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Tariff Authority for Major Ports

G.No. 630 **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 01.10.2017 to 30.09.2022 for non-home occupations in Township Areas of MBPT on 01 November 2021. However, considering the time involved for notifying the Speaking Order along with the Rent Schedule for MBPT prescribing Lease rentals for the 19 Ready Reckoner Zones for the period 01 October 2017 to 30 September 2022, approved by this Authority, this Authority decided to notify only the Rent Schedule for MBPT prescribing Lease rentals for the 19 Ready Reckoner Zones for the period 01 October 2017 to 30 September 2022. Accordingly, the Rent Schedule for MBPT prescribing Lease rentals for the 19 Ready Reckoner Zones for the period 01 October 2017 to 30 September 2022, approved by this Authority on 01 November 2021 was notified in the Gazette of India on 12 November 2021 vide Gazette no 554. 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 01.10.2017 to 30.09.2022 for non-home occupations in Township Areas of MBPT as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports

Case No. TAMP/52/2021-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/265 dated 22 September 2021 for fixation of Schedule of Rates and revision of rent / compensation for the period 01.10.2017 to 30.09.2022 for non-home occupations in Township Areas of MBPT.

2.1. The submissions made by MBPT in its proposal dated 22 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. Subsequently, the MBPT vide its letter dated 14 October 2021 has furnished the relevant Board Resolutions approving the Schedule of Rates (SoR) for the period from 01.10.2017 to 30.09.2022 in respect of Mumbai Port Trust letout land falling under various Ready Reckoner Zones (19 zones

(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 01.10.2017 to 30.09.2022 for non-home occupations in Township Areas of MBPT – 19 RR Zones 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 22 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. 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. The present proposal is for approval of Schedule of Rates (SOR) for the period 01.10.2017-30.09.2022.

(ii). The Board vide various TRs of 2021 accorded approval to Schedule of Rates (SoR) for the period from 01.10.2017 to 30.09.2022 in respect of Mumbai Port Trust letout land falling under various Ready Reckoner Zones (19 zones) applicable to all the Expired leases/Fifteen Monthly leases/Monthly Tenancies/Licenses of the plots 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). *"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 :

(i). 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. The Ministry of Shipping, Govt. of India vide letter no.Secy(S)/Visit-Mumbai/land management/2018(333951) dated 15.05.2019 issued direction to the TAMP that consequent to the Policy Guidelines for Land Management, 2015 (PGLM 2015) read with clarification on PGLM dated 14.05.2018, the SoR with effect from 01.10.2012 onwards be fixed by TAMP for all areas of Mumbai Port including Township Areas. The SoR shall be declared only after the Writ Petition is withdrawn by Mumbai Port Trust. 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.

D. LAC Report:

(i). In terms of Para 13 of PGLM 2015, Valuers were appointed for carrying out valuation of various plots including vacant plots falling in the Ready Reckoner 19 Zones/Divisions. A statement showing the Ready Reckoner 19 zones indicating SoR value for base unit FSI 1 is enclosed for the SOR for the period from 01.10.2017 to 30.09.2022. Based on the valuation carried out by Valuers, the Land Allotment Committee after deliberations prepared its report recommending the new SOR with effect from 01.10.2017 to 30.09.2022 which has been approved by the Board through various Resolutions i.e. TR 141 dated 24.08.2021, TR 128 dated 24.08.2021, TR 131 dated 24.08.2021, TR 128 dated 24.08.2021, TR 129 dated 24.08.2021, TR 130 dated 24.08.2021, TR 140 dated 24.08.2021, TR 127 dated 24.08.2021, TR 132 dated 24.08.2021, TR 133 dated 24.08.2021, TR 134 dated 24.08.2021, TR 152 dated 24.08.2021, TR 150 dated 24.08.2021, TR 154 dated 24.08.2021, TR 135 dated 24.08.2021, TR 138 dated 24.08.2021, TR 148 dated 24.08.2021 and TR 146 dated 24.08.2021. The zone-wise details of the land values with the rate of return (SOR) in terms of PGLM as recommended by the LAC and approved by the Board are shown in the statement.

(ii). In each of these cases, the Land Allotment Committee has taken into account the Fair Market Value (FMV) of land based on highest of the 5 factors as per PGLM for base rate for FSI 1.00 for the period from 01.10.2017 and the rate of return adopted for arriving at the SOR is 6% per annum which rate will increase by 4% annually every October over the rate for the previous year. In case the FSI utilization is above 1.00, the said rate will increase proportionately. The SOR as recommended will be applicable to all the expired leases, Fifteen Monthly leases, Monthly tenancies and Licenses along with vacant plots (for calculation of upfront premium for allotment) falling under the respective Ready Reckoner 19 Zones.

E. Application of FSI factor in calculation of actual quantum of compensation.

(i). 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.

(ii). 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 2017-2022 as may be approved by the TAMP, in respect of all the monthly tenancies and licenses upto 11 months of all the Ready Reckoner zones of Mumbai Port Trust land. The same is approved by the Board vide TR 155 of 2021.

(iii). All the demand notices of differential arrears as per the revised SoR for 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 arrived at on the basis of various Board resolutions for the period from 01.10.2017 to 30.09.2022. The said rate shall be applicable for the period from 01.10.2017 to 30.09.2022 with 4% annual increase every October. These rates will be applicable to all the Expired Leases, Fifteen Monthly Leases, Monthly Tenancies and Licenses along with vacant plots (for calculation of upfront premium for allotment) falling under the respective ready reckoner zones. The details of which are as given below :

Statement Showing Scale of Rates as on 01.10.2017
for Non-Home Occupations for FSI=1

Sr. No	RR Zone	Unit	Division	Rates for land per Sq. Mtr. as on 01.10.2017 (in ₹.)	Rate per Sq. Mtr. per month @6% return per annum as on 01.10.17 as per PGLM 2015 (in ₹.)
1	14/101A	ND – Unit 1	Dadar-Naigaum	1,15,640	578.20

Sr. No	RR Zone	Unit	Division	Rates for land per Sq. Mtr. as on 01.10.2017 (in ₹.)	Rate per Sq. Mtr. per month @6% return per annum as on 01.10.17 as per PGLM 2015 (in ₹.)
2	11/86	ND/CD/ Bunders Unit 1, 5,13	Parel-Sewree	1,20,200	601.00
3	11/85A	ND- Unit 3	Parel-Sewree	1,78,450	892.25
4	11/85	ND/CD/ Bunders Unit 4, 5,13	Parel-Sewree	1,68,450	842.25
5	11/84	ND- Unit 2	Parel-Sewree	1,71,310	856.55
6	11/84A	ND- Unit 2	Parel-Sewree	1,71,310	856.55
7	10/79A	ND- Unit 3	Mazgaon	1,85,590	927.95
8	10/78A	CD – Unit-6, 8	Mazgaon	1,70,240	851.20
9	10/78B	CD- Unit 8	Mazgaon	1,70,240	851.20
10	3/36	SD - Unit 9	Princess Dock	1,70,240	851.20
11	3/35	SD/Bunders - Unit 9, 10,14	Princess Dock	1,70,240	851.20
12	3/35B	SD - Unit 9, 10	Princess Dock	1,89,640	948.20
13	2/23	SD/Buners Unit 9, 11, 15	Fort	2,11,500	1057.50
14	2/9	SD - Unit 11	Fort	2,11,500	1057.50
15	2/12	SD - Unit 12	Fort	2,90,640	1453.20
16	1/6A	SD/Bunders Unit 12, 14	Colaba	2,90,640	1453.20
17	1/4	Bunders Unit-14	Colaba (Pilot Bunder)	2,90,640	1453.20
18	1/3	SD - Unit 12	Colaba	2,90,640	1453.20
19	1/3A	SD - Unit 12	Colaba	3,31,600	1658.00

[All the rates for land value has been rounded to the nearest 10s]

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. Rate for allotment of water bodies is applicable at 50% of the SOR rates.
4. Differential Arrears, liabilities and other dues/charges for a period from 01.10.2017 to 30.9.2022 will be calculated based on above rates.
5. These rates are applicable to all the Expired Leases, Monthly Tenancies, Fifteen Monthly Leases and Licenses along with vacant plots (for calculation of upfront premium for allotment) falling in the respective Ready Reckoner Zones.

6. These rates are not applicable to occupations given on nominal rents to public bodies and for public amenities.
7. Interest would be chargeable beyond permissible period as per Board's policy from time to time.
8. 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.

2.4. The MBPT has stated that the proposal is formulated in terms of the Land Policy Guidelines for Land Management 2015 and clarification no.2 of 2019 and extended the same by Ministry of Shipping, Govt. of India vide letter no. PD/13007/2/2014-PD-IV (PD-III) dated 27.01.2021. Further, the MBPT has stated that under Section 49 of MPT Act, 1963 and para 13 (c) of PGLM-2015, TAMP's approval to the SOR for the period from 01.10.2017 to 30.09.2022 applicable to all the Expired Leases, Fifteen Monthly Leases, Monthly Tenancies and Licenses alongwith vacant plots (for calculation of upfront premium for allotment) falling under the respective Ready Reckoner zones.

2.5. On perusal of the LAC report submitted by the MBPT along with proposal, the following summary of estimation of Land value for FSI 1 based on five factors of Land Policy Guidelines and the land vaue recommended by the LAC:

SUMMARY OF MARKET VALUE UNDER DIFFERENT FACTORS LAID DOWN IN PGLM, 2014

Sr. No	RR Zone	Unit	Division	State Govt. ready reckoner rate in year 2018-19	Highest rate of actual relevant transactions in last 3 years in Port's vicinity	Highest accepted tender cum action rate of port land	Rate arrived by Approved Valuer	Any other relevant factor identified by Port	Rate Recommended by LAC
1	14/101 A	ND – Unit 1	Dadar-Naigaum	1.Stall No 2= ₹ 65,200 Per Sqm. 2. Shop no 1=₹ 65,200 Per Sqm.	No such transaction	No such transaction	₹.1,28,482/- per Sqm. For Freehold Land abnd ₹. 1,15,632 per Sqm. for lease hold land	NIL	₹. 1,15,632 per Sqm per FSI =1 Lease Rent per Sqm per annum= ₹. 578.16
2	11/86	ND/CD/ Bunders Unit 1, 5,13	Parel-Sewree	₹. 31300 Per Sqm.	No such transaction	No such transaction	₹. 1,30, 000 Per Sqm. as on Dec 2019 ₹. 1,20,200 as on Oct 2017	NIL	₹. 1,20,200 per Sqm per FSI =1 Lease Rent per Sqm per annum= ₹. 601.00
3	11/85A	ND- Unit 3	Parel-Sewree	₹. 31300 Per Sqm	No such transaction	No such transaction	₹. 1,78,448 per Sqm.	NIL	₹. 1,78,448 per Sqm per FSI =1 Lease Rent per Sqm per annum= ₹.892.24
4	11/85	ND/CD/ Bunders Unit 4,	Parel-Sewree	₹. 31300 Per Sqm	₹. 343085 Per Sqm.	No such transaction	₹. 1,68,454 per Sqm.	NIL	₹. 1,68,454 per Sqm per

		5,13							FSI =1 Lease Rent per Sqm per annum= ₹. 842.27
5	11/84	ND- Unit 2	Parel- Sewree	₹. 95,100 Per Sqm	No such transaction	No such transaction	₹. 1,71,310 per Sqm	NIL	₹.1,71,310 per Sqm per FSI =1 Lease Rent per Sqm per annum= ₹. 856.55
6	11/84A	ND- Unit 2	Parel- Sewree	₹. 56,400 Per Sqm	No such transaction	No such transaction	₹. 1,71,310 per Sqm	NIL	₹. 1,71,310 per Sqm per FSI =1 Lease Rent per Sqm per annum= ₹. 856.55
7	10/79A	ND- Unit 3	Mazgaon	₹. 28,100 Per Sqm	No such transaction	No such transaction	₹.. 1,85,585 per Sqm	NIL	₹. 1,85,585 per Sqm per FSI =1 Lease Rent per Sqm per annum= ₹. 928.00
8	10/78A	CD-Unit-6, 8	Mazgaon	₹.51,600 Per Sqm	No such transaction	No such transaction	₹.1,70,240 per Sqm	NIL	₹.1,70,240 per Sqm per FSI =1 Lease Rent per Sqm per annum= ₹. 851.20
9	10/78B	CD- Unit 8	Mazgaon	₹. 37,500 Per Sqm	No such transaction	No such transaction	₹.1,70,240 per Sqm	NIL	₹. 1,70,240 per Sqm per FSI =1 Lease Rent per Sqm per annum= ₹. 851.20
10	3/36	SD - Unit 9	Princess Dock	₹. 56,400 Per Sqm	No such transaction	No such transaction	₹.1,70,240 per Sqm	NIL	₹. 1,70,240 per Sqm per FSI =1 Lease Rent per Sqm per annum= ₹. 851.20
11	3/35	SD/Bunders-Unit 9,10,14	Princess Dock	₹.78,400 Per Sqm	No such transaction	No such transaction	₹.1,70,240 per Sqm	NIL	₹. 1,70,240 per Sqm per FSI =1

									Lease Rent per Sqm per annum= ₹. 851.20
12	3/35B	SD - Unit 9, 10	Princess Dock	₹. 77,900 Per Sqm	No such transaction	No such transaction	₹.1,89,663 per Sqm	NIL	₹. 1,89,663 per Sqm per FSI =1 Lease Rent per Sqm per annum= ₹..948.32
13	2/23	SD/Bunders Unit 9,11,15	Fort	₹. 97,000 Per Sqm	No such transaction	No such transaction	₹..2,11,500 per Sqm.	Nil	₹. 2,11,500 per Sqm per FSI =1 Lease Rent per Sqm per annum= ₹1057.50
14	2/9	SD - Unit 11	Fort	₹. 1,50,000 per Sqm.	No such transaction	No such transaction	₹..2,11,500 per Sqm.	Nil	₹. 2,11,500 per Sqm per FSI =1 Lease Rent per Sqm per annum= ₹.1057.50
15	2/12	SD-Unit 12	Fort	₹. 2,29,800 per sqm.	No such transaction	No such transaction	₹.2,90,635 per Sqm.	Nil	₹.3,31,600 per Sqm per FSI =1 (Recommended value for the RR Zone1/3A considering prime location being proximity to Gate of India) Lease Rent per Sqm per annum= ₹1658.00
16	1/6A	SD/Bunders Unit 12,14	Colaba	₹. 1,88,600 per Sqm.	No such transaction	No such transaction	₹..2,90,635 per Sqm.	Nil	₹.2,90,635 per Sqm per FSI =1 Lease Rent per Sqm per annum= ₹.1453.17
17	1/4	Bunders Unit-14	Colaba (Pilot	₹. 1,30,400	No such transaction	No such transaction	₹.2,90,635 per Sqm.	Nil	₹.2,90,635 per Sqm per FSI

			Bunder)	per sqm.					=1 Lease Rent per Sqm per annum= ₹.1453.17
18	1/3	SD - Unit 12	Colaba	₹. 1,88,600 per Sqm.	No such transaction	No such transaction	₹.2,90,635 per Sqm	Nil	₹.2,90,635 per Sqm per FSI =1 Lease Rent per Sqm per annum= ₹.1453.17
19	1/3A	SD - Unit 12	Colaba	₹. 2,39,300 per Sqm	No such transaction	No such transaction	₹.3,31,600 per Sqm	Nil.	₹.3,31,600 per Sqm per FSI =1 Lease Rent per Sqm per annum= ₹.1658.00

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 the 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 the 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 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 seeking approval for schedule of rates and revision of rent / compensation for the period 01.10.2017 to 30.09.2022 for non-home occupations in Township Areas of MBPT. Simultaneously, the MBPT has also filed 6 similar proposals seeking approval for schedule of rates and revision of rent / compensation for the period 01.10.2012 to 30.09.2017 for non-home occupations/ Home occupations in Township Areas of MBPT, which is being dealt separatey under consideration by TAMP.

