applicable with effect from 01.10.2012 to 30.09.2017 and from 01.10.2017 to 30.09.2022 and as such do not warrant any comments.

11.	Specific comments from Smt. Preeti Shenoy	Response of MBPT
	by cheque promptly to your Lessee till date. But when Mbpt issued Notice under PPE Act 1971 for Eviction we were shocked to know that your Lessee M/s Rabiabai Makani has not forwarded our Rent to your Esteem Organization from 1985. But if you see being a Government Body we are not at fault and we are not the culprit. But also we will be thrown out of my House for the fault of your Lessee I will lose my Shelter which is my basic necessity and the Lessee M/s Rabiabai Makani will be not the loser because Lessee are not residing on your Plot RR 1550.	
2.	Mbpt already has put the burden of their Lessee i.e. Rent, Taxes, Penalty, Breaches, Water Charges etc. amounting to Rs.1.50 cr. Throwing us/ Evicting us out from our house under PPE Act 1971 SOR rates on Ready Reckoner from 2012-2022. We have strong objection for the same. The above will be further burden on us inspite of regularly paying our rent we will not be in the position to pay because we are from Lower Middle Class people with 2 daughters whose education has not yet completed and both aged 51 & 45 years so going in for a Loan or say buying a New House for us is Impossible. So being a Central Government Body how will you Help me to survive during my old age. Find some alternate for a win-a-win situation, which is a prayer from my side.	The rates are arrived at by the Govt. approved Valuer on the basis of transactions taken place in vicinity of Port Trust land. The revision of rates are strictly in accordance with the provision of PGLM 2014-2015. 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. Once TAMP approves/ notifies the SoR, the details will be worked out and communicated to all the affected tenants and lessees and all the tenants/ lessees would be liable to pay the rates as may be approved.

12.	Specific Comments of Indian Hotels	Response of MBPT
1.	We, The Indian Hotels Co. Ltd. are the assignee to the property bearing R.R. No. 698, admeasuring about 977.76 sq. meters (equivalent to 1164 sq. yards) in Apollo Reclamation Estate, Mumbai, (hereinafter referred to as the “said premises”). We have noted from your letter / notice (the said Notice) that you have called us to provide our comments on the aforesaid proposal to increase the SOR rates and the said notice is sent at the request of TAMP and is without prejudice to your rights and contentions. 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:	

12.	Specific Comments of Indian Hotels	Response of MBPT
	"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 – 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 Writ Petition No. 160 of 2013, inter alia, for the grant of a long lease upto 2024 at the rates of rent approved by the Hon'ble Supreme Court by their Judgment dated 13-01-2004 in Jamshed Wadia's case, with an increase in rent at 4% per annum throughout the period of the demise and challenging Trustees' Resolution No.127 of 2006. By an order dated 7th July, 2014 passed therein, the Hon'ble Bench was pleased to grant liberty to apply earlier for interim relief in the event of any coercive action being taken. A copy of the said order is enclosed herewith as Annexure A for your 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 WP. At the further outset, please note our specific response to Proposal No.3 referred to by you in the said Notice– 1. With regard to Point No. 2(b) of the Proposal, we would like to point out the following: 1.1. Clause 13 of the Policy Guidelines for Land Management, 2014 whereby MbPT seeks to derive its power to issue the Proposed Revision, does not make a distinction between existing leases and expired leases and does not empower MbPT to revise the SOR rates for only a class of lessees. MbPT has sought to	

12.	Specific Comments of Indian Hotels	Response of MBPT
	erroneously interpret its powers under the said provision. The Proposed Revision treats equals unequally which is violative of Article 14 of the Constitution and is accordingly bad in law.	The proposed SOR is uniformly applicable to all MT, FML and expired Leases and hence there is no violation of Article 14.
	1.2. Para 4(b) of the guidelines for SOR rates published by MbPT 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 between 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. 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 your ready reference. 1.3. In light of the above notification, the lease rent on the basis of proposed TR / SOR of MbPT ought to be considered at par with the schedule W properties lease rent policy. MbPT accordingly ought to adopt rates at par with the MCGM policy of Schedule W for Mumbai outside custom bound area for the period 2012 to 2017 and 2017-2022.	The contents are incorrect and unacceptable as already stated in earlier para 4, MbPT is bound by PGLM 2015 issued by MoSP&W, GoI which have been scrupulously followed by MbPT while computing SoR. The comparison with the practice followed by Collector of Mumbai, State Govt. and any other PSUs is irrelevant and not applicable in this present case. The Hon'ble Supreme Court order dated 13.01.2004, Board's compromise formula was only valid upto 30.09.2012 (only for 20 years i.e. 01.10.1992 to 30.09.2012) and such there is no violation of S. C. and no permission of S. C. Judgement is necessary for revision of rate from 2012. The Para 13 of PGLM, 2015 has stated the methodology of calculation of latest market value of port land and accordingly as stated in para 4 above, MbPT fixed SoR 2017-22.
	1.4. Accordingly, both MbPT and MCGM being instrumentalities of the State as per Article 12 of the Constitution of India ought not to levy separate benchmarks for rent on leasehold properties in similar areas as the same is violative of Article 14 of the Constitution of India. Such discrimination is not permitted in law and is therefore is ultra vires the Constitution of India and cannot be held to be valid and binding.	The MbPT and the MCGM both are the separate entities. The MbPT is the statutory body formed under Major Port Act, 1963 and under supervision of MOSP&W . PGLM, 2015 are statutory directions under section 111 of MPT Act. Hence MbPT is bound by such statutory directions issued by the Ministry from time to time.

12.	Specific Comments of Indian Hotels	Response of MBPT
	1.5. Additionally, the increase in other areas and states such as Kadla Port, Kolkata and Chennai is only by 2% per annum and an increase by 50.30 to 122 times from the Hon'ble Supreme Court order of 2004 for the period 2012-2017 and 2017 to 2022 is	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. MbPT is constituted under Major Port Act, 1963 and under supervision and control of MoSP&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 (MoSP&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. The validity of the SC Judgement was upto 30.09.2012 and thereafter, revision of rent is proposed as per the PGLM 2015 Ministry's guidelines.

12.	Specific Comments of Indian Hotels	Response of MBPT
	proposed for the property covered under the Proposed Revision.	Already clarified in para 1.2
	1.6. 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.	Answer given to 1.2 may be referred.
	1.7. Accordingly, considering that the proposed revision is sought to be made 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.	
	1.8 The criterion of fair and reasonable is not met as neighbouring lands belonging to Govt. controlled by the State Govt. of Municipality are leased out at 1/4th rate that has been proposed by MbPT in this present proposed revision.	Answer given to 1.4 may be referred.
	1.9 The Ready Reckoner rates are related to free lands and do not contemplate any restrictions on their transfers which cannot be completely ignored and Ready Reckoner rates cannot be blindly adopted for the concerned properties. Thus, MbPT is acting arbitrary, unlawful and irrational manner.	1.8. Answer given to 1.4 may be referred.
	1.10 The increase in other areas and states such as Kandla Port, Kolkatta and Chennai is only by 2% per annum and increase of 122.89 times from the SC Judgement is proposed for the property covered under the proposed revision.	1.9. What is stated is not correct as the MbPT has followed the guidelines issued by MoS, Govt. of India and the PGLM 2015 in deciding the SoR rates in which the various factors have been considered as per the policy guidelines.
	1.11 The policy guidelines for land management 2014 provides in Clause 13 (c) that the Port Trust Board will fix the rates of annual escalation which would not be less than 2%. However, in present proposal no basis of escalation @ 4% has been provided. As it was mentioned, the annual	1.10. There is no comparison between the rates of lands of Kandla, Kolkatta and Chennai Port and the lands situated in Mumbai Port and the valuation of MbPT premises is done after a long time since 1980. The Ready Recknor has increased by more then 6% for the last 2 decades and hence MbPT claims for annual escalation of rates is fair. The said valuation is done as per the Ministry's guidelines PGLM 2015 taking

12.	Specific Comments of Indian Hotels	Response of MBPT
	rate of escalation would not be less than 2% in the policy guidelines of land management 2014. The present escalation rate of 4% is in accordance with the same.	into consideration various factors as mentioned in the said policy guidelines.
	1.12 The proposed revision is sought to be made despite the matter being subjudice 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 in valid.	1.11 & 1.12. What is stated in not correct. The proposed revision have been made as per the guidelines issued by MoS, Govt. of India under PGLM 2015.
	2. With regard to Point No.3 of the Proposal, we would like to point out the following:	
	2.1. It is clear that there existed a controversy / conflict between the TAMP and MbPT over a notification of TAMP in the year 2000, which controversy was resolved in the year 2019. Thus, merely for the reasons that there is a conflict between MbPT and TAMP, MbPT continued to issue provisional bills for a period of almost nine years and now it proposes to retrospectively increase the rates and thereby the lease rentals effective 2012 to 2017 and from 2017 onwards.	
	2.2. Further, the first paragraph in TR 123 of 2014 dated 5th September 2014 regarding the "Implementation of the Hon'ble Supreme Court Judgement", MbPT has referred to the Ministry of Shipping letter dated 18.02.2014 addressed to the Chairman MPT directing MPT to initiate necessary steps for immediate implementation of the order of the Hon'ble Supreme Court dated 13/01/2004 without any further delay. The Ministry has stated therein that the matter being an important	i. Also as per guidelines issued by MoSP&W, GoI, and rates approved by TAMP. The TAMP is authorised to approve the SoR retrospectively w.e.f. 01.10.2012 onwards, 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 simultaneously submitted to TAMP. 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 MoSP&W, GoI. The validity of rates under S.C. judgement was only upto 30.09.2012 and thereof MbPT is bound to follow the guidelines as per PGLM, 2015 issued by MoSP&W, GoI. PGLM 2015 guidelines are very clear in fixation of SoR/Revision of SoR as per Para 13 and MbPT is following the same. Hence the contentions raised are irrelevant..

12.	Specific Comments of Indian Hotels	Response of MBPT
	public issue, the Port should seek clarification from the Hon'ble Supreme Court in respect of any interpretational issues such as re-fixing letting rates after 30.09.2012 etc. to avoid any legal complications, arising out of the said judgement. These directions were issued with the approval of the erstwhile Ministry of Shipping. MbPT has ignored the said advice of the Ministry and not made necessary application to the Hon'ble Supreme Court and has continued to issue provisional bills. Moreover, the increase is arbitrary and unreasonable. 3. With regard to Point No.4 of the Proposal, we would like to point out the following: 3.1. With respect to Point 4(C), we would like to draw your attention to paragraph 5 of TR 122 of 2021 which confirms that the committee will be formed to decide the applicability of the FSI on the	Regarding MbPT refixing letting rates retrospectively after 30.09.2012, the matter was referred to respective MbPT advocate dealing in the matter in the Supreme Court for opinion and accordingly, letter dated 15.04.2014 addressed to MoS, GoI requesting them to forward copy of opinion from Ministry of Legal Affairs. Opinion from PT Advocate and AG (Mr. Mukul Rohatgi) was obtained by MbPT on applicability of Wadia Judgment Rates (SCJ) post 30.09.2012 and MbPT's rights to revise the rentals w.e.f 01.10.2012 onwards. The opinion received from PT Advocate and AG, GoI confirming the Port Trust's rights to revise rentals w.e.f 01.10.2012. Accordingly, then Chairman, directed to prepare SoR rates for Estate Lettings from 01.10.2012 onwards affected by SC Judgment. The letter dated 09.10.2014 was written to MoS, seeking Ministry's direction on revision of SoR on township areas of MbPT (Estate lettings). Meanwhile, vide TR No. 123 of 2014 committee of officers was constituted (Chairman, EM and FA) by MbPT for fixation of rentals w.e.f 01.10.2012 onwards. The Ministry sought further information from MbPT on 08.10.2015 which was forwarded to Ministry on 02.12.2015 and Ministry was once again requested to give directions on fixation of SoR from 01.10.2012 and also approve the cases settled under compromise policy by the Board interms of SC Judgment, 2004. However, neither such approval for renewal of settled cases under compromise formula (61 cases) had been received from Ministry nor any directions received from Ministry till the issuance of general clarification circular No. 01 of 2018, PGLM 2015 which was extended to the township areas of MbPT covering the lettings affected by SC Judgment 2004 i.e. MT, FML, Expired leases and licenses. Accordingly, Board vide TR 122/2021 forwarded SoR proposal approved by Board vide TR 222 of 2015 based on the LAC report dated 29.12.2014 which annexed as part of proposal for revision of SoR for the period 2012-17. 3. The Hon'ble SC in Wadia's case has accepted the compromise proposal referred in the judgement with slight modification and thereby fixed computation of FSI for the building having more than 1 FSI. The Committee while deciding the factor of FSI ought to consider the compromise proposal

12.	Specific Comments of Indian Hotels	Response of MBPT
	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. The Committee while deciding the factor of FSI ought to consider the Compromise Proposal approved by Hon'ble Supreme Court in Wadia's Case supra for old buildings and long terms leases. Paragraph 7(b) of the same TR which has been approved by the MbPT 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. 4. The proposed SOR is not acceptable in view of the exorbitant increase in the	approved by Hon'ble SC in Wadia case for old buildings and long terms leases. 3.1. The validity of the SC Judgement in the Wadia case was upto 30.09.2012 and after 01.10.2012 the PGLM 2015 is applicable as per MoS guidelines and issue of the FSI is to be dealt accordingly. 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. MbPT is constituted under Major Port Act, 1963 and under supervision and control of MoSP&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 (MoSP&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

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	number of times from the Hon'ble Supreme Court judgement dated 13th January 2004. The Valuation Report of the zone 1/6A has been uploaded on the website. The proceedings of the LAC meeting dated 18.08.2021 confirming the rate Rs.2,90,635/- per sq. mtr. as a base rate land for FSI 1.00 for the year 2017 for zone 1/6A are exorbitantly high and the location considered for simple valuation is totally different from the present property. Hence the same cannot be extended to this property. Moreover, MbPT should have taken 03 Valuers Report for comparison of valuation of plot in zone 1/6A. 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 your notice under reference inviting comments on the Revision of Schedule of Rates for the period The Proposed Revision is bad in law as the same cannot be levied retrospectively. There is no provision in the Act that allows retrospective revision of SOR rates. The Proposed Revision seeks to amend the rates retrospectively for a period of 9 years. MbPT's contention that bills have been raised provisionally since 2012, cannot make a period of 9 years for a provisional bill culminating into final bill be considered reasonable. Merely owing to a dispute between TAMP and MbPT, the lessees cannot be slammed with retrospective levy of lease rent which is 11 times the existing lease rent, retrospectively for a period exceeding 9 years. It imposes an unreasonable and backbreaking burden on the lessees particularly when the business of most of the lessees has been adversely affected due to Covid pandemic. Additionally, we verily believe that the Ministry of Shipping had by its a letter in the year 2014 recommended and advised the MbPT to seek clarification / directions from the Hon'ble Supreme Court of India in the event that it intended to revise the SoR rates from 2012 onwards. However, no such clarification has been sought and the Proposed Revision has been made, placing	(for fresh allotment) falling in the respective RR Zones.

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	all reliance only on the alleged entitlements of MbPT under the Policy issued by the Ministry but in complete disregard and ignorance of the clarifications / directions of the Ministry. Moreover, the increase is not fair and reasonable. Rents were fixed till the year 2012 as per Wadia's judgement and any change thereafter has to be fair and reasonable. In the case 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 Compromise Proposals of the MbPT were upheld with some variations. It was stated in Wadia's judgement that the "Letting years for future years from 1.10.1992 to 30.9.2012 for "non-home occupations" and "home occupations" shall be given in the annexures." Wadia's judgment supra also stated "Notwithstanding fixation of letting years for 20 years for good and sufficient reasons, the Board may review and revise the letting rates." As per Trustee Resolution No. 127 of 2006, the rates were increased by the MbPT in relation to certain lessees viz; Multinational companies, companies with equity share capital more than Rs. 1 crores etc (who would not be protected under the Rent Control legislation). This being not legal, valid, arbitrary and discriminatory was challenged by several writ petitions in the Hon'ble Bombay High Court. This challenge to TR 127 of 2006 is still pending and the matter is sub judice. The annexure to Wadia's judgement which provides the rates till 30.9.2012 provided a consistent increase. This consistency ought to be maintained. In the year 2012, MbPT has informed all its lessees that the bills from 1.10.2012 are provisional and MbPT would be revising the rates. In the notes for discussion at the MPT committees meeting held on 28th March 2013, it was noted that the members present approved the minutes of the third meeting of the Committee held on 22nd February 2013, which state as under : "After some further discussions, it was broadly	

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	agreed that, in respect of the occupations affected by the Supreme Court order, the rate of rent from 01/10/2012 onwards may be by relating it to land values as per Stamp Duty Ready Reckoner 2012. Further all the other terms may be on the lines of the compromise proposals upheld by the Supreme Court, including differential rates for home and non-home occupations, minimum and maximum FSI for the purposes of working out rents, etc. Moreover, the rents upto 31/03/2024 could be pre-declared by limiting the increase to 4% every October." Accordingly, it is presumable that all the other terms of compromise proposals upheld by the Hon'ble Supreme Court would continue to be applied for the purposes of calculations of lease rent etc. However the SOR rates are given only for open plot and compromise proposals reference is not considered by TAMP. Further, MbPT has, in terms of its letter dated 24th December 2014 while preparing the Board Note in the matter of Schedule of Rates for land let out by Estate Division effective from 1st October 2012 stated that it had obtained a legal opinion from Port Advocate Mr. Buddy Ranganadhan to the effect that although the compromise proposal and the rate modified by the Supreme court order expire on 30.09.2012, the general principles laid down by the Supreme Court order will continue to apply to MbPT since it is a public body and a State Authority under the law and expected to be fair and reasonable in arriving at new SOR. Further, the first paragraph in TR 123 of 2014 dated 5th September 2014 regarding the "Implementation of the Hon'ble Supreme Court Judgement", MbPT has referred to the Ministry of Shipping letter dated 18.02.2014 addressed to the Chairman MPT directing MPT to initiate necessary steps for immediate implementation of the order of the Hon'ble Supreme Court dated 13/01/2004 without any further delay. The Ministry has stated therein that the matter being an important public issue, the Port should seek clarification from the Hon'ble Supreme Court in respect of any interpretational	

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	issues such as re-fixing letting rates after 30.09.2012 etc. to avoid any legal complications, arising out of the said judgement. These directions were issued with the approval of the erstwhile Ministry of Shipping. MbPT has ignored the said advice of the Ministry and not made necessary application to the Hon'ble Supreme Court and has continued to issued provisional bills. We understand that Port Trust Advocate Buddy Ranganadhan has, in his opinion referred to the earlier opinion of Learned former Solicitor General of India Mr. Andhyarujina, with respect to the Rates of Rent to the effect that "For the period after 2012, the Compromise Proposals do not bind the Board and the Board is free to revise the rents thereafter. However, as the Board is a public authority bound by the discipline of Article 14 of the Constitution, it is not entitled to charge whatever rents as it deems fit and is bound to recover a reasonable rent." This is an observations made by the Supreme Court at pages 235 and 236 of the judgement) From the present Proposal uploaded on the official website it is clear that there existed a controversy / conflict between the TAMP and MbPT over a notification of TAMP in the year 2000, which controversy was resolved in the year 2019. The Proposal states "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." Thus merely for the reasons that there is a conflict between MbPT and TAMP MbPT continued to issue provisional bills for a period of almost nine years and now it proposes to retrospectively increase the rates and thereby the lease rentals effective 1.10.2012 that too without seeking any clarification or directions from the Hon'ble Supreme Court as recommended and advised by the Ministry of Shipping.	

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	Moreover, the increase is arbitrary and unreasonable. Additionally, in 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. We request you to please consider our suggestion / comments in the settlement of SOR for the period 2012-2017 and 2017 to 2022 for the aforesaid properties. We further request that, we may be permitted to file further additional objections if need be. We request for a personnel hearing in the matter before finalising the SOR rates 2012-2017 and 2017-2022 for the aforesaid properties by MPT/TAMP. 4.1.1 The proposed revision 6 to amend the rates retrospectively w.e.f. October 2020 onwards. 4.1.2 Merely owing to dispute between the TAMP and MbPT, the lesees cannot be slammed with retrospective levy of incremental lease rent w.e.f. October 2020 onwards and MbPT should have considered that business of most of the lessees has been adversely affected due to Covid pandemic. 4.1.3 Ministry of Shipping by its letter in the year 2014 recommended and advised the MbPT to seek clarifications/ directions from the Hon'ble Supreme Court of India in the event that it intended to revise the SoR rates from 2012 onwards. However, no such clarification has been sought and the proposed revision has been made, which is not fair and reasonable. 4.2 Rent were fixed till the year 2012 as per Wadia Judgement and any change thereafter has to be fair and reasonable.	

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	4.2.1 In case of Jamshedji Wadia Vs. MbPT , in the compromise proposal of MbPT were upheld with some variations, wherein it was stated in Wadia judgement that the letting years for future years from 01.10.1992 to 30.09.2012 for Non-home Occupations and Home occupations shall be given in the Annexures. 4.2.2 Wadia Judgement of the Supreme Court also stated not withstanding fixation of letting years for 20 years, for good and sufficient years, the Board may review and revise the letting rates. 4.2.3 The Annexures to Wadia Judgement which provides the rates till 30.09.2012 provided a consistent increase. This consistency ought to be maintained. 4.2.4 It is presumable that all the other terms of compromise proposal upheld by the Hon'ble Supreme Court would continue to be applied for the purpose of calculation of lease rent, etc. However, the SoR rates are given only for open plots and compromise policy reference is not considered by TAMP. 4.2.5 MbPT has in terms of its letter dated 24.12.2014 while preparing the Board Note in the matter of Schedule of Rates has stated it had obtained legal opinion from Port Advocate Shri Buddy Ranganathan to the effect that although the compromise proposal and the rate modified by the S.C. order expired on 30.09.2012, the general principles laid down by the Supreme Court order will continue to apply to the MbPT since it is a public body and expected to be fair and reasonable in arriving at new SoR. 4.2.6 In the first paragraph of TR 123 of 2014 regarding the implementation of the SC Judgement, MbPT has referred to the Ministry of Shipping's letter dated 18.02.2014 addressed to the Chairman, MbPT directing MbPT to initiate necessary steps for immediate implementation of the order of the Hon'ble SC dated 13.01.2004 and Ministry stated therein that the matter being an important public issue the Port should seek clarification from the Hon'ble Supreme Court in respect of any interpretational issues such as refixing letting rates after 30.09.2012 to avoid any	4.1.1 Already stated in para 2.2. 4.1.2 What is stated is not correct. The MbPT has taken the steps of revision of rent and fixation of SoR as per the Ministry's guidelines in PGLM land policy. 4.1.3 The applicability of SC Judgement was only upto 30.09.2012 and the rates of rent are due for revision from 01.10.2012 and thereby MoS, Govt. of India by PGLM 2015 has issued directions to the Port for the said proposed SoR which is applicable from 01.10.2012 and accordingly, Port Trust has followed Ministry of Shipping guidelines for the subject SoR. 4.2.1 to 4.2.5 The validity of the Supreme Court judgement in Wadia's case was applicable upto 30.09.2012 and from 01.10.2012, the PGLM 2015 is applicable as per the Ministry's guidelines. Accordingly, the rates are revised by the MbPT in accordance with the TAMP following the due procedure and guidelines of the Ministry of Shipping.

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	legal complications which were ignored by MbPT. 4.2.7 The Board is a public authority bound by the discipline of Artricle 14 of the Constitution is not entitled to change whatever rent it deems fit and is bound to recover the reasonable rent. 4.2.8 There is a controversy between the TAMP and MbPT and MbPT has filed Writ Petition No.1153 of 2000 challenging TAMP notification and which was withdrawn vide H.C. order dated 08.08.2019. Thus merely for the reasons conflict between TAMP and MbPT, MbPT now proposes to retrospectively revise the rates, without seeking clarification from Hon'ble Supreme Court as advised by the Ministry of Shipping. 4.2.9 Minimum 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 FSI1.33 for FSI 5 or more i. Land values of any plot in Mumbai city is directly linked to its potential permissible FSI and consumed FSI of authorised structure since the FSI on MbPT land varies from 0.5 to 5 or even more in some exceptional cases. MBPT has proposed the SOR rates for FSI 1 as a base rate for TAMP's approval. ii. The calculation of higher FSI/ more than FSI 1 or less than FSI 1 shall be worked out as per para 5 of TR 122 of 2021 approved by the board on 03.08.2021 which stated that a committee will be constituted for working out appropriate factor for determination of actual rental based on FSI consumed by Authorised structure on the premises. The final rental will be worked out on case to case basis as decided by the Board.	4.2.6 The applicability of SC Judgement was only upto 30.09.2012 and the rates of rent are due for revision from 01.10.2012 and thereby MoS, Govt. of India by PGLM 2015 has issued directions to the Port for the said proposed SoR which is applicable from 01.10.2012 and accordingly, Port Trust has followed Ministry of Shipping guidelines for the subject SoR. 4.2.7 What is stated is not correct. There is no provision for compromise under PGLM, 2015. The validity of the Supreme Court

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		judgement in Wadia's case was applicable upto 30.09.2012 and from 01.10.2012, the PGLM 2015 is applicable as per the Ministry's guidelines. Accordingly, the rates are revised by the MbPT in accordance with the TAMP following the due procedure and guidelines of the Ministry of Shipping. 4.2.8 What is stated is not correct. The rates are revised by the MbPT in accordance with the TAMP following the due procedure and guidelines of the Ministry of Shipping as per PGLM 2015. 4.2.9 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 accordingly decide SoR/Rental on case to case basis.