4.1. Considering the huge list of registered tenant / lessees as suggested by the MBPT, the MBPT was requested vide letter dated 01 October 2021 to upload subject proposal in its website and intimate to all the registered tenant / lessees about hosting of the subject proposal in the MBPT website and give the designated email address of Port as well as TAMP for furnishing comments within 15 days' time.

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-382/1925 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. Accrodingly, the MBPT vide its email dated 26 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 this 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 (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 for the period 01.10.2012 to 30.09.2017 and 01.10.2017 to 30.09.2022 for residential and mixed used occupations (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 are being dealt separately.

6.3. The present proposal seeking approval for fixation of Schedule of Rates and revision of rent / compensation for the period 01.10.2017 to 30.09.2012 for non home occupation in Township areas of MBPT 19 RR zones has already been taken up on consultation, which has been formulated on the similar methodology of adopting State Government Ready Recknor 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. In other words, the lease rentals proposed by the MBPT for non home occupatation is being adopted for the residential and mixed used occupations for the respect quinquinial 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 the totality of the information collected during the processing of the case, the following position emerges :

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

It is in this backdrop that the MBPT has come up six 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 non-home occupations in township areas of MBPT. The subject proposal deals with the quinquennial period from 01 October 2017 to 30 September 2022.

(ii). In this connection, we have received numerous representations from various individual tenants/ lessees strongly objecting to the fixation of the lease rentals from 01 October 2017 to 30 September 2022, on the ground that there is no provision under the Major Port 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.

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

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

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

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

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

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

Under these circumstances and for the reasons given in the earlier paragraphs, the proposal of the MBPT for recovery of Lease rentals for the 19 Ready Reckoner Zones for non-home occupations in Township Areas of MBPT for the period 01 October 2017 to 30 September 2022, is taken up for consideration.

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

In this regard, it is to state that, based on the Order passed by the Hon'ble Supreme Court in the matter of Jamshed Hormusji Wadia vs. The Board of Trustees of the Port of Bombay in January 2004, the compromise proposal covered the revision for two period spans i.e. one for the period from 01 October 1982 to 30 September 1992 and the other for the period from 01 October 1992 to 30 September 2012. Thereafter, as rightly brought by the MBPT, the MBPT has the liberty to fix the lease rentals, albeit based on the Land Policy Guidelines issued by the Government. Infact, it is relevant to mention here that the 'Compromise formula' as upheld by the Hon'ble Supreme Court allowed the port to review and revise the letting rates after 20 years (i.e. from 01 October 1992 to 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 October 2017 to 30 September 2022 for non-home occupations in Township Areas of MBPT, is being treated in isolation, without getting influenced by the past revision of lease rentals or the pending writ petitions.

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

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

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

(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 based on the Valuation Report has analysed the market value of the lands based on the factors as listed in the Land Policy Guidelines and has recommended to choose the highest amongst all the market values of land so determined for all the 19 Ready Reckoner (RR) Zones forming part of the subject proposal.

(c). Clause 13(b) of the guidelines stipulates that Reserve Price in terms of annual lease rent would be arrived, as a percentage of latest market value of land determined based on the five factors in accordance with para 13(a) and that the percentage should not be less than 6% which is to be fixed by the Port Trust Board. Accordingly, the lease rental has been arrived by MBPT at 6% of the market value of the land i.e. highest of the market value amongst all the factors as for the year 2017 for all the 19 Ready Reckoner (RR) Zones forming part of the subject proposal.

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

(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 2017 till date is based on the 'Compromise formula' as upheld by the Hon'ble Supreme Court. This 'Compromise formula' was not based on the then prevailing market value of the land, but was fixed at a lower level. Given that the base of the rentals fixed then was lower, even with the 4% increase in rentals per annum, the resultant rental that prevailed in the year 2017 (and based on which the tenants/ lessees have paid rentals to MBPT) is substantially lower than the rental that has been determined for the year 2017 now based on the market value of the land. Given that the rentals for the estates of MBPT is being determined based on the market value of the land following the stipulations contained in the Land Policy Guidelines, the lease rentals are bound to go up, when compared to the existing lease rentals being paid by the tenants/ lessees, which are not based on market value of the lands. It is noteworthy that the MBPT has framed its proposal following the Land Policy Guidelines and thus, the hike in the lease rentals is inevitable.

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

Guidelines requires this Authority to fix the rentals based on the proposal filed by the port.

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

Given that the proposal of the port for fixation of lease rentals is based on the Fair Market Value (FMV) of land based on highest of the 5 factors (for base rate for FSI 1.00) based on the stipulations contained in the Land Policy Guidelines 2015, and has been recommended by the LAC and also has been approved by the Board of Trustees, and also as this Authority is bound by the Land Policy Guidelines, 2015, this Authority approves prescription of the lease rentals for 19 Ready Reckoner Zones for non-home occupations in Township Areas of MBPT for the period 01 October 2017 to 30 September 2022, as proposed by the port.

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

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

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

(x). Clause 13(c) of the Land Policy Guidelines of 2014 gives flexibility to the ports to fix annual escalation which would not be less than 2%. Accordingly, the MBPT in its proposal has indicated that the lease rental as fixed for the year 2017-18 will be subject to 4% annual escalation. However, no note is seen to have proposed by the port in the matter. Thus, a note is, therefore, prescribed in the Schedule stating that the lease rent is subject to an increase @ 4% p.a. and that first such increase shall be effective from 01 October 2018.

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

(xii). 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 the 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.

(xiii). 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 the Authority. In view of this position, the note as proposed by the Port is approved.

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

(xv). 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.

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 ffor the 19 Ready Reckoner Zones for non-home occupations in Township Areas of MBPT for the period 01 October 2017 to 30 September 2022, which has been notified separately vide Gazette No. 554 dated 12 November 2021.

(T.S. Balasubramanian)
Member (Finance)

SUMMARY OF THE COMMENTS RECEIVED FROM THE PORT USERS / DIFFERENT USER ORGANISATIONS BEFORE THE AUTHORITY.

TAMP/52/2021-MBPT	**:**	**Proposal received from the Mumbai Port Trust (MBPT) for fixation of Schedule of Rates and revision of rent / compensation for the period 01.10.2017 to 30.09.2022 for non-home occupations in Township Areas of MBPT.**

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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:

Sl. No.	**Similar comments received from individual stakeholders – Group-1**	**Response of MBPT**
1.	My clients are filing their objections to the valuation and proposed lease rent as stated in the aforesaid letter on the following grounds, which are without prejudice to one another.	Plot IIB granted on lease from 14.01.1949 to Shri Kanayalal Shivdas Thakkar and 1 other which expired on 13.01.1999.
2.	My clients are the only daughters of late Mr. Kanayalal Shivdas Thakkar, who was during his lifetime the Lessee of the above plot of land. My clients had vide their advocate's letters, intimated the concerned officers of BPT of the death of their father late Mr. Kanayalal Shivdas Thakkar and requested BPT to bring their names on the records of BPT in place of their father, but no action is taken from your end to recognize my clients as the heirs of the original lessees till date.	Contentions are not relevant to Current Proposal of SoR.
3.	The amounts proposed to be charged are with retrospective effect from 1st October 2017. My clients object to such proposal to charge the increased rent with retrospective effect. With my letter dated 14th December 2018, ground rent upto October 2018 amounting to Rs. 93,668.07 was paid vide Demand Draft No. 034347, dated 01/11/2018 drawn on ICICI Bank, Sion Branch.	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

4.	The Valuer appointed by BPT has valued the property at very high rates, which nobody can afford to pay. The land has been built upon and structures are constructed, which are let out to tenants since decades and these tenants are protected under the Maharashtra Rent Control Act, 1999. While valuing the property, this most important factor is not considered by the valuer. Moreover, the tenants are not ready to pay even the rent and permitted increases and my clients had to file suits in Hon'ble Small Causes Court against them for recovering the said amounts, which suits are pending.	excepting subsisting long term leases of Port Trust premises is due from 01.10.2012 onwards. While computation of SoR 2017-2022, MbPT had engaged Govt. approved Valuers on panel and entrusted the work of valuation of MbPT land as per the jurisdiction of RR zones (36nos.). MbPT is constituted under Major Port Act, 1963 and under supervision and control of MoPS&W. PGLM, 2015 are the statutory direction under Section 111 of Major Port Act. Hence MbPT is bound by such statutory direction for implementation of PGLM, 2015 and accordingly scrupulously followed guidelines issued by Ministry of Shipping and Waterways (MoPS&W),Government of India(GoI) for fixation of current SoR which is approved by Board of Trustees and submitted to the TAMP being statutory authority constituted under section 47 A of Major Port Act for fixation of SoR under section 49 of the said act. The para 13 of PGLM 2014 clearly states that the highest of 5 factors for determination of rentals on Major Port Trust land i.e. (i) State Govt. RR (ii) Average rate of actual transactions registered in last 3 years in the Port vicinity with annual escalation not less than 2%. (iii) Highest accepted tender of Port land for similar transactions. (iv) Rate arrived at by an approved Valuer appointed for the purpose of the Port. (v) Any other factor. The valuer while recommending the Fair Market Value (FMV) for respective zones had considered the present infrastructure and facilities in the area and recommended certain discounts ranging from 10-40 % compared to the transaction rates which are prevailing in the adjoining outside Port Trust areas while recommending the Fair Market Value (FMV). All the relevant facts were examined by Land Allotment Committee (LAC) and LAC had recommended revision of SoR 2017-22. Based on LAC recommendations Board approved the said revision of SoR rates for respective zones for Monthly, Fifteen Monthly Lease (FML), Expired Leases, licenses and vacant plots (for fresh allotment) falling in the respective RR Zones. 1. Maharashtra Rent Control Act does not apply to the lettings by the Port Trust. 2. Contentions are incorrect as rent act is not applicable to MbPT Hence contentions of applicant can not be acceptable and proposals may be approved.
5.	The land cannot be valued on the basis of its development potential, especially when the land is occupied by protected tenants and the property cannot be developed in its present state. If such high rent is charged as proposed, my clients will not be able to pay the exorbitant rent to MbPT from their own pocket. Moreover, to recover rent from the tenants with retrospective effect would be extremely difficult and may be impossible.	
6.	Request to consider the aforesaid objections before taking any further action as proposed in your notice under reference.	

Sr. No.	Similar comments received from individual stakeholders – Group-2	Response of MBPT
1	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 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	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, 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

	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.	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.
2	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 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.***	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. 35/- 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 25 times. Infact, MbPT had fixed rent as 10% return on Kirloskar land values with 4% every year from 01.10.1994 onwards in terms of Supreme Court Wadia Judgment. However, the rental returns from 01.10.2017 onwards will be just 6% of the FMV given by valuer in MbPT estate areas. 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
3	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 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.	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.
4	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	(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

	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.	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.
5	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.***	
6	TAMP may kindly examine (in letter and spirit);- the content, purport and the true 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.	
7	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 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 <u>re-fixing the letting rates after 30.09.2012</u> 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.	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 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

8	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.	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	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**.**	
10	Moreover, and considering that the said "Compromise Proposals" are applicable till 2024 (as stated hereinabove), and in any event; the subsequent guidelines issued by the Ministry cannot override and/ or supersede and/ or circumvent the ratios, dictates and directions of the Hon'ble Supreme Court in Wadia's Case, and in particular - qua the MbPT's own "Compromise Proposals".	
11	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.	
12	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	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

	(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.	any court based on SoR rates under PGLM 2015 by MoS, GoI.
13	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 on record with the MbPT; have all been admitted by the Hon'ble High Court, and are to come up for final hearing. For this and other several reasons set out herein;- the objections (though invited only from registered lessees/ tenants), would also impact obstructionists and occupants of MbPT Lands, whose cases ought to have already been settled by MbPT under their own said "Compromise Proposals" (as upheld by the Hon'ble Supreme Court). Hence, they are also entitled to submit their comments/ objections on the said Proposal/s and be heard by TAMP. It would be highly unfair to call for objections only from registered lessees. MbPT cannot take advantage of its own wrongs.	The 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.
14	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	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

	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.	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 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.
15	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	Already stated in para 14 above.

	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.**	
16	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.
17	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);-	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

	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:- 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.	market in land and rentals ,such revise the letting rates for such categories of tenants.
18	Assuming, whilst emphatically denying, that MbPT (through LAC) may be entitled to, or frame of any fresh SOR *other than* in consonance with the directions and within the principles and ratio of the judgment of the Hon'ble Supreme Court in Wadia's Case, and other than under the umbrella of the "Compromise Proposals" as upheld with	There is no provision of compromise proposal in PGLM 2015 issued by MoSP&W, GoI.

	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.	
	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
19	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 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.	
20	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 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.
21	The said judgment in Ratti Pallonji’s Case has been cited with approval by the Hon'ble Supreme Court in the said Wadia’s case (supra). The Hon’ble Supreme Court at para 17 therein specifically holds in respect thereof that: *“A Division Bench of the Bombay High Court presided over by Mrs. Sujata Manohar J. (as her Lordship then was) held in Ratti Pallonji Kapadia v. State of Maharashtra that the*	

<table>
<tr><td></td><td>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…”.</td><td></td></tr>
<tr><td>22</td><td>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.</td><td rowspan="2">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.</td></tr>
<tr><td>23</td><td>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 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.</td></tr>
<tr><td>24</td><td>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</td><td>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</td></tr>
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	unlawful, but artbitrary, capricious, discriminatory and utterly unaffordable.	other PSUs is irrelevant and not applicable in this present case.
25	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.
26	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.	