13.	Specific comments received from Shri. Ali Aamer A Zaidy	Response of MBPT
	1. At the outset we strongly oppose any increase in the monthly ground rent on the basis of the Revision of Schedule of Rates of MBPT Estates for the above period which is not in accordance of the judgment laid down by the Supreme Court in the case of Jamshed Hormusji Wadia vs Board of Trustees, Port of Mumbai page 1815 and is against the principles of natural justice, equity and good conscience.	1. The compromise formula modified under Wadia Judgement/Supreme Court Order dated 13.01.2004, was valid for the period of 20 years, i.e. from 1992 to 30.09.2012. MbPT had sought advice of P.T. advocate, Supreme Court regarding applicability / validity of S.C. judgement before LAC report dated 29.12.2014 and before TR 222 of 2015 were passed, which has categorically confirmed that MbPT is not bound to levy lease rentals beyond 30.09.2012 at the SoR rates applied by the Supreme Court (Wadia Judgement). The said advice was based on Addl. Solicitor General of India, Shri Trivedi opinion dated 07.02.2005 which clearly stated that compromise proposal was for period ending 2012 and therefore fresh revision is expected to be fair and reasonable, thereafter. MbPT had obtained the opinion of learned Attorney General of India Shri Mukul Rohatgi on 29.07.2016 confirmed that SC judgment Rate was valid only upto 30.09.2012 and opined that the

13.	Specific comments received from Shri. Ali Aamer A Zaidy	Response of MBPT
		Board is empowered to re-fix the rentals / compensation rates w.e.f. 01.10.2012. MbPT is governed by policy guidelines issued by Ministry from time to time and MbPT has honoured the Supreme Court judgement till its validity, i.e. 30.09.2012. Also as per guidelines issued by MoSP&W, GoI, and rates approved by TAMP. The TAMP is authorised to approve the SoR retrospectively w.e.f. 01.10.2012 onwards, 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 simultaneously submitted to TAMP. 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 MoSP&W, GoI. The validity of rates under S.C. judgement was only upto 30.09.2012 and thereof MbPT is bound to follow the guidelines as per PGLM, 2015 issued by MoSP&W, GoI. PGLM 2015 guidelines are very clear in fixation of SoR/Revision of SoR as per Para 13 and MbPT is following the same. Hence the contentions raised are irrelevant. Supreme court judgement is not an indefinite licence to lessees and tenants to go on committing the major breaches of lease terms and occupying the premises even after the expiry indefinitely and multiple transfers and still want to enjoy meagre/ concessional lease rentals based on 1980 land values and regularisation of breaches as per compromise rates of 1982 and restrict Port Trust to major revenue return on its let out land. Present monthly rental are as per valuation report of 1980's which are no way comparable with present market rate. An 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. 10.5/- per sqm per month for FSI 1.00 which will be revised to on an average of Rs. 878 per sqm

13.	Specific comments received from Shri. Ali Aamer A Zaidy	Response of MBPT
	2. The Mumbai Port Trust cannot charge or levy any additional tax or increase in rent with retrospective effect from 01.10.2012 to 30.09.2017 and 1.10.2017 till date which is against the principles and Ratio Descendi laid down by the Bombay High Court in the judgment passed in Writ petition No.214 of 1984 (Abdeali Shaikh Taiyebali Zaidy and Anr v/s the Bombay Housing and Area Development Board and others) reported in MLJ 1988 (Pg. 707), a xerox copy of which is enclosed herewith for your ready reference and paras 8 to 11 of the judgement are reproduced herein: i. Paragraph 8: Section 167 is directly relevant in the present case because the amendment of an entry made in the assessment book can operate only from the earliest day in the current official year when the circumstances justifying the amendment existed. The phrase "the earliest day in the current official year" has come up for interpretation in a number of cases. In the case of The Sholapur Municipal Corporation Vs Ramchandra Ramappa Madgundi reported in 1973 Mh.L.J 128=74 Bom L.R 469 a full bench of the High Court was required to consider section Section 82 of the Bombay municipal Boroughs Act, 1925, which is in material particulars similar to section 167 of the Bombay Municipa Corporation Act, 1925 which deals with an Assessment Lost (Equivalent to an Assessment Book) is as follows : "82(3) An entry or alteration made under this Section shall…… …. have the same effect if it had been made…. …. on the earliest day in the current official year on which the circumstances justifying the entry	per month for FSI 1.00 i.e. increase by almost 82 times Therefore, contentions raised are incorrect. 2. Regarding MbPT refixing letting rates retrospectively after 30.09.2012, the matter was referred to respective MbPT advocate dealing in the matter in the Supreme Court for opinion and accordingly, letter dated 15.04.2014 addressed to MoS, GoI requesting them to forward copy of opinion from Ministry of Legal Affairs. Opinion from PT Advocate and AG (Mr. Mukul Rohatgi) was obtained by MbPT on applicability of Wadia Judgment Rates (SCJ) post 30.09.2012 and MbPT's rights to revise the rentals w.e.f 01.10.2012 onwards. The opinion received from PT Advocate and AG, GoI confirming the Port Trust's rights to revise rentals w.e.f 01.10.2012. Accordingly, then Chairman, directed to prepare SoR rates for Estate Lettings from 01.10.2012 onwards affected by SC Judgment. The letter dated 09.10.2014 was written to MoS, seeking Ministry's direction on revision of SoR on township areas of MbPT (Estate lettings). Meanwhile, vide TR No. 123 of 2014 committee of officers was constituted (Chairman, EM and FA) by MbPT for fixation of rentals w.e.f 01.10.2012 onwards. The Ministry sought further information from MbPT on 08.10.2015 which was forwarded to Ministry on 02.12.2015 and Ministry was once again requested to give directions on fixation of SoR from 01.10.2012 and also approve the cases settled under compromise policy by the Board in terms of SC Judgment, 2004. However, neither such approval for renewal of settled cases under compromise formula (61 cases) had been received from Ministry nor any directions received from Ministry till the issuance of general clarification circular No. 01 of 2018, PGLM 2015 which was extended to the township areas of MbPT covering the lettings affected by SC Judgment 2004 i.e. MT, FML, Expired leases and licenses. Accordingly, Board vide TR 122/2021 forwarded SoR proposal approved by Board vide TR 222 of 2015 based on the LAC report dated 29.12.2014 which annexed as part of proposal for revision of SoR for the period 2012-17.

13.	Specific comments received from Shri. Ali Aamer A Zaidy	Response of MBPT
	of alteration existed and the tax or the enhanced tax as the case may be shall be levied in such year in the proportion which the remainder of the year after such day bears to the whole year". ii. Paragraph 9: The full bench was required to consider whether on a true construction of Section 82(3) of the Bombay Municipal Boroughs Act, 1925 a retrospective alteration could be made in the Assessment List so as to entitle the Municipality to levy tax for an official year or any part of it which had already expired. The question was answered in the negative by the full bench. It interpreted the key words in Section 82(3)"the earliest day in the current official year " to mean the earliest day in the official year which is current when the amendment when the amendment of the assessment list takes place. It said "if it were intended to include in the context in which it was used any of the past years prior to the date on which the amendment of the assessment list is made, the expression would not be on the earliest day in the current official year but the expression would be on the earliest day in the then current official year, but that would amount to the unwarranted introduction of a word in the statue which is not there and which we cannot do" iii. Paragraph 10: The decision has been approved by the Supreme Court in the case of Municipal Corporation of City of Hubli vs Subba Rao Hanumantharao reported in AIR 1976 SC1398. The Supreme Court was also required to construe the provisions of the Bombay Municipal Boroughs Act. First there is a proposal to levy tax to which objections are invited. After the objections are investigated and disposed of the Assessment List in the one case and the altered entry in the other, are authenticated giving rise to the liability in the rate-payer.it must follow a Fortiori, that if an alteration in the Assessment list is required to be made during the currency of the official year, the Assessment List, in order to give rise to liability, must also be authenticated before the expiry of the official year. The Supreme Court observed : "Once we take the view that the process of levying the tax is complete only when the	

13.	Specific comments received from Shri. Ali Aamer A Zaidy	Response of MBPT
	assessment list is authenticated and it is only then that the tax is levied on the rate-payers, it is difficult to resist the conclusion that the authentication may be made within the official year. The tax being a tax for the official year, must obviously be levied during the official year and since the levy of tax is complete only when the assessment list is authenticated, it must follow a fortiori that the authentication on the making of the which alone the levy of tax is effected, must take place in the official year. Any other view would result in an onomalous and rather absurd situation namely that the tax for an official year would be leviable at any time, even years after the expiration of the official year." Instead of an assessment list an Assessment book is prepared under the Bombay Municipal Corporation Act in substantiallhy the same manner as under the Bombay Municipal Boroughs Act 1925. iv. Paragraph 11: Under section 167 sub-section (2) of the Bombay Municipal Corporation Act also it is expressly provided that every amendment, altering the cess or tax shall be deemed to have been made from the earliest day in the current official year. Since the levy of tax is for every official year and the amendment is also in respect of Current official year, it cannot operate retrospectively to cover past official years. The Respondents therefore are clearly not entitled to increase the Repair Cess retrospectively to cover the period from 1-10-1972 to 31-3-1983. The Petition therefore, succeeds. The levy of enhanced repair cess for the official years covering the period 1-10-1972 to 31-3-1983 is set aside. Bills for the said period are quashed. 3. The Mumbai Port Trust being a Public Authority constituted under the Statute has to act in public interest and for subserving the common good of all the lessees, tenants of the MBPT Estate who have been regularly paying the monthly ground rent till date and observing the terms and conditions of the original lease. The Mumbai Port Trust cannot act in a arbitrary, high handed and capricious manner and increase or revise the rent which is	3. The new SoR are to be fixed based on present market value. However existing billing rate were fixed under Supreme Court Wadia judgement dt 13.01.2004 by giving substantial relaxation under the compromise formula of 1994 on rent computed based on 1980 land value. The SoR rates are based on the laid down procedure under PGLM 2015, para 13 and

13.	Specific comments received from Shri. Ali Aamer A Zaidy	Response of MBPT
	excessive, exorbitant and punitive for the lessees/tenants which will cause untold hardship and additional financial burden on the lessees/ Tenants of the MBPT Estate. No increase in the monthly ground rent retrospectively or otherwise or revision of Schedule of Rates of the MBPT Estate should be made which is not in accordance with the principles laid down in the judgement of Supreme Court in Jamshed Hormusji Wadia v. Board of Trustees, Port of Bombay reported in AIR 2004 Supreme Court, a copy of which is enclosed herewith and paras 14,16,18 & 19 are reproduced for your information and ready reference: i. Paragraph 14 : The Bombay Port Trust is an instrumentality of State and hence an "authority" within the meaning of Article 12 of the Constitution. (See- M/s Dwarkadas Marfatia and Sons v. Board of the Trustees of the Port of Bombay (1989) 3 SCC 293). It is amenable to writ jurisdiction of the Court. This position of law has not been disputed by either Party. The consequences which follows is that in all its actions, it must be governed by Article 14 of the Constitution. It cannot afford to act with arbitrariness or capriciousness. It must act within the four corners of the Statute which which has created and governs it. 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. ii. Paragraph 16: The position of law is settled that the state and its authorities including instrumentalities of States have to be just, fair and reasonable in all their activities including those in the field of contracts. Even while playing the role of a landlord or a tenant, the State and its authorities remains so and cannot be heard or seen causing please or discomfort to Article 14 of the Constitution of India. iii. Paragraph 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 do public good by resorting to fair and reasonable methods. The State and its instrumentalities, as the	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. The proposal submitted by MbPT for fixation of SoR for the period 2017-22 is based on procedure given in para 13 of PGLM 2015. As per the said para, LAC was constituted by the Port under the chairmanship of Dy. Chairman, MbPT with CE & HOD (Estate), FA and TM, MbPT as members of LAC committee. The matter of fixation has been given in para 13 of PGLM 2015 wherein it has been mentioned that LAC Committee take into account highest of the 5 factors mentioned below to determine the latest market value of the port land: a. State Govt. RR land value in the year. b. Highest rate of actual relevant transaction registered in last 3 years in the Port vicinity with appropriate annual escalation. c. Highest tender cum auction rate of the Port land for similar transactions. d. Rate arrived at by the approved valuers appointed for the purpose of the Port. e. Any other relevant factor as may be identified by the Port. Accordingly, panel of Government register valuer was prepared as per MbPT Board's directive for valuation of MbPT land. As elaborated in Dy. Chairman's order dated 15.05.2018, Port Trust had prepared panel of valuers based on valuation work of RR zones covering Port Trust land. The valuers submitted their report to arrive at FMV of land in the said RR zone and gave their recommendations as per the highest of 5 factors in terms of PGLM 2015 and accordingly, LAC after deliberation have recommended FMV and SoR, based on the valuers' recommendations by analysing all the 5 factors as mentioned above.