Sr. No.	Similar comments received from individual stakeholders – Group-3	Response of MBPT
1	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	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

	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 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.	PGLM 2015 with its clarifications uploaded on MbPT website https://www.mumbaiport.gov.in
2.	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. 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
3	The proposed revision of SOR, as per Ready Reckoner value is not acceptable to me. a) The charges as calculated based on 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.	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, 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.
4	It is further stated that the Schedule of rent/lease charges has to be decided in accordance with the Compromise Proposal sanctioned by The Hon'ble Supreme Court in case of Jamshed Hormusji Wadia vs. The Board of Trustees of the Port of Bombay 2004 (3) SCC 214 and based on the principles of the said judgement, the rates need to be decided now by working out a fresh compromise proposal by and between the tenants/ lessees on the one hand and the Port Trust on the other. As of recently, you are increasing 4% of the rent in every year, which is reasonable.	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.
5	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
6	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 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.	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.
7	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.
8	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.	
9	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.	
10	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	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 Guidelines issued by MoPS&W, GoI which are mandatory directions to MbPT under section (III) of MPA Act 1963.
11	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	Rates under SCJ 2004, is no more valid and applicable to MbPT and MbPT is well within

	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.	the rights to revise SoR from w.e.f 01.10.2012 (i.e.) post validity of SCJ rates.
12	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
13	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.	
14	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.	

Sr. No.	Similar comments received from individual stakeholders – Group-4	Response of MBPT
1	MBPT is a trust and its scope of business is primarily of dealing in PORTS and Shipping Business but Not of Collecting Rental incomes considering the rent as the primary income	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.
2	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.
3	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.
4	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.
5	Being in the good faith I hereby declare that I have never breached the MBPT tenancy by Sub-letting my tenancy and always have been abide to the MBPT. I had paid the rent that have been charged	The billing only in respect of plots/premises which has been let out to tenants/lessees and 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

	by MBPT on the regular letting rates which were as per the ready reckoner and not as per the compromised policy.	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.
6	The Property Tax that has been imposed by MCGM (BMC) has been paid by me on the regular basis to the authority. Whereas, as mentioned in the said proposal ready reckoner rate from some of the private estate agency, Collectors of Stamp has been taken into consideration while calculating the SOR. But if we follow such 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.
7	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.
8	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 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.	This has been covered under the reply to item 6 above.
9	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	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.

	contradictory to the MBPT bye laws which could lead into breach of tenancy.	
10	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.
11	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.

Sr. No.	Similar comments received from individual stakeholders – Group-5	Response of MBPT
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 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.
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,	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.

	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.	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.	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	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

	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. 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	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. As stated in PPT, zone wise comparative statement showed the land values as of 1980's as considered by the Kirloskar consultant in their valuation report and approved by the Board vis-à-vis land values as on 2017, which shows that on 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. Whereas in the comparison of rentals as per Supreme Court Judgement dt. 13.01.2004 as on 01.10.2017 was on an average of Rs. 35/- per sqm per month for FSI 1.00 which will be revised to on an average of Rs. 878 per sqm per month for FSI 1.00 i.e. increase by almost 25 times. It may be seen that the land values have increased by 125 times but MbPT rental have increased only by 25 times over the SC Judgments (1980 values). Infact, MbPT had fixed rent as 10% return on Kirloskar land values with 4% every year from 01.10.1994 onwards in terms of Supreme Court Wadia Judgment. However, the rental returns from 01.10.2017 onwards will be just 6% of the FMV given by
5.		

	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.	valuer in MbPT estate areas. The RR values of MbPT are less as compared to abutting non-MbPT lands. Thus, it may be seen that the SoR proposed by MbPT is infact lesser than the prevailing market value. Therefore, the SoR rates are fair and reasonable and justifiable. 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.	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	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

	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.	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.	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.
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	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

	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	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 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.	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	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.

	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 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.	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.
11.	In order to decide the further road map, we request the Port Trust to hold	There is no provision of compromise proposal in PGLM 2015 issued by MoSP&W, GoI. The

	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.	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.	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.
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.	The issue is irrelevant and cannot to be acceded too by MbPT as they are contrary to the PGLM 2015
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.	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.
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.	TAMP is requested cannot to entertain the demands from the stakeholders as they are contrary to provisions of PGLM, 2015.
	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.	TAMP is requested cannot to entertain the demands from the stakeholders as they are contrary to provisions of PGLM, 2015.

Sr. No.	Specific comments received from Shri. Amit Hasmukhbhai Patel	Respone of MBPT
	Specific comments received from Shri. Amit Hasmukhbhai Patel	
1.	We are running our business for our survival on MBPT premises since decades and the same has been conveyed to us by our Grand Parents and the premises is the only reason & source of our bread-butter. Not only for our families, we survived multiple families through our employees working with us.	MbPT is duty bound to implement PGLM 2015 and MPT Act 1963.
2.	We oppose the proposed schedule and do not accept anything stated in the presentation. We would like to seek personal hearing so that we can point out our responses in person and be represented through our legal counsel.	Not in purview of MbPT
3.	At the outset, we also record that our representation is entirely without prejudice	

	to our rights and contentions in law and that this representation is made under protest and we reserve our right to challenge the jurisdiction of Tariff Authority of Major Ports to deal with the current matter and pass directions in respect thereof,	Comments were sought regarding revision of SoR. Hence, comments mentioned in para 3 are not related to present proposal
4.	The reference PGLM 2015/2014, Clarification 1of 2018, 1of 19-20 &2 of 19-20 is not uploaded yet & so reply posted are not relevant without evidence.	Path for PGLM documents is clearly mentioned alongwith web link in Para 1 of notice dated 06.10.2021. Hence, contentions in Para 4 are incorrect.
5.	We also suggest that an individual hearing has to be conducted in the case of each lessee/ tenant and a common public meeting cannot substitute individual hearings and such common hearing does not provide us with an opportunity of being heard. We record that the previous meeting dated 3.9,2021 did not give us any opportunity to express our views in a proper, peaceful and organized manner. WE request you to kindly provide us with a copy of the video recording of the public hearing dated 3.9.2021 for our record.	Not in purview of MbPT
6.	How can MBPT / TAMP can direct an upcoming order with just little time of 14 days to object on while the nature of matter is sensitive & complicated.	As directed by TAMP time of 14 days was given.
7.	The Retrospective Rates Rule are opposing the Public Policy as per Law which is unjust.	SC judgment rates were valid only for 20 years i.,e from 01.10.1992 to 30.09.2012. From 01.10.2012 onwards PGLM 2010,2014-15 guidelines issued by MoS, GoI are applicable to MbPT and MbPT is free to revise the rentals on the SOR based on PGLM guidelines. These lessees/tenants are occupying MbPT land without any authorization from MbPT and even after expiry of the leases/termination of tenancies/lease. Bills are sent along with footnote "THIS BILL IS PROVISIONAL AND WITHOUT PREJUDICE TO BOARDS RIGHTS AND CONTENTION TO REVISE THE RENT/COMPENSION W.E.F 01.10.2012." .Circular No.EM/ASG/F-361/5873 dated 28.12.2012 vide which it was informed to all the lessees, tenants and occupants that revision of compensation / rent in respect of all the expired leases, monthly tenancies and fifteen monthly tenancies and licences / tenancies excepting subsisting long term leases of Port Trust premises is due from 01.10.2012 onwards. Delay in submission of SOR proposal to TAMP was on account of the fact that PGLM 2014/15 were not applicable to Township area of Mumbai Port Trust. Vide clarification no 1 of 2018 dated 14.06.2018 issued under sec 111 of MoS, GoI extended the

		PGLM 2015 guidelines to the Township area. As per the said guideline SoR was to be determined as per the highest of five factors and TAMP has to notify the SoR for the Township areas. Matter was taken up with Ministry for withdrawal of notification dt. 15.03.2000. MoS, GoI vide their letter no secy(s)/visit-Mumbai/land management/2018(333915) dated 15.05.2019 directed TAMP to fix the SoR for Mumbai port Trust land w.e.f. 01.10.2012 onwards. Accordingly TAMP vide their letter dated 15.07.2019 issued a clarification that in view of PGLM 2015 guideline the TAMP notification 28.03.2000 has become infructuous so far as MbPT is concerned and it is not applicable for MbPT for period prior to 01.10.2012 and same may be treated as withdrawn by the TAMP. High Court writ petition no 1153 of 2000 filed by MbPT challenging TAMP notification was withdrawn vide HC order dated 08.08.2019. Accordingly immediately after Board approval the said proposal was submitted to TAMP on 04.08.2021.
8.	Though the announcement is for retrospective period it is announced during pandemic period & that is jumping from the Humanity Grounds.	MbPT is duty bound to implement PGLM 2015 and MPT Act 1963. 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. 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. 01.10.2017.
9.	We are making rent payment as per Supreme Court Order but somehow MbPT has not followed up the guidelines of Supreme Court & not applied enhancement of 4%. In fact any excess payment made by us has been kept in MD	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

	A/c. that does not affect our revenue accounts and so we have asked the Estate Managers & The Chairman to apply TR 127 & raise Bills or Outstanding Statement many times since 2010 in writing but we were never replied by MBPT nor MBPT was ready to accept the excess amount against proper receipt. MBPT is claiming that the Supreme Court Validity is ended in 2012, we deny their claim to legal facts that our advocate will explain once you are ready to hear the same with your legal team.	guidelines. MbPT is duty bound to implement PGLM 2015 and MPT Act 1963.
10.	In your presentation you divided tenants between 80% and 20%, we claim our above mentioned plot does not fall in your assumption of 80%.	Present proposal is for Revision of SoR for all eligible lessees/tenants falls in respective RR Zones.
11.	We once again remind you that you cannot claim payment demand for which invoices were never issued. We understand that TR127 or TR222 are your internal documents that we were never reported to us officially.	(1) Pending approval of SoR 2017-22 by TAMP, MbPT has not raised invoices /demand notices. (2) After approval of the TAMP to the proposed SOR demand notices will be conveyed for the differential arrears giving 3 months time to the parties for payment. (3) As per TR 122/2021, no interest will be levied for differential arrears till 3 months from the date of raising of the demand notice after approval of the TAMP. (4) The demand notices will be issued after approval of TAMP and any delay in the payment after 3 months, interest will be charged as per the said TR/ Board's policy.
12.	We strictly condemn & oppose the word "wrong Land Users' for all by Mr.H.P.Kulkarni during video meeting dated 03 Sep 2021, we request for withdrawal of the statement immediately & attach the withdrawal with recorded statement as the matters are still in Small & High Courts & all tenants does not fall in breach category.	It was merely a general statement regarding the factual aspects that several tenants/lessees have committed various breaches.
13.	If MOS requesting TAMP to approve rate retrospectively, does not give a Legal Authority to TAMP to fix the rate & try to implement retrospectively but can be decided to be prospective with proper guidelines of the Supreme Court Sanctioned Compromise Formula & the request of MOS to TAMP has never intended to go against a court's judgment. The request of MOS & Orders of TAMP both are © different tones and so TAMP has to carefully decide anything further.	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. MbPT is duty bound to implement PGLM 2015 and MPT Act 1963.

14.	We have already mentioned the rates in our earlier objection letters for which did not hear anything from your end.	The replied for the comments were already sumitted to TAMP.
15.	We request physical meeting with the officers of TAMP, the Shipping Ministry and the Port Trust so as to try to alive at a win win situation. For the purpose of records, the Schedule of rates proposed for 2012- 1 7 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.	Falls under purview of TAMP's jurisdiction
16.	We are ready to discuss the prospective rates from October 2021 or Jan 2022 onwards.	MbPT is duty bound to implement PGLM 2015 and MPT Act 1963.
17.	Infrastructure Facility (zero) and inferior position of the area, hence you are requested to look into it. TAMP is requested to inspect the area before blindly implement any rate or rule. We hereby request TAMP NOT to pass any order to MbPT as per suggested SOR 2012-2017 & 2017-2021 unless a healthy discussion with tenants is done. Further we are awaiting for the most awaited "MBPT LAND POLICY" which is nearly to arrive anytime hence TAMP is requested to wait & read the upcoming MbPT Land Policy before implementing any order on MbPT for new rate & old demands as the Land Policy of MbPT and Order of TAMP will surely clash with each other and we tenants will unnecessarily disturbed. With all due respect we request MOS / Gov.t of India / State Gov.t / TAMP & MBPT to please understand that we are passing through a Pandemic Time, we have still not recover from the financial & economic losses from March 2020 till now hence on the grounds of Humanity. We submit our Mercy Appeal to be kind & postpone the proposal till we reach in a good & healthy time. At least let us be vaccinated first. Needless to say, should the port trust/ authority proceed to arbitrarily impose the schedule of rates suggested without paying heed to any of the inputs received from tenant groups, leading to horrendously high unreasonable rents, we shall be left with no other option but to	Mbpt has already prepared a Master Plan for development of MbpT lands under which new infrastructure will be counterploted The SoR was due from 01.10.2012 and 30.09.2017 when there was no pandemic. Covid-19 pandemic started from March 2020 most of the premises have been operational. Further (a) any relaxation which the Govt. of India extends under any special circumstances in the case would be applicable to the tenants/lessees, though presently there are no such directions and even in any clarification from MoS&W, Govt. of India on giving any concession, relaxation, compensation and assistance during pandemic time. In this connection, attention is invited to Delhi High Court Judgement, Ramanad and others V/s. Dr. Girish Soni and others dated 21.05.2020 has held that the period of lockdown on account of Covid-19 does not excuse in payment of rental amounts 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. PGLM 2015 issued by MoS, GoI is duly binding on all Major Ports including MbPT.

	seek judicial recourse at the sole risks, costs and consequences of the Port Trust which please note.	

Sr. No.	Specific comments received from AE(M)WWCity-II	Respone of MBPT
1.	Compare to earlier SOR rates these rates are certainly look exaggerated & very expensive, almost 6 times of earlier.	SOR proposed by MbPT at 6% per annum is fair reasonable and MbPT is well within its rights to revise the rents/compensation w.e.f. 01.10.2017 onwards as per the proposed SOR. For SoR 2017-2022 MbPT had engaged Govt. approved Valuers on panel and entrusted the work of valuation of MbPT land as per the jurisdiction of RR zones. The para 13 of PGLM 2014 clearly states that the highest of 5 factors for determination of rentals on Major Port Trust land i.e. (i) State Govt. RR (ii) Average rate of actual transactions registered in last 3 years in the Port vicinity (iii) Highest accepted tender of Port land for similar transactions (iv) Rate arrived at by an approved Valuer appointed for the purpose of the Port (v) Any other factor. Based on LAC recommendations Board approved the said revision of SoR rates for respective zones for Monthly, Fifteen Monthly Lease (FML), Expired Leases, licenses and vacant plots (for fresh allotment) falling in the respective RR Zones.
2.	Please send the detailed calculation & explanation of these SOR rates for the period from 01.10.2017 to 30.09.22. For ex. on which factors these rates are calculated & fixed.	Valuation Reports, LAC Report already uploaded on website.
3.	Is there any kind of relaxation for government body?	Comments were sought regarding revision of SoR. Hence, comments mentioned in para 3 are not related to present proposal.

Sr. No.	Specific comments received from BPCL	Respone of MBPT
1.	We are in receipt of your Notice No. EM/AS (G)/ F-382/1925 dated 06/10/2021(Proposal no 4) from MBPT regarding submission of our comments on revision of Schedule of Rates for period 01.10.2017 to 30.09.2022 by MBPT to TAMP on or before 20.10.2021. Since the records are old pertaining to the lands and are kept at various locations within our organization, considering the paucity of time we shall be submitting detailed factual chronology of various relevant data and documents which have been exchanged between MBPT and us. The same shall be done within 4 weeks from today. At the further outset it may be noted	The Lease expired on 30.06.2021. There was no renewal clause in the said Lease. MbPT is duty bound to follow guidelines as per PGLM 2015.

	here only that under the provisions of Section 5 r/w Section 7 Burmah Shell Act, 1976 the term of the lease stood continued and renewed for further term, on the same terms and conditions. The said lease period post renewal (statutory) is still subsisting. Consequently there is no question of raising ant demand for revised lease rental and no such occasion has arisen. All rules, regulations, contrary/ inconsistent to the said Act cannot be relied upon the Act shall prevail. We are hereby submitting our comments/objections to the revision in Schedule of Rates for the period of 01.10.2017 to 30.09.2022.	
2.	It is submitted that leases for lands stated herein above continued to be valid during the period of proposed revised SOR period i.e. 2017-2022. At the outset, we deny that MBPT is entitled to seek revision of schedule of rates of rent payable retrospectively for the period of 01.10.2017 up to 30.06.2021 for the said lands and also submit that the rentals will be governed by the agreement. Now, with regard to your notice, since the same is general in nature and not with regard to any specific plot of land, it is apparent that the plots, their locations, usage etc have not been taken into consideration at all. We, however, submit as under: 1) It is submitted that much before the expiry of leases for plots of land as mentioned in the table herein before provided, we had addressed several commutations for renewal of the lease in line with MOU dated 03.07.1991. 2) Vide letter dated 31.10.2020, we had once again extended our willingness for renewal of leases for all plots at mutually agreed rates, terms and conditions. During such period no attempt was made on the part of MBPT either to respond to such requests for renewal of leases. It is notable fact that Corporation is paying regular rentals as per the demand of MBPT.	The contention in this para is totally incorrect. Prior to Lease expiry on 30.06.2021, no SoR revision is affected. Only Upfront Premium amount for 30 years from 2021 upto 2051 at the SoR rates applicable has been calculated and conveyed.
3.	We submit that from time to time we have been requesting MBPT to come forward for renewal of leases and to offer land on long term lease at mutually agreeable rates, terms and conditions after giving concession as per clause 11.2. (h) of PGLM, 2015. However, even after our repeated written and oral requests, MBPT failed to concede to our request. We	The contentions raised are not correct. Govt. Registered Valuer after considering 5 factors as stipulated in para 13, LAC has deliberated on the Valuers report and recommended the said SoR rates, which rates later approved by Chairman and Board of Trustees.

	submit the revised SOR for 2017-2022 are has been uploaded on TAMP website, which claims to be as per provisions of PGLM 2015 are at Rs. 1, 20,200/- per SQM. We refer to clause 13(a) of PGLM 2015 which is as follows i. State Government's ready reckoner of land values in the area, if available for similar classification/ activities. ii. Highest rate of actual relevant transactions registered in last three years in the Port's vicinity (the vicinity of the Port is to be decided by the respective Port Trust Boards), with an appropriate annual escalation rate to be approved by the Port Trust Board. iii. Highest accepted tender-cum-auction rate of Port land for similar transactions, updated on the basis of the annual escalation rate approved by the Port Trust Board. iv. Rate arrived at by an approved valuer appointed for the purpose by the Port. v. Any other relevant factor as may be identified by the Port. As per said PGLM guidelines, LAC has to consider the above mentioned factors for determining the fair market value of the port land. The above guidelines are very clear and evident to do necessary assessment of “Fair Market Value” of subject plots. The LAC is relied on the valuation report of valuer which is the highest of the factors as per above clause. We have perused the valuation report relied upon by MBPT.	
4.	We now submit our objections to the said LAC report and as to why the said report should not be considered by TAMP for revision of SOR for plots mentioned herein above for 1.10.2017 to 30.09.2022. Upon perusal of referred transactions by MBPT based on which valuation report has been prepared and relied upon, we submit that “relevant transaction” shall always mean and include comparable properties or similar properties, and hence the reliance of placed by LAC on above transactions are incorrect and consequently entire assessment becomes defective and incorrect for the following reasons: a) That the said transactions pertains to constructed facilities occupying FSI>1 therefore cannot be referred to as these exist in densely populated and developed areas whereas plots leased to us have FSI of less than 0.4 moreover are located in an uninhabited areas. Therefore, there being no similarities on the referred plots and lease plots, the rationale adopted by LAC	PGLM 2015 issued by MoSP&W, GoI. TAMP is authorize to fix the SoR Rates for the entire land of MbPT falling under the respective Ready Reckoner Zones for FSI 1.00 as a base rate and Board will decide SoR/Rentals on case to case basis. PGLM 2010,2014-15 guidelines issued by MoS, GoI are applicable to MbPT. , it is once again to state that: 1. TAMP is authorize to fix the SoR Rates for MbPT land falling under the respective RR zones for FSI 1.00 as a base rate. 2. Board will accordingly decide SoR/Rental for actual FSIconsumed and a committee of officer has been formed to deliberate on this, on case to case basis. 3. The SOR as per the Board resolutions will be applicable to all the MT, FML, expired leases and Licenses. 4. Running leases with valid registered lease deed and running leases which are not terminated on account of breaches are excluded from proposed SoR revision. The valuer has arrived at the land rate by using the appropriate method as per the valuation principles.

	is not only illogical but also not in accordance with law. b) That the size of the transacted area referred to in the above table vis- a –vis the size of the plots leased to us are not comparable for the reason that the transacted areas are in the sizes which are completely in contrast to plots leased to BPCL. Therefore, it can be seen that the comparison is completely incorrect and should not have been adopted by LAC. c) Moreover the natures of transactions in the said transacted area cannot be compared since our Corporation had been allotted plots on long leases by MBPT. It is imperative that the Ready Reckoner Guideline factors affect valuation and should be read along with Ready Reckoner Value to arrive at proper valuation. The same are not considered, which resulted in erroneous calculation of calculation as the SDRR for FSI 1 was considered whereas the FSI being occupied by BPCL is less than 0.4 (approved is maximum of 0.5). Accordingly, due to application of incomplete guidelines of SDRR (Stamp Duty Ready Reckoner) the method used to ascertain the valuation of the immovable property is incorrect and incomplete. Hence, it is submitted that the assessment of the 'SOR' for the period 2017 to 2022 is erroneous.	The rate obtained from the registered sale transaction in the vicinity of the plots being valued.
5.	We reserve our right and contentions to produce our counter valuation report mentioning the discrepancy in the method of calculation. Now, having said the above with regard to the LAC report and as to why the same should be rejected by TAMP, we put before your additional points for consideration 1) As far as the leased Plots of land are concerned we state that in absence of any agreement or understanding recorded between BPCL and MBPT to the effect that MBPT would be entitled to seek revision of rates retrospectively or in future (in absence of any renewal terms agreed upon between the parties); it is not open now for MBPT to seek revision of schedule of rates for plot of land as mentioned herein above. a. It being barred by limitation b. Revised rentals cannot be decided unilaterally and retrospectively c. Even after repeated request by BPCL to renew the leases, MBPT failed to take any action or even respond to our request. Therefore the same cannot be revised by them without	a) There is no clause in MPT Act, 1963 prohibiting to charge & recover the SOR charges retrospectively as per applicable policy such as PGLM-2015. Differential charges as per SOR finally notified by TAMP will be payable failing which MbPT will be at liberty to take legal action including refusal of the renewal of lease. b) PT can charge retrospective SOR charges in terms of para 11.3 of PGLM-2015 and PT can refuse the renewal of lease if past dues as per applicable SOR not paid which is as pre-condition for renewal of lease. c) In this connection, attention is invited to the para 11.3 (h) & (i) of PGLM-2015 – Para 11.3(h) "After the expiry/termination of lease and despite receiving the notice thereof, or forfeiture of lease on account of change of user, assignment etc., if the lessee continues to occupy it unauthorizedly, the lessee shall be liable to pay compensation for wrongful use and occupation at three (3) times the annual lease rent based on the latest SoR, till vacant possession is obtained by the Port. In cases of land allotted on upfront basis, the equivalent

	any rationale or basis and that too retrospectively. Any revisions in rentals are to be prospectively and mutually agreed. 2) We state that the rentals for the allotted plots were to be governed by the provisions of clause iii of land allotment letter dated 11.10.1991 till the validity of lease period i.e. till 30.06.2021. As far as question of implementation of revised SOR effective 01.07.2021 is concerned we place reliance on clause (iii) as per clause 11.3 (j) of PGLM 2015 it is stated that "The process of renewal of existing leases should be initiated by the respective Ports well in advance, before the term of lease expires. The automatic renewal of existing leases should be preferably done within three months of receipt of such application for renewal. Liability to pay compensation for wrongful use by the lessee will not arise, if the delay in renewing such leases is wholly attributable to the Port." As till date there is no action taken by MBPT on repeated request to renew the lease, any revision on lease rental (on mutually agreed terms and condition) can now be made effective three months from the date of finalization of the said rates or strictly as per terms of lease. 3) That MBPT in there submission for revised SOR has not explained/clarified the basis for considering land rental value and escalation on annual basis.	annual lease rent would be calculated on pro-rata basis." Para 11.3 (i) - " For existing leases, at the time of expiry/termination of lease, the lessee shall remove all structures at his own cost under the following conditions: (a) Within three (3) months ofexpiry/termination, if Port decides not to re-auction that land; or, (b) Three months after tender-cum-auction, if the existing lessee was not successful. Beyond this period, the lessee shall be liable to pay compensation for wrongful use and occupation at three (3) times the annual lease rent, till vacant possession is obtained. In cases of land allotted on upfront basis, the equivalent annual lease rent would be calculated on pro-rata basis. If the Port so decides, for reasons to be recorded and approved by the Port Trust Board, it may also take over the structures after third party valuation of the assets with the concurrence of the lease holder. In case removal of structures is to be carried out by the Port, it would be at the cost of the lessee." The word compensation for wrongful use & occupation means the charges payable after after the expiry/termination of lease, which is equivalent to three(3) times of annual lease rent as per applicable SOR and is paybel from date of expiry/termination till date of obtaining vacant possession. In this case PT is not proposing to recover Compensation @ 3 times of SOR. However, the lessee would be liable to pay the occupation of charges from date of expiry/termination.
6.	It is worthy to note we are the enterprise of Government of India, involved in the business of refining and marketing of Petroleum products in the interest of Public and Nation. It is also notable fact MBPT is also one of state instrumentalities and their actions should be fair, transparent and reasonable, however, in the instant case same is grossly not followed by MBPT Strictly, without prejudice to and in the alternative to the above, it is most humbly submitted that undoubtedly our acts, performs and discharges its duties, powers and functions directly under the superintendence of Ministry of Petroleum and Natural Gas. We also submits that MBPT's too acts, performs and discharges its duties, powers and functions directly under the superintendence of Ministry of Major Port. Thus, both of us are the Central	MbPT is duty bound to implement PGLM 2015 issued by MoS, GoI. Cases of renewal are dealt separately by the MbPT on cases to case basis. SC judgment rates were valid only for 20 years i.,e from 01.10.1992 to 30.09.2012. From 01.10.2012 onwards PGLM 2010,2014-15 guidelines issued by MoS, GoI are applicable to MbPT and MbPT is free to revise the rentals on the SOR based on PGLM guidelines. These lessees/tenants are occupying MbPT land without any authorization from MbPT and even after expiry of the leases/termination of tenancies/lease. Bills are sent along with footnote "THIS BILL IS PROVISIONAL AND WITHOUT PREJUDICE TO BOARDS RIGHTS AND CONTENTION TO REVISE THE RENT/COMPENSION W.E.F 01.10.2012." Circular No.EM/ASG/F-361/5873 dated 28.12.2012 vide which it was informed to all the lessees, tenants and occupants that revision of compensation / rent in respect of all the expired leases, monthly tenancies and fifteen monthly tenancies and licences /

	Government Department and/or an extended arm of Central Ministry and hence, issue has to be settled amicably. Without entering into the legality of such claim to revise the schedule of rates, it must be pointed out here only that the same would be expressly barred by law of Limitation. The Limitation Act, 1963 and the provision thereunder prohibit any predated claims and or passed claims beyond the period of limitation. Hence, any action by MBPT to demand any revised rates retrospectively for the subject period would be barred by law of limitation. The principles of estoppel would also come into play where under MBPT is stopped from seeking any revision to the schedule of rates retrospectively, having accepted the amount duly and diligently paid by BPCL during the said subject period and even thereafter from month to month till date.	tenancies excepting subsisting long term leases of Port Trust premises is due from 01.10.2012 onwards. Delay in submission of SOR proposal to TAMP was on account of the fact that PGLM 2014/15 were not applicable to Township area of Mumbai Port Trust. Vide clarification no 1 of 2018 dated 14.06.2018 issued under sec 111 of MoS, GoI extended the PGLM 2015 guidelines to the Township area. As per the said guideline SoR was to be determined as per the highest of five factors and TAMP has to notify the SoR for the Township areas. Matter was taken up with Ministry for withdrawal of notification dt. 15.03.2000. MoS, GoI vide their letter no secy(s)/visit-Mumbai/land management/2018(333915) dated 15.05.2019 directed TAMP to fix the SoR for Mumbai port Trust land w.e.f. 01.10.2012 onwards. Accordingly TAMP vide their letter dated 15.07.2019 issued a clarification that in view of PGLM 2015 guideline the TAMP notification 28.03.2000 has become infructuous so far as MbPT is concerned and it is not applicable for MbPT for period prior to 01.10.2012 and same may be treated as withdrawn by the TAMP. High Court writ petition no 1153 of 2000 filed by MbPT challenging TAMP notification was withdrawn vide HC order dated 08.08.2019. Accordingly immediately after Board approval the said proposal was submitted to TAMP on 04.08.2021.
7.	In the absence of any enabling provision either as an by way of an agreement or understanding with BPCL or under any law in force, MBPT is precluded from proceeding with the exercise by virtue of the present notice to invite comments on proposed revision of rates. In any event, the proposal to revise rent can only be done prospectively i.e. for future period. MBPT in the instant case has accepted the terms of the lease and have continued in light thereof to honor the obligations set out therein to be performed the parties. In effect, the terms and condition of the original lease have been continued although on revised terms (with reference to the rentals). The provision of the Transfer of Property Act, 1882 would govern the leases executed by and between the parties. In particular, sections 105 up to section 117 of the said act would be applicable. In the instant cases i.e. the leases in question although have expired by efflux of time/expiry of term, the principle of promissory estoppel entitles BPCL to occupy and continue in the lease premises on payment of the rent.	MbPT is duty bound to implement PGLM 2015 issued by MoS, GoI.