13.	Specific comments received from Shri. Ali Aamer A Zaidy	Response of MBPT
	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 and payment of taxes and costs of administration. The State as landlord need not necessarily be a benevolent and good charitable Samaritan. The felt need for expanding or stimulating its own activities or other activities in the public interest having once arisen the State need not hold its hands from seeking eviction of its lessees. However, the State cannot be seen to be indulging in rack-renting. Profiteering and indulging in whimsical or unreasonable evictions or bargains. iv. Paragraph 19 : A balance have to be struck between the two extremes. Having been exempted from the operation of rent control legislation the courts cannot hold them tied to the same shackles from which the state and its instrumentalities have been freed by the legislature in their wisdom and thereby requiring them to be ruled indirectly or by analogy by the same law from which they are exempt. Otherwise, it would tantamount to defeating the exemption clause consciously enacted by the Legislature. At the same time the liberty given by the state and its instrumentalities by the Statute enacted under the Constitution does not exempt them from honoring the Constitution itself. They continue to be ruled by Article 14. The validity of their actions in the field of land-lord tenant relationship is available to be tested not under the rent control legislation but under the Constitution. The Rent control legislations are temporary, if not seasonal, the constitution is permanent and all time law. 4. We therefore submit that no increase in the monthly ground rent or in the revision of Schedule of rates retrospectively or otherwise be carried out which will be unjust, vindictive and detrimental to all the lessees/ tenants of the Mbpt estate and which is against the principles and ratio descendi laid down in the above 2	

13.	**Specific comments received from Shri. Ali Aamer A Zaidy**	**Response of MBPT**
	judgments cited above in the Supreme Court and Bombay High Court and against the common good and equity of the rights of all the lessees/tenants and residents (residential or commercial) therein.	

14.	**Specific Remarks from Mrs. Pratibha M. Shah & Shirin M. Shah**	**Response of MBPT**
	Revision of Schedule of Rates (SOR) of MBPT Estate for the period from 01-10-2012 to 30-09-2017 and 01-10-2017 to 30-09-2022. This is in reference to your Proposal No. 3, we would like to know that under what provisions of law you have taken step to revise the Schedule of Rates (SOR) of MbPT Estate for the Period from 01-10-2012 to 30.09.2017 and 01.10.2017 to 30.09.2022 and what facilities will be provided in that respect and after getting feed back from you we will revert back to you in that respect.	The TAMP notice for approval of SoR 2012-17 was sent to Shri M.V Shah who is registered tenant of MbPT for plot RR 1468 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 subject tenancy is a monthly tenancy.

15.	**Specific Remarks from Manmohan Shrirang Samant**	**Response of MBPT**
	We refer to your Notice No. EM/AS(G)/F-382/1924 dated 06-10-2021 on the above subject matter. Our comments are set out as under : At the outset I am the Auction Purchaser along with Tarun R Tahiliani for the aforesaid Property. The Schedule of Rates are too high and unrealistic Your office has been asking returns at the rate of 6 percent. Please be inform the State Governments including Government of Maharashtra, Mumbai Mahanagar Palika have been rents at the rate of 1 to 2 percent on the Ready Reckoner rates and that too for the entire lease period. Our lease has renewal clause of 99 years and is also a Rent Earning Lease which was not realised to full potential due to your office obtaining a stay in an interim application of 1991 in the First	The TAMP notice for approval of SoR 2012-17 was sent to Shri HLR of Late Indiradevi Narhar who is registered tenant of MbPT for plot RR RR 687however 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 contents are incorrect and unacceptable as already stated in earlier para 4, MbPT is bound by PGLM

15.	Specific Remarks from Manmohan Shrirang Samant	Response of MBPT
	Appeal No. 387 of 1991 before the High Court Judicature Mumbai. We shall be obliged if your office charge the rent as per the Supreme Court Judgement of 2004 which has a increase of 4 percent per annum which is fair and equitable.	2015 issued by MoSP&W, GoI which have been scrupulously followed by MbPT while computing SoR. The comparison with the practice followed by Collector of Mumbai, State Govt. and any other PSUs is irrelevant and not applicable in this present case. The Hon'ble Supreme Court order dated 13.01.2004, Board's compromise formula was only valid upto 30.09.2012 (only for 20 years i.e. 01.10.1992 to 30.09.2012) and such there is no violation of S. C. and no permission of S. C. Judgement is necessary for revision of rate from 2012. The Para 13 of PGLM, 2015 has stated the methodology of calculation of latest market value of port land and accordingly as stated in para 4 above, MbPT fixed SoR 2017-22.

16.	Specific Remarks from Friends Union Co-Op. Society	Response of MBPT
	This has reference to your proposal vide ref no. EM/AS(G)/F-382/1924 dt.6.10.2021 on the above subject. We would like to inform you that the link stated in the circular www. mumbaiport.gov.in does not permit any access to provide our feedback like proposal number, customer code, comments etc.in the matter. Kindly therefore mwe would like to place on record that we are the original tenant in respect of property bearing Plot No.R.R.Old 1318 Code No.31102107 situated at 227, P. Dmello Road, Fort, Mumbai-400001. and we are lessee which is in force for the period from 1.1.1994 till 31.3.2024. We have not defaulted in payment of rent to Mumbai Port Trust. Since the site provided by your organisation does not permit any access to give our response and feedback, we are unable to comply your requirement. Seeing heavy recession and inflation, we humbly request/suggest you not to increase the rate. We request you to consider the matter sympathetically & oblige.	The applicant has attached list of occupants in the subject premises. Hence the information is rrelevant to the present proposal.

17.	Specific Comments from F.M.E Contractor	Response of MBPT
	We refer to captioned subject and your Notice ref. EM/AS(G)/F-382/1924 dated 06-10-2021 with regards revision of Schedule of Rates of MbPT Estate which was found pasted at our premises. Since, all our Directors are Out of Mumbai and travelling overseas, hence, we are not in position to give our comments/views at present. We therefore request you to grant us more time of 2 to three weeks for our comments.	The TAMP notice for approval of SoR 2012-17 was sent to Shri F. M Contractor who is registered tenant of MbPT for plot Old YT 13 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.

18.	Specific comments from BAI RAMPYARI PRATAP SINGH LAKHMIDAS	Response of MBPT
	Comments on the revision of schedule of rates for the period from 1.10.2012 to 30.9.2017 of MBPT Estate Lands and letter dt.14.8.2021 from Estate Manager (I/C), Mumbai Port Trust. With reference to the above, we would humbly like to offer our comments as under:- 1. Name : THE H. AND L.REPS OF LATE BAI RAMPYARI PRATAP SINGH LAKHMIDAS. Code No. 31102130 2. R R NO. - 2079 Unit – 11 3. Area of the plot of land – 304.44 sq. m. 4. The existing rental is Rs. 30389.13 pm i.e. Rs. 99.81 per Sq. m per month. 5. Rates mentioned in Annexure I in Revision of SOR are as under :- Land rate – 93300 per Sq. mt. For the period 1.10.2012 to 30.9.13 FSI 1 base rate ₹. 466.5 per sq. m. per month For the period 1.10.2013 to 30.9.14	i. 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. ii. Present monthly rental are as per valuation report of 1980's which are no way comparable with present market rate. An 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. 10.5/- per sqm per month for FSI 1.00 which will be revised to on an average of Rs. 878 per sqm per month for FSI 1.00 i.e. increase by almost 82 times. 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. iii. 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

18.	Specific comments from BAI RAMPYARI PRATAP SINGH LAKHMIDAS	Response of MBPT
	FSI 1 base rate ₹. 485.16 per sq. m. per month For the period 1.10.2014 to 30.9.15 FSI 1 base rate ₹. 504.57 per sq. m. per month For the period 1.10.2015 to 30.9.16 FSI 1 base rate₹,524.75 per sq. m. per month For the period 1.10.2016 to 30.9.17 FSI 1 base rate ₹,545.74 per sq. m. per month 6. After the proposed revision, the monthly rental will be as under (based on FSI – 1) :- 1.10.2012 to 30.9.13 - Rs.142021 1.10.2013 to 30.9.14 - Rs.147702 1.10.2014 to 30.9.15 - Rs.153611 1.10.2015 to 30.9.16 - Rs.159755 1.10.2016 to 30.9.17 Rs.166145 7. The proposal also states in para 7 that 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. 8. Thus, it can be seen that the minimum increase proposed is nearly 4 to 5 times of the existing rent with retrospective effect. 9. In our case, the original lease deed was executed for a vacant plot of land and a building was constructed on the said plot by the original lessee. At the time of lease deed, there was no structure. It is an admitted position that the structure was constructed by Gomatibai Girdhardas Cuverji (our predecessor in title). 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.	zones (36 nos.). MbPT is constituted under Major Port Act, 1963 and under supervision and control of MoSP&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 (MoSP&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. iv. 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.

18.	Specific comments from BAI RAMPYARI PRATAP SINGH LAKHMIDAS	Response of MBPT
	10. 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. 11. 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 proposed increase in the rent is not in the public interest. 12. The basic difference between the lease in the present case & the occupancy by the tenants/persons in case of other govt. organizations like LIC, Nationalized banks etc. needs to be seen carefully. 13. While in majority of the cases of insurance companies & nationalized banks, the buildings have been constructed by the respective insurance companies/banks & these insurance/ banking companies have allowed other persons to occupy a certain portion of the building, but in our case, only the land was lease by MBPT & the building was constructed by our predecessor in title. As such, the structure always belonged to our predecessor in title & not to MBPT. This is also clear from the rent bill raised by MBPT on us which clearly shows that rent has been charged on 304.44 sq. mt. of land area & not the building area. e.g. Rs. 20 per sq. mt. per month of land area for the period 1.10.1994 to 30.9.1995 equal to Rs. 60888 per sq. mt. per month. 14. In the case of Jamshed Wadia v/s Board of Trustees it was held by the 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". 15. 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 SCC 293] It must be governed by Article 14 of the Constitution. It cannot afford to act with arbitrariness or	31,31,600. v. 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. Existing Ready Reckoner rate of 2017 and table showing RR rates in the MbPT land beside its adjoining land and also the land value (FMV) recommended by the Valuer as on 2017 in PPT. vii. 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. 01.10.2017 as per applicability of PGLM 2014-2015 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. 2. i. The compromise formula modified under Wadia Judgement/Supreme Court Order dated 13.01.2004, was valid for the period of 20 years, i.e. from 1992 to 30.09.2012. MbPT had sought advice of P.T. advocate, Supreme Court regarding applicability / validity of S.C. judgement before LAC report dated 29.12.2014 and before TR 222 of 2015 were passed, which has categorically confirmed that MbPT is not bound to levy lease rentals beyond 30.09.2012 at the SoR rates applied by the Supreme Court (Wadia

18.	Specific comments from BAI RAMPYARI PRATAP SINGH LAKHMIDAS	Response of MBPT
	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." 16. In Baburao Shantaram More v/s The Bombay Housing Board – 1954] SCJ 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." 17. In Ratti Palanji Kapadia v/s State of Maharashtra – 1982 Maharashtra Law Journal 1356 it was observed as under :- Para 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 profits 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." 18. The rate of the land at Rs.93300 per Sq. m taken in the schedule of rates is the market rate of developed land as per Stamp Duty Ready reckoner for the year	Judgement). The said advice was based on Addl. Solicitor General of India, Shri Trivedi opinion dated 07.02.2005 which clearly stated that compromise proposal was for period ending 2012 and therefore fresh revision is expected to be fair and reasonable, thereafter. MbPT had obtained the opinion of learned Attorney General of India Shri Mukul Rohatgi on 29.07.2016 confirmed that SC judgment Rate was valid only upto 30.09.2012 and opined that the Board is empowered to re-fix the rentals / compensation rates w.e.f. 01.10.2012. ii. MbPT is governed by policy guidelines issued by Ministry from time to time and MbPT has honoured the Supreme Court judgement till its validity, i.e. 30.09.2012. iii. Also as per guidelines issued by MoSP&W, GoI, and rates approved by TAMP. The TAMP is authorised to approve the SoR retrospectively w.e.f. 01.10.2012 onwards, 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 simultaneously submitted to TAMP. 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 MoSP&W, GoI. The validity of rates under S.C. judgement was only upto 30.09.2012 and thereof MbPT is bound to follow the guidelines as per PGLM, 2015 issued by MoSP&W, GoI. PGLM 2015 guidelines are very clear in fixation of SoR/Revision of SoR as per Para 13 and MbPT is following the same. Hence the contentions raised are irrelevant. iv. Supreme court judgement is not an indefinite licence to lessees and tenants to go on committing the major breaches of lease terms and occupying the premises even after the expiry indefinitely and multiple transfers and still want to enjoy meagre/ concessional lease rentals based on 1980 land values and regularisation of breaches as per compromise rates of 1982 and restrict Port Trust to major revenue return on its let out land. Therefore, contentions raised are incorrect.

18.	Specific comments from BAI RAMPYARI PRATAP SINGH LAKHMIDAS	Response of MBPT
	2012 for Mumbai. As is well known then rate as per 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. 19. Thus, it is clear that the proposed land rate adopted by MBPT is a market rate of 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 four to five times increase in the renal is not just arbitrary in nature but it is beyond any acceptable rationale and with an ulterior profit making business motive as a base. 20. In our humble submissions, in our case, yearly increase of 5% in the existing rental (based on the land area of 304.44 sq. m. only and the fact that the building was constructed by us and 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.	

19.	Specific reply from Mumtaz Manzil Seva Co-op Society Limited	Response of MBPT
	We, the tenant of Mumtaz Manzil Seva Co-op society opposed on Revision of Schedule of Rates of Mbpt Estate for the period from 01.10.2012 to 30.09.2017 and 01.10.2017 to 30.09.2022. Our Customer Code no. 312202245 & Proposal No.03	The revision of SoR is based on the Hon'ble Supreme Court Orders in Jamshedji Wadia case and subsequent clarification and opinion received from Shri Mukul Rohatagi, the former Attorney General for India. 2) Ministry's clarification and directions to TAMP to fix the rates from 01.10.2012 3) The provisions in PGLM 2014-15 and subsequent clarifications received thereto 4) Due intimation given by Estate Manager to the tenants/lessees regarding revision from time to time. 5) The Major Port Trust Act, 1963 does not restrict the retrospective

19.	Specific reply from Mumtaz Manzil Seva Co-op Society Limited	Response of MBPT
		revision of any rates. 6)The revision sought by MbPT is justifiable and reasonable. The TAMP notice for approval of SoR 2012-17 was sent to Shri M. Shaikh who is registered tenant of MbPT for plot RR 1379 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 subject tenancy is a monthly tenancy. LEC 45/43 of 1983 was filed against the lessee for arrears and breaches. The decree was obstructed by obstrcutist and Onstrcutionist notice 388/2012 has been filed in the Small Causes Court.

20.	Specific reply from Shri Abdeali Shaikh Tayebali Zaidy	Response of MBPT
	We are in receipt of the Notice No.EM/(G)/F-382/ 1924 dated 6TH October 2021 on the 9th October 2021 regarding Revision of Schedule of Rates of MBPT Estates of the above period and in reply thereto, we have to state as under : At the outset we strongly oppose any increase in the monthly ground rent on the basis of the Revision of Schedule of Rates of MBPT Estates for the above period which is not in accordance of the judgment laid down by the Supreme Court in the case of Jamshed Hormusji Wadia vs Board of Trustees, Port of Mumbai page 1815 and is against the principles of natural justice, equity and good conscience. The Mumbai Port Trust cannot charge or levy any additional tax or increase in rent with retrospective effect from 01.10.2012 to 30.09.2017 and 1.10.2017 till date which is against the principles and Ratio Descendi laid down by the Bombay High Court in the judgment passed in Writ petition No.214 of	1. i. The compromise formula modified under Wadia Judgement/Supreme Court Order dated 13.01.2004, was valid for the period of 20 years, i.e. from 1992 to 30.09.2012. MbPT had sought advice of P.T. advocate, Supreme Court regarding applicability / validity of S.C. judgement before LAC report dated 29.12.2014 and before TR 222 of 2015 were passed, which has categorically confirmed that MbPT is not bound to levy lease rentals beyond 30.09.2012 at the SoR rates applied by the Supreme Court (Wadia Judgement). The said advice was based on Addl. Solicitor General of India, Shri Trivedi opinion dated 07.02.2005 which clearly stated that compromise proposal was for period ending 2012 and therefore fresh revision is expected to be fair and reasonable, thereafter. MbPT had obtained the opinion of learned Attorney General of India Shri Mukul Rohatgi on 29.07.2016 confirmed that SC judgment Rate was valid only upto 30.09.2012 and opined that the Board is empowered to re-fix the rentals /

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	1984 (Abdeali Shaikh Taiyebali Zaidy and Anr v/s the Bombay Housing and Area Development Board and others) reported in MLJ 1988 (Pg. 707), a xerox copy of which is enclosed herewith for your ready reference and paras 8 to 11 of the judgement are reproduced herein: Paragraph 8: Section 167 is directly relevant in the present case because the amendment of an entry made in the assessment book can operate only from the earliest day in the current official year when the circumstances justifying the amendment existed. The phrase "the earliest day in the current official year" has come up for interpretation in a number of cases. In the case of The Sholapur Municipal Corporation Vs Ramchandra Ramappa Madgundi reported in 1973 Mh.L.J 128=74 Bom L.R 469 a full bench of the High Court was required to consider section Section 82 of the Bombay municipal Boroughs Act, 1925, which is in material particulars similar to section 167 of the Bombay Municipa Corporation Act, 1925 which deals with an Assessment Lost (Equivalent to an Assessment Book) is as follows : "82(3) An entry or alteration made under this Section shall…… …. have the same effect if it had been made…. …. on the earliest day in the current official year on which the circumstances justifying the entry of alteration existed and the tax or the enhanced tax as the case may be shall be levied in such year in the proportion which the remainder of the year after such day bears to the whole year". Paragraph 9: The full bench was required to consider whether on a true construction of Section 82(3) of the Bombay Municipal Boroughs Act, 1925 a retrospective alteration could be made in the Assessment List so as to entitle the Municipality to levy tax for an official year or any part of it which had already expired. The question was answered in the negative by the full bench. It interpreted the key words in Section 82(3)"the earliest day in the current official year " to mean the earliest day in the official year which is current when the amendment when the amendment of the assessment list takes place. It said "if it were intended to	compensation rates w.e.f. 01.10.2012. ii. MbPT is governed by policy guidelines issued by Ministry from time to time and MbPT has honoured the Supreme Court judgement till its validity, i.e. 30.09.2012. iii. Also as per guidelines issued by MoSP&W, GoI, and rates approved by TAMP. The TAMP is authorised to approve the SoR retrospectively w.e.f. 01.10.2012 onwards, 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 simultaneously submitted to TAMP. 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 MoSP&W, GoI. The validity of rates under S.C. judgement was only upto 30.09.2012 and thereof MbPT is bound to follow the guidelines as per PGLM, 2015 issued by MoSP&W, GoI. PGLM 2015 guidelines are very clear in fixation of SoR/Revision of SoR as per Para 13 and MbPT is following the same. Hence the contentions raised are irrelevant. iv. Supreme court judgement is not an indefinite licence to lessees and tenants to go on committing the major breaches of lease terms and occupying the premises even after the expiry indefinitely and multiple transfers and still want to enjoy meagre/ concessional lease rentals based on 1980 land values and regularisation of breaches as per compromise rates of 1982 and restrict Port Trust to major revenue return on its let out land. Therefore, contentions raised are incorrect. 2. Regarding MbPT refixing letting rates retrospectively after 30.09.2012, the matter was referred to respective MbPT advocate dealing in the matter in the Supreme Court for opinion and accordingly, letter dated 15.04.2014 addressed to MoS, GoI requesting them to forward copy of opinion from Ministry of Legal Affairs. Opinion from PT Advocate and AG (Mr. Mukul Rohatgi) was obtained by MbPT on applicability of Wadia Judgment Rates (SCJ) post 30.09.2012 and MbPT's rights to revise the rentals w.e.f 01.10.2012 onwards. The opinion received from PT Advocate and AG, GoI confirming the Port Trust's rights to revise rentals w.e.f 01.10.2012. Accordingly,

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	include in the context in which it was used any of the past years prior to the date on which the amendment of the assessment list is made, the expression would not be on the earliest day in the current official year but the expression would be on the earliest day in the then current official year, but that would amount to the unwarranted introduction of a word in the statue which is not there and which we cannot do" Paragraph 10: The decision has been approved by the Supreme Court in the case of Municipal Corporation of City of Hubli vs Subba Rao Hanumantharao reported in AIR 1976 SC1398. The Supreme Court was also required to construe the provisions of the Bombay Municipal Boroughs Act. First there is a proposal to levy tax to which objections are invited. After the objections are investigated and disposed of the Assessment List in the one case and the altered entry in the other, are authenticated giving rise to the liability in the rate-payer.it must follow a Fortiori, that if an alteration in the Assessment list is required to be made during the currency of the official year, the Assessment List, in order to give rise to liability, must also be authenticated before the expiry of the official year. The Supreme Court observed : "Once we take the view that the process of levying the tax is complete only when the assessment list is authenticated and it is only then that the tax is levied on the rate-payers, it is difficult to resist the conclusion that the authentication may be made within the official year. The tax being a tax for the official year, must obviously be levied during the official year and since the levy of tax is complete only when the assessment list is authenticated, it must follow a fortiori that the authentication on the making of the which alone the levy of tax is effected, must take place in the official year. Any other view would result in an onomalous and rather absurd situation namely that the tax for an official year would be leviable at any time, even years after the expiration of the official year." Instead of an assessment list an Assessment book is prepared under the Bombay Municipal Corporation Act in	then Chairman, directed to prepare SoR rates for Estate Lettings from 01.10.2012 onwards affected by SC Judgment. The letter dated 09.10.2014 was written to MoS, seeking Ministry's direction on revision of SoR on township areas of MbPT (Estate lettings). Meanwhile, vide TR No. 123 of 2014 committee of officers was constituted (Chairman, EM and FA) by MbPT for fixation of rentals w.e.f 01.10.2012 onwards. The Ministry sought further information from MbPT on 08.10.2015 which was forwarded to Ministry on 02.12.2015 and Ministry was once again requested to give directions on fixation of SoR from 01.10.2012 and also approve the cases settled under compromise policy by the Board interms of SC Judgment, 2004. However, neither such approval for renewal of settled cases under compromise formula (61 cases) had been received from Ministry nor any directions received from Ministry till the issuance of general clarification circular No. 01 of 2018, PGLM 2015 which was extended to the township areas of MbPT covering the lettings affected by SC Judgment 2004 i.e. MT, FML, Expired leases and licenses. Accordingly, Board vide TR 122/2021 forwarded SoR proposal approved by Board vide TR 222 of 2015 based on the LAC report dated 29.12.2014 which annexed as part of proposal for revision of SoR for the period 2012-17. 3. i. The new SoR are to be fixed based on present market value. However existing billing rate were fixed under Supreme Court Wadia judgement dt 13.01.2004 by giving substantial relaxation under the compromise formula of 1994 on rent computed based on 1980 land value. ii. 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. iii. The proposal submitted by MbPT for fixation of SoR for the period 2017-22 is based on procedure given in para 13 of PGLM 2015. As per the said para, LAC was constituted by the Port under the chairmanship of Dy. Chairman, MbPT with CE & HOD (Estate), FA and TM, MbPT as members of LAC committee. The matter of fixation has been given in para 13 of PGLM 2015 wherein it has been mentioned

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	substantiallhy the same manner as under the Bombay Municipal Boroughs Act 1925. Paragraph 11: Under section 167 sub-section (2) of the Bombay Municipal Corporation Act also it is expressly provided that every amendment, altering the cess or tax shall be deemed to have been made from the earliest day in the current official year. Since the levy of tax is for every official year and the amendment is also in respect of Current official year, it cannot operate retrospectively to cover past official years. The Respondents therefore are clearly not entitled to increase the Repair Cess retrospectively to cover the period from 1-10-1972 to 31-3-1983. The Petition therefore, succeeds. The levy of enhanced repair cess for the official years covering the period 1-10-1972 to 31-3-1983 is set aside. Bills for the said period are quashed. The Mumbai Port Trust being a Public Authority constituted under the Statute has to act in public interest and for subserving the common good of all the lessees, tenants of the MBPT Estate who have been regularly paying the monthly ground rent till date and observing the terms and conditions of the original lease. The Mumbai Port Trust cannot act in a arbitrary, high handed and capricious manner and increase or revise the rent which is excessive, exorbitant and punitive for the lessees/tenants which will cause untold hardship and additional financial burden on the lessees/ Tenants of the MBPT Estate. No increase in the monthly ground rent retrospectively or otherwise or revision of Schedule of Rates of the MBPT Estate should be made which is not in accordance with the principles laid down in the judgement of Supreme Court in Jamshed Hormusji Wadia v. Board of Trustees, Port of Bombay reported in AIR 2004 Supreme Court, a copy of which is enclosed herewith and paras 14,16,18 & 19 are reproduced for your information and ready reference: Paragraph 14 : The Bombay Port Trust is an instrumentality of State and hence an “authority” within the meaning of Article 12 of the Constitution. (See- M/s Dwarkadas Marfatia and Sons v. Board of the Trustees	that LAC Committee take into account highest of the 5 factors mentioned below to determine the latest market value of the port land: a. State Govt. RR land value in the year. b. Highest rate of actual relevant transaction registered in last 3 years in the Port vicinity with appropriate annual escalation. c. Highest tender cum auction rate of the Port land for similar transactions. d. Rate arrived at by the approved valuers appointed for the purpose of the Port. e. Any other relevant factor as may be identified by the Port. iv. Accordingly, panel of Government register valuer was prepared as per MbPT Board’s directive for valuation of MbPT land. As elaborated in Dy. Chairman’s order dated 15.05.2018, Port Trust had prepared panel of valuers based on valuation work of RR zones covering Port Trust land. The valuers submitted their report to arrive at FMV of land in the said RR zone and gave their recommendations as per the highest of 5 factors in terms of PGLM 2015 and accordingly, LAC after deliberation have recommended FMV and SoR, based on the valuers’ recommendations by analysing all the 5 factors as mentioned above.