	Although, MBPT has never finalized the rates and/or rentals beyond the original period of lease, non- issuance of any demand notice and/or any proposal of what so ever nature for renewal of the lease for the subject period, and during subsistence of the said period, now does not give any right to MBPT to retrospectively finalize the rates and rentals. In view of the actions and/or inactions on the part of MBPT during the relevant period, to not seek revision through renewal of the lease, to now demand revised rates for the period which has passed. It can only be done with reference to future period and that too on renewed terms. The Indian Contract Act, 1872 and the provision there under cannot be ignored and overlooked by MBPT. In the absence of express agreement by and between the parties the proposal for revision is ill founded and without any basis. The internal notes, circulars or notifications issued by MBPT, would not be binding on BPCL, more so if the same are contrary or inconsistent with any prevalent law. Hence the demand raised vide notice by MBPT is contrary to the settled principles of law, opposed to equity and are arbitrary and unreasonable and therefore being beyond the purview of law, not tenable. The express terms of the lease agreement also do not contemplate such revision.	MbPT is duty bound to implement PGLM 2015 issued by MoS, GoI. Please refer para above in respect of Retrospective revision, Renewal of lease, Valuation report.
8.	Needless to state that the entire exercise sought to be carried out belatedly by MBPT is not in line with any agreement or understanding arrived at between the parties, therefore the same is not tenable. Apart from the grounds of maintainability of the notice as setout herein above, we wish to provide brief comments without prejudice as under: a). Repeated requests for renewal of leases which has expired on 30.06.2021 are yet to be answered by MBPT b). There is no basis, rational or justification for the arbitrary proposed revision of schedule of rates retrospectively. c). The instances or nature of transaction relied upon cannot be considered for reasons detailed herein above.	The issue of renewal will be dealt with separately on case to case basis by Board of Trustees. The revision under SoR 2012-17 is by statutory guidelines issued under PGLM, 2015 and clarifications issued by Ministry from time to time and therefore mandatory and binding on all parties concerned. Every monthly Bills/invoices are sent along with footnote "THIS BILL IS PROVISIONAL AND WITHOUT PREJUDICE TO BOARDS RIGHTS AND CONTENTION TO REVISE THE RENT/COMPENSIONW.E.F 01.10.2012". The issue of renewal will be dealt with separately on case to case basis by Board of Trustees. PGLM 2015 issued by MoSP&W, GoI. TAMP is authorize to fix the SoR Rates for the entire land of MbPT falling under the respective Ready Reckoner Zones for FSI 1.00 as a base rate and Board will decide SoR/Rentals on case to case basis. PGLM 2010,2014-15 guidelines issued by MoS, GoI are applicable to MbPT, it is once again to state that:

	d). The valuation reports are neither realistic nor based on thorough research. An exorbitant rate has been determined erroneously by MBPT in placing reliance on such reports. In the absence of any like, comparable land instances and reports of valuation providing realistic values, the same cannot be even considered. Hence, we strongly object to such documents (valuation reports and instances) being taken account of in determining lease rental rates. e) Bare perusal of the notice reveals that MBPT is proceeding with predetermined intention to revise the schedule of rates and comments have been invited only with a view to record that the rates have been determined after due notice to all concerned. f). The proposed rates are not only exorbitant but also without rational or basis and therefore cannot be accepted. g). It is an undisputed fact that no demand was ever raised by MBPT for the subject period. Hence, it is not open now to demand. Not only such demand would be contrary to law but also unjust and unfair. We request that our comments on facts and communications exchanged between MBPT and us regarding the relevant period and premises, be permitted to be filed within 4 weeks from today. The copies of such relevant communications as also valuation report be permitted to be tendered/submitted within 4 weeks from today. We are ready and willing to participate in any hearing and to substantiate our stand as has been briefly stated hereinabove. We therefore request that our strong objection to the proposed revision be recorded and accepted. We further request that the notice/proposal to revise SOR for the period of 2017- 2022 be dropped / withdrawn with immediate effect.	TAMP is authorize to fix the SoR Rates for MbPT land falling under the respective RR zones for FSI 1.00 as a base rate. Board will accordingly decide SoR/Rental for actual FSI consumed and a committee of officer has been formed to deliberate on this, on case to case basis. The SOR as per the Board resolutions will be applicable to all the MT, FML, expired leases and Licenses. Running leases with valid registered lease deed and running leases which are not terminated on account of breaches are excluded from proposed SoR revision. The valuer has arrived at the land rate by using the appropriate method as per the valuation principles. The rate obtained from the registered sale transaction in the vicinity of the plots being valued. PGLM 2015 issued by MoSP&W, GoI. TAMP is authorize to fix the SoR Rates for the entire land of MbPT falling under the respective Ready Reckoner Zones for FSI 1.00 as a base rate and Board will decide SoR/Rentals on case to case basis. The valuer has arrived at the land rate by using the appropriate method as per the valuation principles. The rate obtained from the registered sale transaction in the vicinity of the plots being valued. The contention raised in this para is not correct. No instruction was given by MbPT to the valuer. Tender was called for appointment of Govt. Register Valuer in MbPT panel and different RR Zones were entrusted for valuation to different valuers. Present monthly rental are as per valuation report of 1980's which are no way comparable with present market rate. Thus the SOR proposed by MbPT at 6% per annum is fair reasonable and MbPT is well within its rights to revise the rents/compensation w.e.f. 01.10.2017 onwards as per the proposed SOR. The para 13 of PGLM 2014 clearly states that the highest of 5 factors for determination of rentals on Major Port Trust land i.e. (i) State Govt. RR (ii) Average rate of actual transactions registered in last 3 years in the Port vicinity (iii) Highest accepted tender of Port land for similar transactions (iv) Rate arrived at by an approved Valuer appointed for the purpose of the Port (v) Any other factor.

Sr. No.	Specific comments received from LIC (Modern Building Society)	Respone of MBPT
1.	We are the Tenant of LIFE INSURANCE CORPORATION OF INDIA (Old Name) and Members MODERN BUILDING SOCIETY (AOP), New Name. We are submitting our views about your proposed scale of rate (SOR) report sent	A Plot bearing OLD RR 1876 was leased to Life Insurance Corporation of India and expired on 19.04.1979. Further on request of LIC Terms & conditions for fresh lease of another 30 years starting from 20.04.1979 upto 19.04.2009 was quoted. However, No unequivocal acceptance received and LIC in there dated 22.03.1980 stated that the

	by you vide your above referred notice. Therefore, we have to state as under: -	modified terms and rates are not beneficial to them and they decided not to renew the expired lease and to surrender the premises as is where is basis, subject to the tenancies in reply the then Estate Manager vide letter dtd. 9.4.1980 had written to the Lessees i.e LIC and it was pointed out that as per the Covenants 7(5) of the Lease Deed ,LIC is supposed to remove the building and works then standing on the Land together with all appurtenances and after restoring the Land to its original state LIC should hand over Vacant Possession without any encumbrances. Notice dated 15.03.1983 issued by PT advocate Shri. G K Karkera was served upon LIC terminating the Leasehold interest and LE&C suit No 21/32 of 1984 was filed against LIC in which matter Affidavit of Evidence was filed on behalf of Mb. P. T in February 2000 and since no advocates on behalf of Defendant LIC appeared Exparte Decree dated 15.02.2000 was passed .Against the said order Advocate on behalf of LIC made application to set aside the Ex-parte Decree and Hon'ble SCC Set aside the said Decree and matter came up for Retrial. Again fresh Evidence led by AEM Gr.1on 8.7.2003 whereafter cross examination and further Argument done by LIC. The Hon'ble SCC decreed the Suit in favour of Mb. P.T.on29.04.2008 and warrant of Possession was tried to be executed on 2.3.2009 when decree was obstructed by 69 actual occupants against whom obstructionists Noice No. 256 of 2009 has been taken out. The applicants are those obstructionists who have no locus standii with the Mumbai Port Trust. Meanwhile LIC filed Civil Revision Application No. 128 of 2007 in High Court against Mb. P. T in which Hon'ble High Court Vide order dtd. 15.06.2011 passed adverse order against Mb.P.T. Mb.P. T. therefore has filed SLP (Civil) No. 32992 of 2013 against LIC challenging High Court Order dtd. 15.06.2011.The said SLP is pending in Hon'ble Supreme Court
2.	The MBPT Plot OLD RR 1876 having Code no -10201103 situated at unit no 2, Jackaria Bunder Road, Sewri (West) Estate, Mumbai Port Trust fall within your special Planning authority (SPA) limit of your jurisdiction bearing as appeared in annexure – A sent by you which is forwarded to us for our information hence, from said letter as we understood that your SPA will be our Planning authority and its Development Plan (DP) will consider development permission of our occupied property, it appeared that your proposed SOR is not based on hardship created due to new SPA-DP in lieu of MGGM DP	MbPT is duty bound to follow PGLM 2015 in revision of SoR.

	(Sanctioned) and ultimately our existing MBPT sanctioned user/ activity is affected the land / plot area based on its new development control rules as your proposed SOR is related to it.	
3.	The land Rate which is considered for valuation report is not covering the lack of facilities available to us, such as and also further use of our land / plots & utilization of permissible FSI for the existing development / redevelopment of plot. The Repairs Adds / Alterations to the existing structures with or without use of permissible FSI are not permitted by you.	The contention is not correct. Valuer has given report by considering lack of amenities/ infrastructure and Board has approved the SoR as recommended by LAC based on the Valuer's Report. Any repair/alteration is not allowed without prior permission of MbPT.
4.	As a common person in the capacity of your tenant we at least know that the value of your property to be ascertained for the rent revision which is let out to us cannot be materialized unless aforesaid points are considered on legal basis & adverse effect of your development control rules, Therefore, your pragmatic view is essential on the basis of existing site condition of un building plot size & location etc. and applicability and its feasibility to be considered as per development control rules of your SPA to avail the compromise base for finalization of SOR.	MbPT is duty bound to follow PGLM 2015 in revision of SoR. Valuer has given report by considering existing site condition, lack of amenities/ infrastructure and Board has approved the SoR as recommended by LAC based on the Valuer's Report.
5.	Bringing to your notice that the rent which has been paid to MPBT has been substantially increased by MPBT at the rate of 4% every year and abiding such amount we have paid such rent regularly. Hence, there is no need of SoR to be considering for increasing rent which will become exorbitant.	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. Hence SOR proposed by MbPT at 6% per annum is fair reasonable and MbPT is well within its rights to revise the rents/compantation w.e.f. 01.10.2012 and 01.10.2017 onwards as per the proposed SOR.
6.	We had paid the rent that has been charge by MBPT on the regular letting rates which work as per expectance terms and condition mentioned. Hence SoR not applicable for us.	Lease expired on 19.04.1979 and bills are preferred as compensation for wrongful Use. Further All leases/tenants were informed by Circular No. EM/ASG/F-361/5873 dated 28.12.2012 vide which it was informed to all the lessees, tenants and occupants that revision of compensation / rent in respect of all the expired leases, monthly tenancies and fifteen monthly tenancies and licences / tenancies excepting subsisting long term leases of Port Trust premises is due from 01.10.2012 onwards. Every monthly Bills/invoices are sent along with footnote "THIS BILL IS PROVISIONAL AND WITHOUT PREJUDICE TO BOARDS RIGHTS AND CONTENTION TO REVISE THE RENT/COMPENSIONW.E.F 01.10.2012".

7.	It may please be noted that the SOR for the period of 01-10-2012 to 30-09-2017 and 01-10-2017 to 30-09-2022 for FSI = 1.00 stated in annexure- A is not acceptable and it attracts revision by considering stop financial circle of each business and residential premises pandemic corona virus and non - availabilities of incentives / facilities from you which. are generally applicable to the develop plots as per the development control rules. Please give us opportunity to meet to personally for hearing.	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 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. Sufficient time has been given by TAMP to each party to make their oral / written submissions. Hence the contentions are not acceptable.

Sr. No.	Specific comments received from RR 1747	Respone of MBPT
1.	We Strongly object to Revision of Schedule of Rates(SoR) of MbPT Estate for Period 01/10/2017 to 30/09/2022 on following grounds:-	The applicant has no locus standii with Mumbai Port trust. 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.
2.	Retrospective revision is not allowable at any cost as its bad in law.	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
3.	Goverment itself has approved no Retrospective amendments recently in Income Tax matters for Vodafone & Cairn cases.	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.
4.	In this Covid Pandemic its difficult for existing tenants to pay off today's Rent to MbPTs So how we'll sustained any rise.	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 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.
5.	MbPT is regularly increasing every year 4% so where is the question of more Revision. Instead of Concentrating on Revision process, MbPT should focus more on regularising the tenants compromise & other proposals to create a more friendly environment.	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. Hence SOR proposed by MbPT at 6% per annum is fair reasonable and MbPT is well within its rights to revise the rents/compantation w.e.f. 01.10.2012 and 01.10.2017 onwards as per the proposed SOR.