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	of the Port of Bombay (1989) 3 SCC 293). It is amenable to writ jurisdiction of the Court. This position of law has not been disputed by either Party. The consequences which follows is that in all its actions, it must be governed by Article 14 of the Constitution. It cannot afford to act with arbitrariness or capriciousness. It must act within the four corners of the Statute which which has created and governs it. 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. Paragraph 16: The position of law is settled that the state and its authorities including instrumentalities of States have to be just, fair and reasonable in all their activities including those in the field of contracts. Even while playing the role of a landlord or a tenant, the State and its authorities remains so and cannot be heard or seen causing please or discomfort to Article 14 of the Constitution of India. Paragraph 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 do public good by resorting to fair and reasonable methods. 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 and payment of taxes and costs of administration. The State as landlord need not necessarily be a benevolent and good charitable Samaritan. The felt need for expanding or stimulating its own activities or other activities in the public interest having once arisen the State need not hold its hands from seeking eviction of its lessees. However, the State cannot be seen to be indulging in rack-renting. Profiteering and indulging in whimsical or unreasonable evictions or bargains.	

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	Paragraph 19 : A balance have to be struck between the two extremes. Having been exempted from the operation of rent control legislation the courts cannot hold them tied to the same shackles from which the state and its instrumentalities have been freed by the legislature in their wisdom and thereby requiring them to be ruled indirectly or by analogy by the same law from which they are exempt. Otherwise, it would tantamount to defeating the exemption clause consciously enacted by the Legislature. At the same time the liberty given by the state and its instrumentalities by the Statute enacted under the Constitution does not exempt them from honoring the Constitution itself. They continue to be ruled by Article 14. The validity of their actions in the field of land-lord tenant relationship is available to be tested not under the rent control legislation but under the Constitution. The Rent control legislations are temporary, if not seasonal, the constitution is permanent and all time law. We therefore submit that no increase in the monthly ground rent or in the revision of Schedule of rates retrospectively or otherwise be carried out which will be unjust, vindictive and detrimental to all the lessees/ tenants of the Mbpt estate and which is against the principles and ratio descendi laid down in the above 2 judgments cited above in the Supreme Court and Bombay High Court and against the common good and equity of the rights of all the lessees/tenants and residents (residential or commercial) therein.	

21.	Specific reply from Shri Vijay Puri, Pravin Puri, Sunil Puri.	Response of MBPT
	With reference to your above notice, we seek to offer our comments in respect thereof as under: 1. At the outset it may be recorded that we are in occupation of RR No. 693 and have been paying our rent from time to time as per the compromise proposal sanctioned by the Hon'ble Supreme Court. Our lease is expired and pending renewal. Moreover, in our case, due to the existence of a super structure which is protected under the section 4(4A) of the Rent Act, the new	1. The Rent Control Legislation and all the entities that have 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

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	schedule cannot be allowed as the Rent Act permits only an increase of 4% year on year with such further permitted increases as considered reasonable. 2. Without prejudice to the above, at the outset, it may be recorded that as per the Supreme Court judgement of 2004 in the case of Jamshed Hormusji Wadia v/s Board of Trustees for the Port of Mumbai, the Port Trust was supposed to execute fresh leases for a period of 30 years with effect from 1994. The Port Trust has failed to do that and now, cannot take advantage of their own wrong and contend that the lease has expired. It may also be noted that in the 2004 judgement, breaches/ change of user etc. up to 2004 were to be regularized. Our Lease expired in the year 2000 and all formalities for renewal had been submitted within the stipulated period, objections to the same were also complied and set proper, however after paying all dues and several reminders over the years for transferring the property to the name of Heirs and change of registered address the same has not been done. Further, at the very outset, considering the complexities involved the time of 14 days for inviting comments seems to be very short and unreasonable. You are requested to kindly grant at least 3 months to make comments. 3. Please appreciate 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, and to go through old documents and papers it would also be advisable to hold physical meetings to understand the problems involved and the difficulties. From a lay person point of view, all we can say is that the proposed rates are absolutely arbitrary, unreasonable and not sustainable. 4. Besides, please note that the charges as calculated based on the Schedule of rates proposed by you 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	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. 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. 2. The issue raised is not relevant to present proposal. TAMP is requested not to grant additional time to stakeholders to file reply as this will negatively impact rental income to the public exchequer. 3. After receipt of instructions from TAMP, MbPT had uploaded the proposal on MbPT website on 06.10.2021 and time limit of 15 days was granted to the stakeholders for filing reply as per the directions of TAMP which ended on 26.08.2021. The entire proposal submitted to TAMP along with all the DA of the Proposal such as (i) supporting TRs (ii) LAC reports and (iii) statements of SOR were uploaded on MbPT website. The said information can be downloaded from MbPT website with access to all Registered lessees/ tenants/ occupants and all stake holders. (ii) All the registered lessees/tenants/occupants were served with notice informing them last date for submission of comments on 20.10.2021. Also 15 days' time granted by TAMP is more than sufficient and no further time is required for submission of comments by the Registered lessees/ tenants/ occupants, any further extension of time in the matter will unnecessarily delay the process. Therefore TAMP is requested not to grant any such extension of time for submission of comments and may proceed as per the scheduled hearing date. 4. and 5. While computation of SoR 2017-2022 MbPT had

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	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. It may be appreciated that market rent / rack renting cannot be adopted by the MbPT which is clearly held by the Supreme Court in the case of Dwarkadas Marfatia v/s Board of Trustees of the Port of Mumbai and also in the case of Jamshed Hormusji Wadia v/s Board of Trustees for the Port of Mumbai. Moreover, market rates (ready reckoner value) for Free Hold land cannot be equated with or made a yardstick for determining the market rates of Leasehold land. Besides, it is a fact that for the collector's land- lease is being renewed by charging 0.25 % of ready reckoner rates with 4% increment year on year whereas in the case of the Port Trust, it is proposed at 6% of market value (which is even higher than ready reckoner value) with yearly increase and despite charging such heavy rates, the port trust doesn't even make a whisper if they are renewing leases by executing fresh lease deeds. 5. We have been regularly paying rent as per the compromise proposals sanctioned by the Hon'ble Supreme Court which are binding on tenants as well as MbPT. In fact, we have never refused to pay whatever is reasonable and all impositions of rentals etc. must satisfy the test of reasonableness. Arbitrarily imposing such a high schedule of rates is not reasonable and conscionable and we do not welcome any such exponential increase in rents that has been arbitrarily proposed by the Port Trust. Please also appreciate, and we say this at the cost of repetition, that, as per the judgement of the Hon'ble Supreme Court in the case of Dwarkadas Marfatia v/s Board of Trustees of the Port of Mumbai, the Port Trust being a public authority cannot behave like a private landlord and cannot indulge in profiteering or levying rack-rents. The Hon'ble Supreme court has clearly held	engaged Govt. approved Valuers on panel and entrusted the work of valuation of MbPT land as per the jurisdiction of RR zones. MbPT is constituted under Major Port Act, 1963 and under supervision and control of MoSP&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 (MoSP&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. Present monthly rental are as per valuation report of 1980's which are no way comparable with present market rate. An 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. 10.5/-

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	that being a public body, the Port Trust cannot resort to profiteering or rack renting like a private landlord and cannot charge market rents to existing tenants. Therefore, such imposition of rents based on market values and ready reckoner rates is not the solution to the current issue. 6. It may also be recorded that the ready reckoner rates of the State Government cannot be made the parameter based on which rents are to be collected. If that be so, then the state government lease renewal is done at merely 0.25 % of that rate. 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 H Wadia vs. The Board of Trustee of the Port of Bombay (2004) (3) SCC 214 and based on the principles of the said judgement, the rates need to be computed with 4% yearly enhancement or in any event, they can 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, after working 4% increment of rent year on year, the current rent as per the current regime works out to about Rs. 37.50 per square meter per month , inclusive of GST AS of October 2021, bill which is already very high and enough to take care of the charges of the port trust. Looking at the SOR, one can observe that the rental for the zone 1/6A associated with RR No. 693 i.e. the ready reckoner entry corresponding to our plot, is likely to be R.494.50 /- as of Rs. 1.10.2012 and Rs.578.49 /- per square meter as of 1.10.2017 and after 2017 a flat rate of Rs. 1700.02 p. per square meter per month till 2022. 7. WE fail to understand how the return of 6% has been made a benchmark for residential users. It is submitted that the Trust resolutions uploaded on the website are not clear and are full of legal jargons which are impossible for ordinary tenants to comprehend and it would be appreciated if there is more clarity and simplicity in the manner in which the Port Trust proposes to levy rents/ lease charges. Such charges and schedules from 2012 onwards should be based on a factor of what was being paid up to 2012 as per the Hon'ble Supreme	per sqm per month for FSI 1.00 which will be revised to on an average of Rs. 878 per sqm per month for FSI 1.00 i.e. increase by almost 82 times. 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. 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. 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. Also the comparison with the practice followed by Collector of Mumbai, State Govt. and any other PSUs is irrelevant and not applicable in this present case. Thus there is no violation of SC Judgement 2004 by effecting the revision as per SOR w.e.f. 01.10.2017 as per applicability of PGLM 2014-2015 issued by Ministry time to time which obligatory directives under Section 111 of MPT act and is bound by the said directives for implementation. 6. The contents are incorrect and unacceptable,

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	Court's sanctioned compromise formula and should be based on some reasonable percent increment taking the amount of rent paid in 2012 as a benchmark. The port trust is seeking to impose rates which are exponentially higher than those charged by similar land owners and order of magnate times higher than the current rates. 8. It is also requested that clarity be got in so far as the amounts are concerned pertaining to each of the units owned by the Port Trust, separately. We suggest that every property would have a different calculation based on the merits of the matter of such property and hence a generic working and a one-size-fits-all approach is not possible nor desirable. It is also a matter of concern as to how the residents residing on land allegedly owned by BPT since 80-100 years are served these notices with just about a couple of weeks' time to respond 9. 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. "Housing for All" is a part of the national policy and it is surprising that where on the one hand the Central Government is coming up with schemes like "Pradhan Mantri Awaas Yojana", on the other hand, instrumentalities of the central government like the Board of Trustees for the Port of Mumbai are proposing rates which will lead to mass scale eviction of lakhs of tenants thereby running contrary to the national policy. Tenants are also adding to the exchequer by paying rent from time to time. Further, these tenants are not just directly but also indirectly contributing to the nation in the form of taxes. revenue and employment which is likely to suffer if tenants are put under such enormous stress. 10. Moreover, please note that in so far as the Schedule of rates from 2012-2017 that is proposed is concerned, the same cannot be enhanced retrospectively as the same is opposed to the constitutional scheme. In recent judgements, the Hon'ble	MbPT is bound by PGLM 2015 issued by MoSP&W, GoI which have been scrupulously followed by MbPT while computing SoR. The comparison with the practice followed by Collector of Mumbai, State Govt. and any other PSUs is irrelevant and not applicable in this present case. The Hon'ble Supreme Court order dated 13.01.2004, Board's compromise formula was only valid upto 30.09.2012 (only for 20 years i.e. 01.10.1992 to 30.09.2012) and such there is no violation of S. C. and no permission of S. C. Judgement is necessary for revision of rate from 2012. The Para 13 of PGLM, 2015 has stated the methodology of calculation of latest market value of port land and accordingly as stated in para 4 above, MbPT fixed SoR 2017-22. There is no provision of compromise proposal in PGLM 2015 issued by MoSP&W, GoI. The validity of rates under S.C. judgement was up to 30.09.2012 and thereof MbPT is bound to follow the guidelines as per PGLM, 2015 issued by MoSP&W, GoI. The renewal of lease shall be granted as per the procedure laid down in Para 11, 12 and 13 of PGLM 2015 guidelines. 7. MbPT is constituted under Major Port Act, 1963 and under supervision and control of MoSP&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 (MoSP&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. Hence the suggestion given by stakeholder cannot be accepted. 8. 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 accordingly decide SoR/Rental on case to case basis. Land values of any plot in Mumbai city is directly linked to its potential permissible FSI and consumed FSI of authorised structure since the FSI on MbPT land varies from 0.5 to 5 or even more in some exceptional cases. MBPT has proposed the SOR rates for FSI 1 as a base

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	Supreme Court has struck down retrospective taxations. The same ratio is applicable to levy of retrospective rents. 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. 11. In order to decide the further road map, we request the Port Trust 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. 12. We also observe that 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 Bombay Port Trust. 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	rate for TAMP's approval.The calculation of higher FSI/ more than FSI 1 or less than FSI 1 shall be worked out as per para 5 of TR 122 of 2021 approved by the board on 03.08.2021 which stated that a committee will be constituted for working out appropriate factor for determination of actual rental based on FSI consumed by Authorised structure on the premises. The final rental will be worked out on case to case basis as decided by the Board. Also the lessee/ tenants and unauthorised occupants had been enjoing the occupation of MbPT premises by payment of rent fixed as per 1980's valuation report. 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" Hence the contention raised are incorrect. 9. 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. There is no violation of SC Judgement 2004 by effecting the revision as per SOR w.e.f. 01.10.2017 as per applicability of PGLM 2014-2015 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. 10. Regarding MbPT refixing letting rates retrospectively after 30.09.2012, the matter was referred to respective MbPT advocate dealing in the matter in the Supreme Court for opinion and accordingly, letter dated 15.04.2014 addressed to MoS, GoI requesting them to

21.	Specific reply from Shri Vijay Puri, Pravin Puri, Sunil Puri.	Response of MBPT
	not ready reckoner rates/ ad-hoc market valuations. 13. 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. 14. 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. 15. 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. 16. Needless to say, should the port trust seek to arbitrarily impose the schedule of rates suggested and should such arbitrary and unreasonable SOR be allowed 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.	forward copy of opinion from Ministry of Legal Affairs. Opinion from PT Advocate and AG (Mr. Mukul Rohatgi) was obtained by MbPT on applicability of Wadia Judgment Rates (SCJ) post 30.09.2012 and MbPT's rights to revise the rentals w.e.f 01.10.2012 onwards. The opinion received from PT Advocate and AG, GoI confirming the Port Trust's rights to revise rentals w.e.f 01.10.2012. Accordingly, then Chairman, directed to prepare SoR rates for Estate Lettings from 01.10.2012 onwards affected by SC Judgment. The letter dated 09.10.2014 was written to MoS, seeking Ministry's direction on revision of SoR on township areas of MbPT (Estate lettings). Meanwhile, vide TR No. 123 of 2014 committee of officers was constituted (Chairman, EM and FA) by MbPT for fixation of rentals w.e.f 01.10.2012 onwards. The Ministry sought further information from MbPT on 08.10.2015 which was forwarded to Ministry on 02.12.2015 and Ministry was once again requested to give directions on fixation of SoR from 01.10.2012 and also approve the cases settled under compromise policy by the Board interms of SC Judgment, 2004. However, neither such approval for renewal of settled cases under compromise formula (61 cases) had been received from Ministry nor any directions received from Ministry till the issuance of general clarification circular No. 01 of 2018, PGLM 2015 which was extended to the township areas of MbPT covering the lettings affected by SC Judgment 2004 i.e. MT, FML, Expired leases and licenses. Accordingly, Board vide TR 122/2021 forwarded SoR proposal approved by Board vide TR 222 of 2015 based on the LAC report dated 29.12.2014 which annexed as part of proposal for revision of SoR for the period 2012-17. 11. There is no provision of compromise proposal in PGLM 2015 issued by MoSP&W, GoI. The validity of rates under S.C. judgement was up to 30.09.2012 and thereof MbPT is bound to follow the guidelines as per PGLM, 2015 issued by MoSP&W, GoI. The renewal of lease shall be granted as per the procedure laid down in Para 11, 12 and 13 of PGLM 2015 guidelines. 12. The issues raised are already justified in para 4 and 5 above. 13. The issue is irrelevant and cannot to be acceded too by MbPT 14. So far, MbPT has not resorted to any litigation or coercive

21.	Specific reply from Shri Vijay Puri, Pravin Puri, Sunil Puri.	Response of MBPT
		action for recovery of dues as per proposed SoR. As proposed by the Board in Para 4(c) of 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. MbPT is duty bound and obligated to follow the due process of law for resorting to eviction action under PPE provision only in respect of major violation of breaches and default in payment of MbPT dues of lease terms. Legal action for recovery of dues as per proposed SoR notified by TAMP can be initiated if there is violation of orders of TAMP. MbPT is revising the charges payable for compensation for wrongful use of the premises even after the expiry of the lease and even though validity of occupation period is over for MT, FML and expired leases even after termination notices issued. The renewal of leases will be strictly in accordance with PGLM issued by MoSP&W, GOI and as per extant policy/rules. 15,16 and 17: TAMP is requested cannot to entertain the demands from the stakeholders as they are contrary to provisions of PGLM, 2015

22.	Specific reply recd from Jaya Joil Bagwe	Response of MBPT
	This is Jaya Joil-Bagwe (Advocate) and am concerned for my client Kuvar House Co-Operative Society Ltd. having address at Plot No.112, Kuvar House Co-Operative Society Ltd., Sassoon Dock, S.B.S. Road, Colaba Causeway, Mumbai- 400005 represented through its Secretary Mrs. Kalindi Dighe and as per instructions of my said client I am furnishing herewith attached Reply to your abovementioned Notice. My client states that my client has read over the contents of your abovementioned Notice with respect to increase in Schedule of Rates and my client hereby vehemently deny and do not admit proposed rates as the same are absolutely arbitrary, unfair, unjust, unreasonable and therefore not acceptable to my client. It is to be stated that time granted by your office to offer comments on Revision of Rates (SoR) is very short and hence my client through me is submitting herewith with preliminary objections/comments	1) The revision of SoR is based on the Hon'ble Supreme Court Orders in Jamshedji Wadia case and subsequent clarification and opinion received from Shri Mukul Rohatagi, the former Attorney General for India. 2) Ministry's clarification and directions to TAMP to fix the rates from 01.10.2012 3) The provisions in PGLM 2014-15 and subsequent clarifications received thereto 4) Due intimation given by Estate Manager to the tenants/lessees regarding revision from time to time. 5) The Major Port Trust Act, 1963 does not restrict the retrospective revision of any rates. 6)The revision sought by MbPT is justifiable and reasonable. The parawise reply is as follows: para 1 to 4. i. Present monthly rental are as per valuation report of 1980's which are no way comparable with present market rate. An 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

22.	Specific reply recd from Jaya Joil Bagwe	Response of MBPT
	without prejudice to my clients rights and contentions in the above matter. In view of above the Schedule of Rates proposed for the period 01/10/2012 to 30/09/2017 and 01/10/2017 to 30/09/2022 are not acceptable to my client for the reasons stated in the attached Reply to your Notice further request your office and the Tariff Association of Major Ports (TAMP) officials to give opportunity for personal hearing and further request your office to provide my client entire documentation in support of proposed increase in Schedule of Rates, so as to enable my client to put its submissions and objections in a detailed manner. My client till such times reserves its right to furnish detailed objections and submissions upon receipt of the entire documents as stated above. Without prejudice to above my client appeal to the MbPT/ TAMP and its officials not to take any coercive actions of arbitrary increase in schedule of rates without opportunity of personal hearing in the above matter.	01.10.2017 was on an average of Rs. 10.5/- per sqm per month for FSI 1.00 which will be revised to on an average of Rs. 878 per sqm per month for FSI 1.00 i.e. increase by almost 82 times. 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. iii. 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 (36 nos.). MbPT is constituted under Major Port Act, 1963 and under supervision and control of MoSP&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 (MoSP&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

22.	Specific reply recd from Jaya Joil Bagwe	Response of MBPT
		allotment) falling in the respective RR Zones. iv. 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. 31,31,600. v. 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. Existing Ready Reckoner rate of 2017 and table showing RR rates in the MbPT land beside its adjoining land and also the land value (FMV) recommended by the Valuer as on 2017 in PPT. vii. 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. 01.10.2017 as per applicability of PGLM 2014-2015 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.

22.	Specific reply recd from Jaya Joil Bagwe	Response of MBPT
		The MbPT has not arbitrarily imposed such high schedule of rates. 5 Issue raised is not relevant to present proposal. 6.15 days' time granted by TAMP is more than sufficient and no further time is required for submission of comments by the Registered lessees/ tenants/ occupants, any further extension of time in the matter will unnecessarily delay the process. Therefore TAMP is requested not to grant any such extension of time for submission of comments and may proceed as per the scheduled hearing date. 7. iii. 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 (36 nos.). MbPT is constituted under Major Port Act, 1963 and under supervision and control of MoSP&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 (MoSP&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

22.	Specific reply recd from Jaya Joil Bagwe	Response of MBPT
		Monthly Lease (FML), Expired Leases, licenses and vacant plots (for fresh allotment) falling in the respective RR Zones. 8. The suggession is not as per provison of PGLM, 2015. 9. Regarding MbPT refixing letting rates retrospectively after 30.09.2012, the matter was referred to respective MbPT advocate dealing in the matter in the Supreme Court for opinion and accordingly, letter dated 15.04.2014 addressed to MoS, GoI requesting them to forward copy of opinion from Ministry of Legal Affairs. Opinion from PT Advocate and AG (Mr. Mukul Rohatgi) was obtained by MbPT on applicability of Wadia Judgment Rates (SCJ) post 30.09.2012 and MbPT's rights to revise the rentals w.e.f 01.10.2012 onwards. The opinion received from PT Advocate and AG, GoI confirming the Port Trust's rights to revise rentals w.e.f 01.10.2012. Accordingly, then Chairman, directed to prepare SoR rates for Estate Lettings from 01.10.2012 onwards affected by SC Judgment. The letter dated 09.10.2014 was written to MoS, seeking Ministry's direction on revision of SoR on township areas of MbPT (Estate lettings). Meanwhile, vide TR No. 123 of 2014 committee of officers was constituted (Chairman, EM and FA) by MbPT for fixation of rentals w.e.f 01.10.2012 onwards. The Ministry sought further information from MbPT on 08.10.2015 which was forwarded to Ministry on 02.12.2015 and Ministry was once again requested to give directions on fixation of SoR from 01.10.2012 and also approve the cases settled under compromise policy by the Board interms of SC Judgment, 2004. However, neither such approval for renewal of settled cases under compromise formula (61 cases) had been received from Ministry nor any directions received from Ministry till the issuance of general clarification circular No. 01 of 2018, PGLM 2015 which was extended to the township areas of MbPT covering the lettings affected by SC Judgment 2004 i.e. MT, FML, Expired leases and licenses. Accordingly, Board vide TR 122/2021 forwarded SoR proposal approved by Board vide TR 222 of 2015 based on the LAC report dated 29.12.2014 which annexed as part of proposal for revision of SoR for the period 2012-17. 10. The issue raised is not as per provison of PGLM, 2015. 11. The entire proposal submitted to TAMP along with all the DA of

22.	Specific reply recd from Jaya Joil Bagwe	Response of MBPT
		the Proposal such as (i) supporting TRs (ii) LAC reports and (iii) statements of SOR were uploaded on MbPT website. The said information can be downloaded from MbPT website with access to all Registered lessees/ tenants/ occupants and all stake holders. 12. to 14. TAMP is requested not to consider the requested from applicant as it is contrary to PGLM, 2015.

23.	Specific reply received from Marthawala & Sons Insurance Brokers Pvt. Ltd.	Response of MBPT
	We refer to captioned subject and your Notice ref. EM/AS(G)/F-382/1924 dated 06-10-2021 with regards revision of Schedule of Rates of MbPT Estate which was found pasted at our premises. Since, all our Directors are Out of Mumbai and travelling overseas, hence, we are not in position to give our comments/views at present. We therefore request you to grant us more time of 2 to three weeks for our comments.	It is to state that 15 days' time granted by TAMP is more than sufficient and no further time is required for submission of comments by the Registered lessees/ tenants/ occupants, any further extension of time in the matter will unnecessarily delay the process. Therefore TAMP is requested not to grant any such extension of time for submission of comments and may proceed as per the scheduled hearing date.

24.	Specific reply received from M V Shanbhag and Bros	Response of MBPT
	This is in continuation of the trail mails and your letter bearing No.EM / AS (G) / F-382 / 1924 Dt. Oct 6, 2021. We are now attaching our letters Dt. Jan 19, 22, 2019 addressed to the Chairman and Estate Manager- MPT in regard to the same and the same is also acknowledged by the office then. The contents of the letter may be taken on record as being our comments / observations on the said subject. Should you require any further clarification / information; do let us know and we would be more than willing to come and meet you all in your office in person.	The issues raised are not relevant to the present proposal.