Sr. No.	Specific comments received from Shri. Nakahwa Kunal	Respone of MBPT
1	Kindly please refer the trail mail we are awaiting your response via mail or via letter. The mentioned notice dated October 6, 2021 has been received. This is to let you know that we are the residing at the above	The comment is not relevant with the present SoR proposal. Nevertheless, it is to state that the comment is third parties and unauthorised occupant in the premises. The monthly tenancy of plot no 11 at Jamshedji Bunder is in name of SHRI HARISHCHANDRA GOMA PADMA. The monthly

	mentioned address. With regards to the home we are paying our dues. We have previously also requested to your office about our pending dues and would like to remind you that please let s know about it again. We are ready to pay our dues if that would be notified to us. The above mentioned address is used by us for our residential purpose and we are ready to pay residential dues for this.	compensations bills are issued on the registered address to tenant regularly and also the arrears amount also conveyed to tenants

Sr. No.	Specific comments received from Baniyan Q as Co Owner	Respone of MBPT
1	We Disagree with the Valuation as given by the Land Valuer. The rates marked by the Land Valuer are arbitrary and very high and do not take into consideration a lot of factors.	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 Cabinet approved PGLM 2014-2015 issued by the Ministry/Govt. under Section 111 of Major Port Trust Act, 1963. MbPT is thus bound to follows the guidelines. All the tenants/lessees were clearly intimated about the revision of rent 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. There is no provision in the policy for grant of any concession on account of any of the issues brought out in the representation.
2	As such Mumbai port trust (Mbpt), should have taken Land valuation from Different land evaluators and compared it. A single land evaluator suggestion is unjust and Biased, It appears to favour Mbpt.	
3	We strongly oppose the revised proposed Rent increase by Mbpt. from 2102.	

Sr. No.	Specific comments received from Mahindra and Mahindra	Respone of MBPT
1	As you may be aware that the compromise formula of the Supreme Court on rentals from the year 1982 was applicable for thirty years, i.e. up to Oct., 2012, for all the. MBPT Properties. However, in spite of the same, from the year 2006, M&M had agreed to pay the revised rentals from 2006 as per T.R 127 of Trustees of MBPT for: Unit Nos. 12 of Fort Division & Unit No.5 of Mazgaon Division	The compromise proposals as upheld by the Hon. Supreme Court itself had a provision that "notwithstanding fixation of rent for 20 years, for good and sufficient reason, the Board can review and revise the rate". It is in accordance with the said provision that the rent was revised for the category of tenants having paid up capital above Rs.1 Crore on the analogy of the category of tenants exempted under Section 3(1)(b) of Maharashtra Rent Control Act.
2	It is requested to take a note that unit no 5 of Mazgoan division falls in Zone 11/85,11/85A and 11/86 of Parel-Sewree Division and the same fall under the proposal of widening of DP Roads which will include development of infrastructure facilities et. in the Master Plan proposed by MBPT Authorities in 2019. Hence, it is only fair to revise the rentals for this area only after development of roads etc.	The revision of SoR has to be carried out as per the provisions of PGLM every 5 years. The SoR as per the compromise proposals read with TR 127 of 2006 were valid till 30.09.2012 and fresh revision is due for five years each from 01.10.2012 and again from 01.10.2017. The revision is carried out periodically to ensure that the owner of the land gets adequate return on its landed assets to offset the erosion in the value of existing rentals

	are undertaken by MBPT Authorities, and the lease is renewed with permission to redevelop the buildings/ structures and till then we continue to pay the rentals as per TR 127 of 2006. It will not be out of place to mention here that for last three decades, we are not allowed to undertake any structural work for the existing/ authentic buildings/ structures in the premises, because of which we have not been able for such a long time to use the said premises to its full potential. The lease renewal proposal is also pending with MBPT administration although revised rentals were accepted by us in the past and we are paying the rentals as per TR 127 of 2006 and not as per compromise formula of supreme court till date. You will appreciate that in spite of our agreeing to pay revised rental from 2006, the MBPT authority has neither renewed our lease by executing the lease deed nor allowed reconstruction of fire gutted shed at Sewree premises.	over a period of time on account of inflation and the appreciation in the value of land. The lessees have been occupying and enjoying the fruits of the land leased even though the same may not have been renewed and therefore are liable to pay the revised rate. The issue of renewal or such other aspects do not fall within the purview of TAMP and only the fixation of SOR and terms governing the SOR falls within the purview of TAMP
3	It is learnt that, as per recent direction from the Ministry of Shipping, TAMP Authority is appointed to decide the tariff/rentals from October 2012 onwards. Accordingly, TAMP Authority has proposed revised rentals for the period from April,2012 to March, 2017 and also for April, 2017 to March, 2022. It is pertinent to note that the revised rental proposed by the TAMP Authority for the period from April,2012 to March, 2017 is being paid by M&M since 2006 itself. These rentals were paid by M & M as per bills raised by Estate Dept. of MBPT time to time.	The compensation presently being billed in the case is based on 6% annual return on land value as per Stamp Duty Ready Reckoner for the year 2006 and is not the revised SoR applicable from 01.10.2012.
4	We have been given to understand that the rentals are being revised by new method of valuation for the period 2017 to 2022 by TAMP Authority, which are likely to be further higher than the currently being paid by M&M. M & M has an objection to any further increase in rentals from April, 2017, as the same will be unreasonably high compared to the lease rentals being recovered by MCGM as per prevailing policy, which is equivalent to 0.5 % of the ready reckoner rates of the developed land as against proposed revised rental of minimum 6% of RR Rates of the developed land rate for the period 2012 to 2017 as per RR Rate of the respective year. We are of the view that there is no reasonable basis for revising the lease rentals with the new formula of 6% of Ready Reckoner rate of each year for the developed land. We therefore request that the same rent as being paid currently, should be charged for the period till 2022 as per TR 127 of 2006.	MbPT is strictly bound by the cabinet approved Policy Guidelines for Land Management at Major Ports (PGLM 2015) and the SoR based on the highest of the five factors prescribed therein. The PGLM 2015 having been issued under Section 111 of the Major Port Trust Act, 1963, MbPT is bound to follow the same by way of directive. The SoR proposed is thus in accordance with the directory provision and needs to be approved as a fair opportunity has been given by the TAMP to the stakeholders by holding a joint hearing on 03.09.2021 and granting them further time of two weeks to submit their comments if they so desire.

	We hereby put on record the objection for the same and request you to give us personal hearing before the rentals/tariff are finalised by TAMP/ MBPT administration.	

Sr. No.	Specific comments received from Industrial Tube Trading Co	Respone of MBPT
1	Despite the very short and strict deadlines of 26.08.2021 and 28.08.2021, on the captioned proposals, we have filed our comments/objections thereto within the stipulated time; and had requested therein for a personal hearing in the matter before any final decision is taken.	The hearing conducted by TAMP on 03.09.2021 gave adequate opportunity to the stakeholders to put forth their views. Further acceding to the plea of the stakeholders, TAMP directed MbPT to upload the presentation on MbPT website which contained replies to the comments earlier received from the stakeholders and granted the stakeholders two weeks time to sent their comments, if they so desired. Thus the hearing was conducted in a fair and transparent manner granting adequate time to the stakeholders to present their case. The process of natural justice was thus provided to the stakeholders.
2	It is rather surprising that even before the aforesaid deadlines had expired, it was already decided by TAMP on 23.08.2021, and communicated by MbPT to its lessees/tenants on 27.08.2021;- that the "joint" hearings are scheduled virtually on 3.09.2021; and that too providing only one (1) hour on each of the said Proposal/s within which hundreds of lessees/tenants including ourselves are required to voice our comments/objections.	
3	It seems to be apparent that these proposals are being hurriedly proceeded with, and without affording adequate time to us to effectively communicate to you our views thereon.	
4	In such circumstances; it is extremely unlikely that we would be given a fair, meaningful and effective opportunity to place forth my/our comments/objections/views.	The process of natural justice has been followed by giving an opportunity to the Stakeholders to be heard and further directing MbPT to upload its presentation (PPT) on MbPT website and granting two weeks time to the stakeholders to sent/submit their comments.
5	By this, we do not seek to imply and/ or contend in any manner whatsoever that we do not seek a personal hearing; but only that we desire a fair opportunity to present our views effectively	
6	In the light of the aforesaid, we request you to kindly schedule this meeting in such a manner so as to provide us a fair opportunity to present our views, comments and objections on the said SOR proposals.	TAMP is required to follow the timeline prescribed under the Major Port Trust Act, 1963 with regard to decision on a proposal and its notification. Nevertheless, this issue entirely falls under the purview of TAMP.

Sr. No.	Specific comments received from Indian Hotels	Respone of MBPT
1.	We, The Indian Hotels Co. Ltd. are the lessees of the property bearing RR No. 701, 677 and 2099 of Apollo Reclamation and operating the hotel under the name and style as Taj Mahal Hotel and Palace – Mumbai situated at Apollo Bunder, Colaba, Mumbai 400 001. The said hotel was established after taking over the plots (2 no's) on lease from Mumbai Port Trust w.e.f 1901 and 1902. Though the	

2.	leases have expired by efflux of time the said leases contain a renewal clause for further period of 99 years from its expiry. The hotel building constructed on RR no. 701 known as Taj Mahal Palace Hotel is registered with Heritage Committee of Mumbai under "***Heritage Building of Grade IIA***" and Taj Intercontinental (Tower Block) situated on RR no. 677 and 2099 is registered as "***within the Gateway precinct of Heritage***". 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: "*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 – (i). The issue relating to renewal of lease and fixation of the lease rent is pending and the matter is sub judice before the Hon'ble Bombay High Court in Suit no. 2469 of 2012. Notice of Motion no. 2441 of 2012 in the said suit was disposed off by the Hon'ble Bombay High Court by its order dated 23rd October 2018, *inter-alia,* directing MPT to accept the lease rent in terms of schedule of lease rent attached to its letter dated 4th April 2002, till the disposal of the suit. A copy of the Hon'ble High Court's order dated 23rd October 2018 is enclosed 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 suit. (ii). In view of the fact that the lease rent is already settled up to the year July 2031 in terms of the schedule of lease rent given to	

	us along with the letter dated 4th April 2002, it is not open for MPT/ TAMP to revise the lease rent without obtaining necessary orders and directions from the Hon'ble Bombay High Court in the pending proceedings. Moreover, the cases which are already settled need not be reopen. Please refer the 2nd last para on page 10 of Annexure 1 to TR 105 of 2018. In our matter, the lease rental has been settled upto July 2031 (subject to the outcome of pending suit) though our lease provides for renewal for further term of 99 years i.e. upto 2100. (iii). Moreover TR 127 of 2006 - para 8.5 confirms that the cases which are already approved by the Board / Chairman may not be reopened. In our case, the liability statement along with the schedule of lease rent up to 2031 was issued to us in 2002 after obtaining the concurrence of the Chairman. (iv). Accordingly, our matter comes under settled cases except that the execution of lease was pending. We have, as per the Liability Statement to the said letter of 4th April, 2002, already paid stamp duty, legal charges, security deposit etc. towards the lease document.	
3.	At the further outset, please note our specific response to Proposal No.4 referred to by you in the said Notice– With regard to Point No.2 of the Proposal, we would like to point out the following:	
	(i). 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 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.
	(ii). 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	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

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. The said policy is based on the SDRR rates and considering the leasehold aspect have valued the properties at 25% of the SDRR. Thereafter lease rent is levied @ 5% for commercial premises for a block period of 10 years. A copy of the policy of MCGM is enclosed herewith as ***Annexure B*** for your ready reference. The comparison of lease rent on the basis of TR/proposed SOR of MPT vis-à-vis the compromise policy and the MCGM Policy for schedule W properties are given herein below:

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

Proposed SOR of 2017	Area in sq.mt.	BUA (FSI) Consolidated considered by MPT	Proposed Lease rent as per MPT 6% return p.m
290640	12343.57	4.35	1453.20

Applicable lease rent pm	Interval of Increase	Lease rent paid in 2017 by Company in terms of its letter dated 04.04.2002
7,80,28,890/	Annual increase of 4%	24,56,099

B) **Lease rent on the basis of SDRR** :

SDRR of 2017	Area in sq.mt.	BUA (FSI) Consolidated considered by MPT	Proposed Lease rent as per MPT 6% return p.m
188600	12343.57	4.35	943

Applicable lease rent pm	Interval of Increase
5,06,33,950	Annual increase of 4%

C) Lease rent on the basis of compromise policy

SDRR of 2017	Area in sq.mt.	BUA (FSI) Consolidated	Proposed Lease rent as per MPT6% return p.m
188600	12343.57	1.5	943

Applicable lease rent pm	Interval of Increase
1,74,59,980/-	Annual increase of 4%

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

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.

SDRR rate of 2017	Area in sq.mt.	BUA (FSI) Consolidated as considered by MPT	Proposed lease rent as per MCGM policy for Schedule W properties5 % of the 25% of SDRR pm
188600	12343.57	4.35	197

Applicable lease rent pm	of increase
020	10 years

In light of the above, the lease rent on the basis of TR / proposed 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 2017 to 2022.

(iii). 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.

(iv). Proposed Revision is violative of well settled principles of law-

(a). The Proposed Revision does not meet the “Fair and Reasonable” test as laid down in the judgment of the Court in Wednesbury [Associated Provincial Picture Houses Ltd. v. Wednesbury Corpn., (1948) 1 KB 223 : (1947) 2 All ER 680 (CA)].

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.

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 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.
	(b). The Hon'ble Supreme Court of India 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)] held: "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.	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. Already clarified.
	(c). Accordingly, what is proposed is clearly in breach of these binding principles laid down by the Court.	Answer given earlier may be referred.
	(d). The schedule W property rates are much lesser than (almost 1/4th of) the rates proposed by MbPT. The said rates are fixed for a period of 10 years without any escalation provided for every year.	Answer given earlier may be referred.
	(e). However, MbPT has conveniently ignored the Schedule W rates which are vitally important as they relate to government lands and more particularly to lands in Mumbai, which in many instances are situated adjacent to MbPT lands. Such distinction is not permitted under the concept of Fair and Reasonableness.	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.
	(f). MbPT claims to have made market inquiries and to have taken into consideration relevant facts etc. whilst revising the SoR rates. How untenable is this claim can be seen from the fact that the rates decided by the Government in respect of lands situated in neighbouring areas have been completely ignored and not taken into consideration.	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 into consideration various factors as mentioned in the said policy guidelines.
	(g). The criteria of Fair and Reasonable is not met when it is clear that the neighbouring	The policy guidelines for land management 2014 provides in Clause 13 (c) that the Port Trust Board

	lands belonging to government controlled by the state government or the Municipality, are leased out at 1/4th the rate that has been proposed by MbPT in this present proposed revision. (h). Further, when it comes to the Ready Reckoner rates, the fact that they are related to free lands and that they do not contemplate any restriction on their transfer etc. cannot be completely ignored and the ready reckoner rates cannot be blindly adopted for the concerned properties. This is one more example of MbPT acting in an arbitrary, unlawful and irrational manner. (i). Additionally, the increase in other areas and states such as Kandla Port, Kolkata and Chennai is only by 2% per annum and an increase of 122.89 times from the Supreme Court Judgement is proposed for the property covered under the Proposed Revision. (j). 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. 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.	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 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. What is stated is not correct. The proposed revision have been made as per the guidelines issued by MoS, Govt. of India under PGLM 2015. 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.
4.	With regard to Point No.3 of the Proposal, we would like to point out the following: (i). 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 1.10.2017. (ii). 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	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

	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 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.	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. 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.
5.	With regard to Point No.4 of the Proposal, we would like to point out the following: (i). With respect to Point 4(A), 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 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	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.

	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.	The valuer while recommending the Fair Market Value (FMV) for respective zones had considered the present infrastructure and facilities in the area and recommended certain discounts ranging from 10-40 % compared to the transaction rates which are prevailing in the adjoining outside Port Trust areas while recommending the Fair Market Value (FMV). All the relevant facts were examined by Land Allotment Committee (LAC) and LAC had recommended revision of SoR 2017-22 .Based on LAC recommendations Board approved the said revision of SoR rates for respective zones for Monthly, Fifteen Monthly Lease (FML), Expired Leases, licenses and vacant plots (for fresh allotment) falling in the respective RR Zones.
6.	Further, without prejudice to what is stated above, we now deal with Valuation Report for the relevant zone 1/6A that has been uploaded on the website. The proceedings of Land Allotment Committee Meeting dated 18th August 2021 confirming the rate as Rs. 290,635/- per sq.mt as a base rate land for FSI 1 for the year 2017, are not acceptable to us on the following grounds:	
	(i). The Stamp duty Ready reckoner rate (**SDRR**) for the zone 1/6A is Rs. 188600/- per sq.mt for FSI 1 and the same ought to be considered in terms of the PGLM 2015 guidelines. However, the valuation considered by the valuer is Rs. 290635/- per sq.mt which is completely baseless and not in accordance with the PGLM.	Already Clarified.
	(ii). The SDRR provides for a discount of 15% for vast lands which would be applicable to our plot considering that the area taken for valuation is consolidated 12343.57 sq.mt. However the said discount has not been considered while arriving at the valuation.	Already clarified.
	(iii). The valuer has, in his report has recorded an entry "NA" across Renewal. This position is not correct as the lease deed does provide for renewal clause.	Already clarified
	(iv).The valuer has alleged that plots bearing RR no. 701, 677 and 2099 have consumed FSI far more than any normal sanction for development, as this being a 5 star hotel and enjoyed substantial favour from the sanctioning authority. However, the valuer has failed to consider that as per the then policy of 2009, in a city, 5 star hotels were allowed FSI 5.00. Additionally, the current DC regulation allows FSI based on the road width. Therefore there is no irregularity in the sanction for development, or otherwise, as alleged. The copy of the notification is	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.

	enclosed herewith as ***Annexure C*** for your ready reference. (v). The report seeks to compare the rated to the rated of sale of flat which are is cannot be compared as the same fall under a completely different category as stated in the earlier paragraphs and are also on a plots which falls in different zone. (vi). Moreover, MPT should have taken 3 valuers report for comparison of valuation of plot in zone 1/6A and affected party should have been given an opportunity to comment on the valuation of the said plot. (vii). Further the said lands bearing RR no. 701, 677 and 2099 have been valued at a total of Rs.1766 crores. However, the MCGM while assessing the property under capital valuation basis have considered the land and building valuation at Rs. 821.25 crore as of 2017. The copy of the bills are enclosed as Annexure D and D1 for your ready reference.	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. 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.
7.	Further, without prejudice to what is stated above, our comments on the Stakeholders list are as under: Our property which are assessed under RR no. 701, 677 and 2099 has been shown under the expired leases. We would like to bring to your attention that the company had opted for renewal of lease as provided under the lease deed and MPT vide its letter dated 4th April 2002 had given sanction for renewal for the period of 30 years ending with 2031 and accordingly necessary stamp duty / registration fees and other charges were also deposited with MPT for execution of the lease deed and company continues to pay the lease rent in terms of the said letter. Therefore the same cannot be considered under expired leases.	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.
8.	Further, without prejudice to what is stated herein above and each of the following grounds being without prejudice to each other, we make the following additional submissions: (i). 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. (ii). The Proposed Revision seeks to amend the rates retrospectively w.e.f 2017 onwards . Moreover the proposed revision from 2012	What is stated is not correct. There is no provision for compromise under PGLM, 2015. 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. What is stated is not correct. The rates are revised by the MbPT in accordance with the

	to 2017 is pending totalling the revision of the rate retropsectivly for a period of last 9 years. (iii). 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. (iv). Merely owing to a dispute between TAMP and MbPT, the lessees cannot be slammed with retrospective levy of incremental lease rent which is 122.89 times from the Supreme Court Judgement, for a period 2017 onwards with 4% increase p.a. 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. (v). 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 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. (vi) Rents were fixed till the year 2012 as per Wadia's judgement and any change thereafter has to be fair and reasonable. (vii) 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." (vii). 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." (viii). 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	TAMP following the due procedure and guidelines of the Ministry of Shipping as per PGLM 2015. 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. 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.

	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. (ix). The annexure to Wadia's judgement which provides the rates till 30.9.2012 provided a consistent increase. This consistency ought to be maintained. (xii) 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. (xiii) 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 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." (xiv) 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. (xv). 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. (xvi) 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 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.	
9.	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)	
10.	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 and 1.10.2017 that too without seeking any clarification or directions from the Hon'ble Supreme Court as recommended and advised by the Ministry of Shipping. Moreover, the increase is arbitrary and unreasonable.	
11.	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.	
12.	We request you to please consider our suggestion / comments in the settlement of SOR for the period 2017 to 2022. 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 2017-2022 by MPT/TAMP.	

Sr. No.	Specific comments received from Anil K. Khanna & Farida A. Khanna (as joint Tenants)	Respone of MBPT
1.	We do not support the raise in tariff, especially with retrospective effect with interest and consequently forcefully protest against it.	(i) Jamshedji Wadia judgement is the Hon'ble Supreme Court Judgement dated 13.01.2004 by which Hon'ble Supreme Court upheld the Board compromise policy rates which were valid for 20 years w.e.f. 01.10.1992 to 30.09.2012. The said facts have been confirmed by AG's (Mukul Rohatgi) opinion dated 29.07.2016 wherein AG stated that MbPT is legally empowered to fix revised rates w.e.f. 01.10.2012 and also as per instructions given by MoSP&W, GoI given to TAMP to approve the SoR retrospectively w.e.f. 01.10.2012, subject to withdrawal of Writ Petition 1153 of 2000 filed by MbPT against TAMP. The writ petition was withdrawn by MbPT on 08.08.2019. These facts were rightly pointed out in para 3 of proposal for SoR 2012-17, which was simultaneously submitted to TAMP. Thus there is
2.	To raise tariffs retrospectively from 01.10.2017 to 30.09.2022 is unjust and blatantly unfair to the MonthlyTenant. It takes away from the tenant the right to withdraw from the Monthly Tenancy if he cannot afford the raise. Instead he will be burdened to bear a cost that could have been avoided by him.	
3.	Over and above that levying interest on a retrospective basis on amounts for which bills will be raised now is ill advised and should be discarded for sake of fair practice.	

		no violation of S.C. Judgement and MbPT is legally within its rights has power to revise the SoR rates w.e.f. 01.10.2012 onwards. (ii) The proposed revision of rentals w.e.f. 01.10.2017 to 30.09.2022 will be made applicable to only monthly tenancies, 15 monthly leases, expired leases and licenses, with retrospective effect. (iii) 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" (iv) However, all the running leases, i.e. leases which are not yet expired are excluded from the application of proposed revision of SoR for rental / compensation, since the existing agreement / rentals do not permit such revision. In case of monthly tenancies, 15 monthly leases, expired leases and licenses, since the original lease term has already been expired and the parties have unauthorisedly occupied Port Trust land without any valid extension of their occupation, all such parties are liable to pay compensation for renewal use of the premises as per the letting rates / compensation rates as determined by the Port or as per the applicable policy laid down by the Ministry of Shipping, GoI for the Ports, i.e., PGLM 2015, in this case. Therefore, this revision has been effected to all the monthly tenancies, 15 monthly leases, expired leases and licenses. (v) Ministry of shipping, Govt. of India forwarded Policy Guidelines for Land Management 2014 (excluding township areas) for all Major Ports (PGLM 2014) and the same was accepted by Board vide TR 224 of 2014. A Committee (LAC) constituted vide TR 146 of 2014. Opinion of Attorney General of India (AG) on applicability of Supreme Court Judgment post 30.09.2012 was sought in the matter. (vi) Further, Ministry issued amended PGLM 2015 on 17.07.2015. (vii) Since, PGLM 2015 was not applicable to Township Areas, clarification of Ministry was sought by DO letter to Joint Secretary (Ports) on

		03.04.2018. On seeking clarification on the issue of the applicability of PGLM 2015 to the Township areas of Mumbai, Kandla and Kolkata Ports. Subsequently Ministry of Shipping, Govt. of India issued Clarification Circular No.1 of 2018 extending the PGLM 2015 to township areas of Mumbai, Kolkata and Kandla ports. The Clarification Circular No. 1 of 2018 provided revision of SoR for commercial occupations (nonhome) but excluding occupations of residential units (home occupations) and also renewal of expired lease on land not required by port as per Master plan by tender cum auction method. Subject to payment of all past arears as per applicable SOR and on upfront payment above reserve price. Based on the said clarifications, Board approved action plan vide TR 61 of 2018. (viii) In accordance with the said action plan of TR 61 of 2018, in respect of Para 5(b), proposal on grey areas of TR 222 of 2015 was submitted to LAC. LAC report dated 2.8.2017 was placed before the Board on 2.8.2018. Vide TR 105 of 2018 Board approved LAC Report dated 2.8.2017 and also accepted the LAC recommendations that TAMP's approval to the said SoR is not necessary, in view of pending Writ Petition no. 1153 of 2000 filed by MbPT challenging the TAMP's jurisdiction. However, the issue of approval of TAMP to the new SoR remained pending for want of instructions from Ministry on withdrawal of Writ Petition and allowing TAMP to approve the SoR retrospectively, i.e. from 1.10.2012 onwards. This issue alongwith other issues such as interest rate on revised arrears, GST, FSI dispute etc. were taken with Ministry of Shipping, Govt. of India. Ministry of Shipping, Govt. of India directed TAMP to fix SoR w.e.f 01.10.2012 onwards for areas of MbPT including township areas vide letter dated 15.05.2019 and TAMP vide letter dated 15.07.2019 issued the clarification on non-applicability of TAMP notification to MbPT for the period prior 01.10.2012 and stated that same is treated as withdrawn by TAMP. MbPT also withdrew the Writ Petition 1153 of 2000 on 08.08.2019. (ix) Ministry of Shipping, Govt. of India issued further clarification no. 2 of 2019 on grey areas of PGLM 2015. Therefore, Proposal is submitted to TAMP after resolving all the legal issues and obtaining competent authority's orders in the matter, hence the matter was delayed.
4.	Asking for a raise every year on a continued basis is unfair. It is widely known that commercial property rates have been falling in Mumbai since the last few years. Even now	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

5.	they are stagnant in most areas, barring some high end areas where they have risen. Considering all this they should be linked to a Property Index for that specific area. Especially in Masjid Bunder East where we are situated is filthy and heavily encroached as a result so many commercial properties are lying vacant and unused. So is MbPT land in our area. It certainly does not justify a raise in tariff in this area where our plot is situated.	discounts ranging from 10-40 % compared to the transaction rates which are prevailing in the adjoining outside Port Trust areas while recommending the Fair Market Value (FMV). All the relevant facts were examined by Land Allotment Committee (LAC) and LAC had recommended revision of SoR 2017-22 .Based on LAC recommendations Board approved the said revision of SoR rates for respective zones for Monthly, Fifteen Monthly Lease (FML), Expired Leases, licenses and vacant plots (for fresh allotment) falling in the respective RR Zones.
6.	Broadly every area should have a specific tariff based on the facilities and conditions prevailing in that area.	The SoR is determined by undertaking seperate valuation as per para 13 of PGLM,2015 for varios RR zone and hence facilitirs and infrastructre in variours RR zones is considered.
7.	With the prevailing pandemic, the timing is wrong for a raise in tariff. The MbPT should be giving us relief in some form for the hardships we are facing.	The issue is not relevantto the present proposal.

Sr. No.	**Specific comments received from Shabanali Ebrahim Hemani & 2 ors (as joint tenants)**	**Respone of MBPT**
1.	This is with refrence to our Mbpt property on lease code : 30901344 in the name of Shabanali Ebrahim Hemani, Mohammedali Huseinali Hemani & Mohammadali Shabanali Hemani, we would like to request you to please keep the tariff/rent unchanged, keeping the current situation of pandemic in mind there has been huge effect on all business since March 2020 and the effect has still not come to an end, also the sudden rise in fuel prices has given additional negative effect on our businesses therefore i please request you to take this request/comment on a serious note. Please also note that the above three names mentioned on the lease agreement are ourselves and the actual occupants on the property	The TAMP notice for approval of SoR 2012-17 was sent to Shri S.E Hemani and others who is registered tenant of MbPT for plot 112.The subject tenancy is a monthly tenancy. The tenant had undertaken breaches of unauthorised construction. TAMP is requested not to entertain the request from the applicant as MbPT is revising the SoR as per guidelines laid down in PGLM, 2015.

Sr. No.	**Specific comments received from Fionika Cooperative Housing Society Ltd.**	**Respone of MBPT**
1. 2.	We have received your letter no. EM /AS(G) / F-382 /1925, dated 06.10.2021, on 13.10.2021. You have called upon us to offer our comments on Revision of Schedule of Rates for the period from 01.10.2017 to 30.09.2022. First of all, we have to bring to your notice that	The foreshore land admeasuring 139.79 sq. mtrs and additional area of 526.42 sq. mtrs south CS 929 and 930 Malabar Hill division are not regular land but are fish ponds or the foreshore lands which are under water at Malabar hill at Chowpatty Bunder areas. The lessee has used the FSI obtained from the above foreshore land into the residential building on adjoining private

	your aforesaid letter does not apply to us as we are a Co-operative Housing Society and all the premises are used for residential purposes. You are wrongly describing and classifying us as "Non-Home Occupants" and claiming / applying the rates "Non-Home Occupants" rate. We have on a number of occasions drawn your attention that our's is a residential building and therefore, the charges should be for residential premises i.e. "Home Occupation".	land and they have not reclaimed these fish ponds as required under lease terms.