25.	Specific reply from Rajendra Mugrai Suger Supply Company	Response of MBPT
	At the outset, we would like to point out that we have already, vide our past communications, recorded our response, comments and objections to the proposal	1. The TAMP notice for approval of SoR 2012-17 was sent to Shri Ramji Ravji Trader who is registered tenant of MbPT for plot RR 1627 however reply was received from 3rd

25.	Specific reply from Rajendra Mugrai Suger Supply Company	Response of MBPT
	made by the Mumbai Port Trust ("MbPT") for the enhancement in Schedule of Rates (SOR) with retrospective effect. We had receive dear lier notices dated 12.8.2021 and 14.8.2021 respectively and we had recorded our response there to, so also, to the presentation uploaded on the website of MbPT . However, as we have yet again received a mail dated 6.10.2021 seeking our response, we record the same here in once again at the cost of repetition. With reference to your above notices, we seek to offer our comments in respect there of as under: AT the outset it may be recorded that we are in occupation of R R No.1627 (Old) of Elphinstone East Estate and have been pay in gourrent from time to time as per the compromise proposal sanctioned by the Hon'ble Supreme Court. At the outset, please note that the charges as calculated based on the Schedule of rates proposed by you 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 sub stantiated by any material. This is without prejudice to the fact that such market valuation report scan not 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 we repaying under the original contract. We have been regularly paying rent as per the compromise proposals sanctioned by the Hon'ble Supreme Court which are binding on tenants as well as MbPT. In fact, we have never refused to pay whatever is reasonable and all impositions of rentals etc. must satisfy the test of reasonableness. Arbitrarily imposing such a high schedule of	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. 2 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 (36 nos.). MbPT is constituted under Major Port Act, 1963 and under supervision and control of MoSP&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 (MoSP&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

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	rates is not reasonable and conscionable and we do not welcome any such exponential increase in rents that has been arbit rarily proposed by the Port Trust. Please also appreciate that as per the judgement of the Hon'ble Supreme Court in the case of Dwarkadas Marfa v/s Board of Trustees of the Port of Mumbai, the Port Trust being a public authority can not behave like a private land lord and can not indulge in profiteering or levying rack-rents. The Hon'ble Supreme court has clearly held that being a public body, the Port Trust can not resort to profiteer ingor rack renting like a private land lord and can not charge market rents to existing tenants. Therefore, such mposition of rents based on market values and ready reckoer rates is not the solution to the current issue. It may also be recorded that the ready reckoner rates of the State Government can not be made the para meter base on which rents are to be collected. The Schedule of rent/lease charges has to be decided in accordance with the COM PROMISE PROPOSAL sanctioned by The Hon'ble Supreme Court in case of Jamshed H Wadiavs. The Board of Trustee 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 afreh compromise proposal by and between the ten ants/lessees on the one hand and the Port Trust on the other. As of recently, after working 4% in crement of rent year on year, the current rent as per the current regime works out to about Rs. 62 per square meter per month which is also on the higher side. Looking at the SOR, one can observe that the rental for the Unit 9 associated with RR No. 1627, is likely to be Rs. 265/ - per square metre per month as of Rs. 1.10.2012 which works out to about Rs. 37630/- per month considering an area of 142 sq. meter (approx.) and Rs. 310/- per square meter per month as of 1.10.2017 which works out to Rs. 44020/- per month for our are a and after 2017 a flat rate of Rs. 938/- per square meter per month till 2022 which works out to Rs. 133196/- per month. Further, it may be seen that even the ready reckoner entry for the RR No.2/13 as of date is far lesser than what the port trust has taken into account as valuation.	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. 3.i. The compromise formula modified under Wadia Judgement/Supreme Court Order dated 13.01.2004, was valid for the period of 20 years, i.e. from 1992 to 30.09.2012. MbPT had sought advice of P.T. advocate, Supreme Court regarding applicability / validity of S.C. judgement before LAC report dated 29.12.2014 and before TR 222 of 2015 were passed, which has categorically confirmed that MbPT is not bound to levy lease rentals beyond 30.09.2012 at the SoR rates applied by the Supreme Court (Wadia Judgement). The said advice was based on Addl. Solicitor General of India, Shri Trivedi opinion dated 07.02.2005 which clearly stated that compromise proposal was for period ending 2012 and therefore fresh revision is expected to be fair and reasonable, thereafter. MbPT had obtained the opinion of learned Attorney General of India Shri Mukul Rohatgi on 29.07.2016 confirmed that SC judgment Rate was valid only upto 30.09.2012 and opined that the Board is empowered to re-fix the rentals / compensation rates w.e.f. 01.10.2012. ii. MbPT is governed by policy guidelines issued by Ministry from time to time and MbPT has honoured the Supreme Court judgement till its validity, i.e. 30.09.2012. iii. Also as per guidelines issued by MoSP&W, GoI, and rates approved by TAMP. The TAMP is authorised to approve the SoR retrospectively w.e.f. 01.10.2012 onwards, 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 simultaneously submitted to TAMP. 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 MoSP&W, GoI. The validity of rates under S.C. judgement was only upto 30.09.2012 and thereof MbPT is bound to follow the guidelines as per PGLM, 2015 issued by MoSP&W, GoI. PGLM 2015 guidelines are very clear in fixation of SoR/Revision of SoR as per Para 13 and

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	It is submitted that the Trustre solutions uploaded on the website are not clear and are full of legal jargons which are impossible for ordinary tenants to comprehend and it would be appreciated if there is more clarity and simplicity in the manner in which the Port Trust proposes to levy rents/lease charges. Such charges and schedules from 2012 onwards should be based on a fact or of what was being paid up to 2012 as per the Hon'ble Supreme Court's sanctioned compromise formula and should be based on some reasonable percent increment taking the amount of rent paid in 2012 as a bench mark. IT can not be based on the ready reckoner value as of 2012. It may be appreciatd that the collectors land leases are being renewed with yearly rentals of 2% of 25 % (i.e. 0.5 %) of the ready reckoner rates in so far as properties having are a above 500 sq. meters is concerned and with rentals of 4% of 25% (i.e. 1%) of ready reckoner rates in so far as properties having up to 500sq. meters is concerned, for commercial use. The port trust is seeking to impose rates which are exponentially higher than those charged by similar land owners and order of magnate times higher than the current rates. It is also requested that clarity be got in so fars the amounts are concerned per taining to each of the units owned by the Port Trust, separately. We suggest that every property would have a different calculation based on the merits of the matter of such property and hence a generic working and a one-size-fits-all approach is not possiblen or desirable. The Port Trust ought to be conscious of the fact that there are tenant who are occupying properties since 80-1 0 0 years and there are complet eco systems and markets thriving on such properties. Rackrenting 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 several people. 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 is following the same. Hence the contentions raised are irrelevant. iv. Supreme court judgement is not an indefinite licence to lessees and tenants to go on committing the major breaches of lease terms and occupying the premises even after the expiry indefinitely and multiple transfers and still want to enjoy meagre/ concessional lease rentals based on 1980 land values and regularisation of breaches as per compromise rates of 1982 and restrict Port Trust to major revenue return on its let out land. Therefore, contentions raised are incorrect. 4. There is no provision of compromise proposal in PGLM 2015 issued by MoSP&W, GoI. The validity of rates under S.C. judgement was up to 30.09.2012 and thereof MbPT is bound to follow the guidelines as per PGLM, 2015 issued by MoSP&W, GoI. The renewal of lease shall be granted as per the procedure laid down in Para 11, 12 and 13 of PGLM 2015 guidelines. 5.The subject proposal uploaded is self-explanatory. The contents are incorrect and unacceptable as already stated in earlier para 4, MbPT is bound by PGLM 2015 issued by MoSP&W, GoI which have been scrupulously followed by MbPT while computing SoR. The comparison with the practice followed by Collector of Mumbai, State Govt. and any other PSUs is irrelevant and not applicable in this present case. The Hon'ble Supreme Court order dated 13.01.2004, Board's compromise formula was only valid upto 30.09.2012 (only for 20 years i.e. 01.10.1992 to 30.09.2012) and such there is no violation of S. C. and no permission of S. C. Judgement is necessary for revision of rate from 2012. The Para 13 of PGLM, 2015 has stated the methodology of calculation of latest market value of port land and accordingly as stated in para 4 above, MbPT fixed SoR 2017-22. 6. The rent/compensation will be calculated based on scantioned Built-up area for each plot based on SoR approved by TAMP. 7. i. It is observed from the inspection that the market real estate sale transactions are at very high rate as compared to current rent charged by MbPT based on compromise formula upheld by SC judgement, 2004. The erstwhile lessee/tenant who are unauthorizedly holding over the plots even after the expiry of the lease without valid lease agreement or extending their period of occupation beyond

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	Moreover, please note that in so far as the Schedule of rates from 2012-2017 that is proposed is concerned, the same can not be enhanced retrospectively as the same is opposed to the constitutional scheme. The legal opinions btained by the Port Trust which have be enrferred to in the proposals are not shared on the website and hence in the in terest of transparency, equity and fair play, the Port Trust is requested to put up all the relevant material on the official web site of the Port Trust. It is not legally possible for the port trust to enhance rates and levy the mretro spectively. 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. 9. Inorder to decide the further road map, we request the Port Trust to hold meetings so as to work out Compromise Proposals as has been done successfully earlier in the 1994. TAM P is requested to kindly fix up workable rates through participatory process. A win- win situation in the form of compromise proposal by and bet ween 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. 10. We also observe that in order to avoid GST liability, the Port Trust has been reluctant in raising commercial in voices. Therefore, no interest or liability can be fastened up on the tenants in the absence of any debit note/ commercial in voice raised by the Bombay Port Trust. Without prejudice to what has been stated above, we would like to submit that If 2012 is taken as a bench mark, the revision in rent from 2012 to 2013 should be reasonable and can not be arbitrary. Therent suggested in 2013 can not be exponentially higher than the	the permitted period in the agreement still want to enjoy meagre/ concessional rates based on the compromise formula of 1982. ii. It is estimated that 80% of MT, FML, expired leases have unauthorisedly and unlawfully subletted 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 licensees are not having any running contract with MbPT. MbPT had correctly and rightfully worked out the SoR for MT, FML, expired leases and licensees based on PGLM guidelines by adopting the highest of 5 factors as furnished by Govt. approved Valuers who are empanelled 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. 8. Regarding MbPT refixing letting rates retrospectively after 30.09.2012, the matter was referred to respective MbPT advocate dealing in the matter in the Supreme Court for opinion and accordingly, letter dated 15.04.2014 addressed to MoS, GoI requesting them to forward copy of opinion from Ministry of Legal Affairs. Opinion from PT Advocate and AG (Mr. Mukul Rohatgi) was obtained by MbPT on applicability of Wadia Judgment Rates (SCJ) post 30.09.2012 and MbPT's rights to revise the rentals w.e.f 01.10.2012 onwards. The opinion received from PT Advocate and AG, GoI confirming the Port Trust's rights to revise rentals w.e.f 01.10.2012. Accordingly, then Chairman, directed to prepare SoR rates for Estate Lettings from 01.10.2012 onwards affected by SC Judgment. The letter dated 09.10.2014 was written to MoS, seeking Ministry's direction on revision of SoR on township areas of MbPT (Estate lettings). Meanwhile, vide TR No. 123 of 2014 committee of officers was constituted

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	rent of 2012. Taking ready reckoner calculations leads to preperous results. In our opinion, the basis should be the Supreme Court compromise proposal and not ready reckoner rates/ad-hoc market valuations. 11. In the circumstances stated he rein above, it is requested to kindly upload the relevant materi alon the website of the Port Trust and workout 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. 12. 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. 13. 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 20 17-22 are not acceptable to us for the reasons stated here in above and for other reasons that we shall argue in person or through our counsel if a personal hearing is provided by TAMP. 14. 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.	(Chairman, EM and FA) by MbPT for fixation of rentals w.e.f 01.10.2012 onwards. The Ministry sought further information from MbPT on 08.10.2015 which was forwarded to Ministry on 02.12.2015 and Ministry was once again requested to give directions on fixation of SoR from 01.10.2012 and also approve the cases settled under compromise policy by the Board interms of SC Judgment, 2004. However, neither such approval for renewal of settled cases under compromise formula (61 cases) had been received from Ministry nor any directions received from Ministry till the issuance of general clarification circular No. 01 of 2018, PGLM 2015 which was extended to the township areas of MbPT covering the lettings affected by SC Judgment 2004 i.e. MT, FML, Expired leases and licenses. Accordingly, Board vide TR 122/2021 forwarded SoR proposal approved by Board vide TR 222 of 2015 based on the LAC report dated 29.12.2014 which annexed as part of proposal for revision of SoR for the period 2012-17. 9. There is no provision of compromise proposal in PGLM 2015 issued by MoSP&W, GoI. The validity of rates under S.C. judgement was up to 30.09.2012 and thereof MbPT is bound to follow the guidelines as per PGLM, 2015 issued by MoSP&W, GoI. The renewal of lease shall be granted as per the procedure laid down in Para 11, 12 and 13 of PGLM 2015 guidelines. 10. MbPT is duty bound to act constitutionally as per the applicable laws including GST laws, Property Tax as per BMC Act. Para 4(d) of TR 122/2021 approved by the Board explicitly stated the procedure on this issue. Further, Property Tax in respect of Monthly Tenancies is payable and recoverable by the land owner in terms of MCGM Section 146 (3) of the BMC Act. 11 to 14 TAMP is requested not to accede to the request from the unauthorised occupant as it is in violation of PGLM, 2015.

26.	Specific reply received from Mrs. Amy Sam Nariman & 2 Others	Response of MBPT
	With reference to the above, We object on Revision of schedule of Rates (SOR) of MbPT Estate for the period from 1/10/2012 to 30/09/2017 and 01/10/2017 to	The TAMP notice for approval of SoR 2012-17 was sent to Shri Amy Sam Nariman and two othe who is registered tenant of MbPT for plot RR 1918 however reply was received from 3rd party who do not have any locus

26.	**Specific reply received from Mrs. Amy Sam Nariman & 2 Others**	**Response of MBPT**
	30/09/2022. Proposal No.3: Home and Mixed Use Occupations.	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 MbPT while furnished reply to the comments received from various users/tenents/ lessees/ has stated that the MbPT's Rights and Contentions in the pending litigation and termination 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.

The MBPT has further stated that the reply is prepared considering the following issues:

1) The revision of SoR is based on the Hon'ble Supreme Court Orders in Jamshedji Wadia case and subsequent clarification and opinion received from Shri Mukul Rohatagi, the former Attorney General for India.

2) Ministry's clarification and directions to TAMP to fix the rates from 01.10.2012

3) The provisions in PGLM 2014-15 and subsequent clarifications received thereto

4) Due intimation given by Estate Manager to the tenants/lessees regarding revision from time to time.

5) The Major Port Trust Act, 1963 does not restrict the retrospective revision of any rates.

6) The revision sought by MbPT is justifiable and reasonable.

7). TAMP is not concerned with any administrative and legal issues pertaining to specific plot.