Sr. No.	Specific comments received from Krishnakant Gandhi	Respone of MBPT
1.	We are in receipt of your Notice (Without Prejudice) dated 14.08.2021, thereby seeking our comments, on a proposal for Revision of SOR 2012-2017 as per Ready Reckoner Zones for let-out areas of Non-Home Occupation.	The TAMP notice for approval of SoR 2012-17 was sent to Shri J.L. Gandhi who is registered tenant of MbPT for plot FP 16. 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. As the tenanct of breaches of non-acceptance of revised rent and failure to pay necessary deposits, arrear, as plot was affected by TP scheme, MbPT filed suit in SSC 413/531 of 1980 against the tenants. The parawise comments are as follows:
2.	We have twice sent you email's dated August 2021 and 16th September 2021, but you have not bothered to respond to the same.	The reply is forwarded to TAMP and MbPT is bound to reply to the stakeholders.
3.	At the outset I would like to inform you that the entire set of documents as mentioned by you in your Notice dated 14.08.2021, are not available on MbPT website, as claimed by you.	The stated documents are available on World widw web and also on mumbaiport.gov.in.
4.	My father Late Jayantilal L. Gandhi was granted the subject land alongwith structure under Public Auction in the year 1949 by you. During the lifetime of Jayantilal L. Gandhi, you had preferred L.E. & C Suit No.414/531 of 1980. The said suit was dismissed on 20 February 2008. However, during the pendency of the said suit Jayantilal L. Gandhi expired in the year 1992. After the death of Jayantilal L. Gandhi, you brought on record	The issue is not relevant to present proposal.

9.	my name (Mr. Krishnakant J. Gandhi) by amending 2 the said suit, as legal heir of Late Jayantilal L. Gandhi, and you have complete knowledge about the same. So also I had forwarded a notarized copy of Probate dated 10August 2016, issued by Hon'ble High Court, and requested to Change the Name for the subject land in your records and bring on record my name in the subject property and in other two properties. Again by letter dated 26th December 2018 and 7th June 2019; and by my Advocates letter dated 1 st February 2021, I requested you to make the necessary Change of Name in the records for the subject plot and so also furnish the MD (Money Deposit) statement so that I could clear all the outstanding immediately, as several payments made by me were not accounted for in the statement given by you.	
5.	I was regularly paying the rent for the subject property to you. However from 1 st July 2017, the Central Government introduced GST. Hence you started raising the bills of rent by adding the GST amount to it. I had no issues of paying the additional amount of GST alongwith the rent. However the benefit of rebate on GST would be probable to me only if you Change the Name of the subject property to my name in your records. However such change is not made by you till date for the reasons best known to you.	The facts are incorrect and tenants are in arrears of Rs. 1.05 crores as per SC judgement upto 28.02.2021 with interest upto 28.02.2021.
6.	By my letter dated 19th March 2018 addressed to you Iinformed my GST Number and requested to do the needful about the Change of Name in your records, so that the rebate of GST can be made available to me.	The issue is not relevant to present proposal.
7.	At the further outset, I would like to state that I have paid the entire rent amount as claimed by the Mumbai Port Trust in its monthly bills, uptillMarch 2018 and hence I am not in arrears of rent. Further the Statement of Rental Arrears Lessees/ Tenants as available on MbPT website, arrears of rental for M.T.Plot No. 16 is not shown. Hence, it is evident that there is no outstanding balance as claimed by you.	The statement is incorrect.
8.	The MbPT website further shows Proposal for Approval of Scale of Rates from 1.10.2012 to 30.09.2017, which states in column "E", that the rates are taken up as Ready Reckoner in the year 2012.	No comments
9.	The subject plot of land viz., M. T. Plot No. 16 (Area 311.04 sq. mtrs), Code 31001332,	No comments

	situated at 243 Sant Tukaram Marg, Mumbai-400 009, falls under Unit No. 10. I understand that you are not claiming any Revision of SOR from 2017- 2022 for Unit No. 10 tenants/lessees.	
10.	First and foremost I would like to mention that there cannot be a retrospective change in rent rates as the same would be opposed to the constitutional scheme. Also it has been categorically observed by the Hon'ble Apex Court on the last occasion when such arbitrary increase in rent was made by the MbPT "the Revision of rent by BPT are arbitrary and capricious and therefore violative of the constitutional restraint on the Port Trust as an instrumentality of the State. BPT should not behave like a private landlord indulging into rack renting by correlating the rates of rent with market rates". To sum up I hereby like to state that the Schedule of Rates proposed for the year 2012-2017 are not acceptable to us.	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 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.
	In the circumstances mentioned above to understand our problems/issues I request you to grant us physical hearing.I, once again request you by this letter to make the	TAMP is requested not to entertain these comments.

	necessary changes in your record for the subject land and bring on record my name	

Sr. No.	Specific comments received from BPCL – Jawahar Dweep land	Respone of MBPT
1	Our comments for the Plot at Jawahar Island/Dweep (JD) approx. 38543 Sq mtr (BPT code 31209102): The land has been included in the Mahul RR Zone 90/419 valuing the land at 19400 /Sq mtr in 2017, which we had represented as "very high" considering that the Island is more than 4 km into the sea separated from mainland & enhances operational costs for all activity & increased maintenance costs on the Island. MBPT had offered a piece of adjacent land to HPCL (offer dtd 7th Jan 2017) at a rental of Rs 1198 /sq mtr/year valuing the land at Rs 20000/sq mtr. The Land Allotment Committee (LAC) report dtd 29/7/21 has arbitrarily revised the Island rates to 28523 /sq mtr citing the Land valuation report. The valuation reports are neither realistic nor based on thorough research. An exorbitant rate has been determined erroneously in placing reliance on such reports. Excerpts produced from one of the earlier reports/evaluations- Here we would like to highlight an earlier instance of 1991 when BPCL did not agree to the rate of Rs 20 /sq mtr /month for the same land on the basis of valuation by M/s Kiloskar consultants. After discussions Kirloskar were requested by BPT to re-examine the valuation, based on BPCL representation that a large area was open unused and rent may be charged on the area developed. Kirloskar Consultants then recommended levy of rent at Rs 20/sq mtr/month for the area developed & Rs 1/sq mtr/month for open area & on the basis of the above rates the average rate of rent for the entire 9.5 acres worked out to Rs 8/sq mtr/month (Appendix A of TR 1991 dated 19/4/1991 attached).	(i). The lease of plot of land at Jawahar Dweep adm. 38543 sqm allotted to BPCL had expired on 23.04.2014 and having no renewal clause. The lessee M/s BPCL is holding over the plot unauthorizedly. However, MbPT had not taken eviction action as BPCL is PSU oil Co. and a port user. Port Trust is entitled and well within its rights to revise rental in terms of Policy Guidelines for Land Management (PGLM)-2015 issued by MoPS&W, GoI being directives under sec 111 of Major Port Trust Act, 1963. The issue before TAMP is for fixation of SoR wef 01.10.2012 and PT had followed the para 13 of PGLM-2015 for fixation of SOR. (ii). The Jawahar Dweep (JD) is an Island does not fall under any Ready Reckoner (RR) zone. The offer in the 2017 made to HPCL for allotment of land at JD has no relevance, as the terms & conditions were not accepted and not complied by HPCL and made to HPCL had not been accepted. (iii). It is to state that Board had earlier approved the rate of Rs. 45,270/- per sqm as on 01.10.2017 FOR JD land. However, PT after reconsidering BPCL’s views, the valuer had revisited & submitted revised valuation report which was based on the recent allotment of land for similar use of tank farm to IOCL by JNPT. The LAC and Board accordingly reconsidered the matter & approved the rate of Rs. 28,523/- per sqm which is 37 % less than earlier rate of Rs. 45,270/- per sqm. Also in case of Jawahar Dweep land under reclamation, the substantially concession was also offered in the rate. (iv). The valuer has arrived at the land rate by using the appropriate method as per the valuation principles. The rate obtained from the registered sale transaction in the vicinity of the plots being valued. Therefore, the contentions are incorrect.
2	MBPT is proceeding with a predetermined intention to revise the schedule of res and comments have been invited only with a view to record that the rates have been determined afler due notice to all concerned. It is notable fact that the Corporation is paying regular rentals as per the demand of MBPT	ii) There is no clause in MPT Act, 1963 prohibiting charging & recovering the SOR charges retrospectively as per applicable policy such as PGLM-2015. Differential charges as per SOR finally notified by TAMP will be payable failing which MbPT will be at liberty to take legal action including refusal of the renewal of lease.

	Now, having said the above with regard to the LAC report and as to why the same should be rejected by TAMP, we put forth additional points for consideration: As far as the lessee Plots of land are concerned we state that in absence of any agreement understanding between BPCL and MBPT to the effect that MBPT would be entitled to seek revision of rates retrospectively or in future (in absence of any renewal terms agreed upon between the parties), it is not open now for MBPT to seek revision of schedule of rates for plot of land as mentioned herein above. a. It being barred by limitation b. Revised rentals cannot be decided unilaterally and retrospectively As far as question of implementation of revised SOR effective 01.07.2021 is concerned we place reliance on clause (iii) as per clause 11.3 (j) of PGLM 2015 it is stated that "The process of renewal of existing leases should be initiated by the respective Ports well in advance, before the term of lease expires. The automatic renewal of existing leases should be preferably done within three months of receipt of such application for renewal. Liability to pay compensation for wrongful use by the lessee will not arise, if the delay in renewing such leases is wholly attributable to the Port." As till date there is no action taken by MBPT to renew the lease, any revision on lease rental (on mutually agreed terms and condition) can now be made effective three months from the date of finalization of the said rates or strictly as per terms of lease. 3) That MBPT in their submission for revised SOR has not explained/clarified the basis for considering land rental value and escalation on annual basis.	ii)) PT can charge retrospective SOR charges in terms of para 11.3 of PGLM-2015 and PT can refuse the renewal of lease if past dues as per applicable SOR not paid which is as pre-condition for renewal of lease. iii)) In this connection, attention is invited to the para 11.3 (h) & (i) of PGLM-2015 – Para 11.3(h) "After the expiry/termination of lease and despite receiving the notice thereof, or forfeiture of lease on account of change of user, assignment etc., if the lessee continues to occupy it unauthorizedly, the lessee shall be liable to pay compensation for wrongful use and occupation at three (3) times the annual lease rent based on the latest SoR, till vacant possession is obtained by the Port. In cases of land allotted on upfront basis, the equivalent annual lease rent would be calculated on pro-rata basis." Para 11.3 (i) - " For existing leases, at the time of expiry/termination of lease, the lessee shall remove all structures at his own cost under the following conditions: (a) Within three (3) months of expiry/termination, if Port decides not to re-auction that land; or, (b) Three months after tender-cum-auction, if the existing lessee was not successful. Beyond this period, the lessee shall be liable to pay compensation for wrongful use and occupation at three (3) times the annual lease rent, till vacant possession is obtained. In cases of land allotted on upfront basis, the equivalent annual lease rent would be calculated on pro-rata basis. If the Port so decides, for reasons to be recorded and approved by the Port Trust Board, it may also take over the structures after third party valuation of the assets with the concurrence of the lease holder. In case removal of structures is to be carried out by the Port, it would be at the cost of the lessee." The word compensation for wrongful use & occupation means the charges payable after after the expiry/termination of lease, which is equivalent to three(3) times of annual lease rent as per applicable SOR and is paybel from date of expiry/termination till date of obtaining vacant possession. In this case PT is not proposing to recover Compensation @ 3 times of SOR. However, the lessee would be liable to pay the occupation of charges from date of expiry/termination.

		iv) The revision under SoR 2012-17 is by statutory guidelines issued under PGLM, 2015 and clarifications issued by Ministry from time to time and therefore mandatory and binding on all parties concerned. The issue of renewal will be dealt with separately on case to case basis by Board of Trustees. SC judgment rates were valid only for 20 yrs i.e from 01.10.1992 to 30.09.2012 v) From 01.10.2012 onwards PGLM 2014-15 guidelines issued by MoPS&W GOI are applicable to MbPT and MbPT is free to revise the rentals on the SOR based on PGLM guidelines. vi) The SOR is applicable to only MTS, FML, expired leases and Licenses for the period 01.10.2012 onwards for 5 years that is up to 30.09.2017. That is the period beyond applicability of SC judgement rates. vii) These occupations are occupying MbPT land without any authorization from MbPT and leases/termination of tenancies/lease. viii) Circular No. EM/ASG/F-361/5873 dated 28.12.2012 vide which it was informed to all the lessees, tenants and occupants that revision of compensation / rent in respect of all the expired leases, monthly tenancies and fifteen monthly tenancies and licences /tenancies excepting subsisting long term leases of Port Trust premises is due from 01.10.2012 onwards. ix) Delay in submission of SOR proposal to TAMP was on account of the fact that PGLM 2014/15 were not applicable to Township area of Mumbai Port Trust. x) Vide clarification no 1 of 2018 dated 14.06.2018 issued under sec 111 of MoPS&W, GoI extended the PGLM 2015 guidelines to the Township area. xi) Matter was taken up with Ministry for withdrawal of notification dtd 15.03.2000. xii) MoPS&W ,GoI vide their no secy(s)/visit-Mumbai/land management/2018(333915) letter dated 15.05.2019 directed TAMP to fix the SoR for Mumbai port Trust land w.e.f. 01.10.2012 onwards. xiii) 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. xiv) High Court writ petition no 1153 of 2000 filed by MbPT challenging TAMP notification was withdrawn vide HC order dated 08.08.2019. xv) The LAC recommendation dated 13.08.2019 was placed before the Board, however same was deferred by Board by TR 114 of 20.08.2019, TR 149 dated 24.09.2019 and TR 169 dated 01.11.2019. Finally, Board gave approval to submit the proposal of SOR 2012-17 to TAMP vide TR 122 dated 03.08.2021. xvi) Accordingly, immediately after Board approval the said proposal was submitted to TAMP on 06.08.2021 xvii) Contention raised in this para is not correct. After expiry of the lease since there was no renewed clause revised lease rental as per SoR is levied in term of PGLM guidelines.
3	It is worthy to note we are an enterprise of Government of India, involved in the business of refining and marketing of Petroleum products in the interest of Public and Nation. It is also a notable fact MBPT is also one of state instrumentalities and their actions should be fair, transparent and reasonable, however, in the instant case same is grossly not followed by MBPT Both of us are the Central Government Department and/or an extended arm of Central Ministry and hence, issue has to be settled amicably. Without entering into the legality of such claim to revise the schedule of rates, it must be pointed out here only that the same would be expressly barred by law of Limitation. The Limitation Act, 1963 and the provision thereunder prohibit any predated claims and or passed claims beyond the period of limitation. Hence, any action by MBPT to demand any revised rates retrospectively for the subject period would be barred by law of limitation. The principles of estoppel would also come into play where under MBPT is stopped from seeking any revision to the schedule of rates retrospectively, having accepted the amount duly and diligently paid by BPCI. during the said subject period and even thereafter from month to month till date. In the absence of any enabling provision either as an by way of an agreement or understanding with BPCL or under any law in force. MBPT is precluded from proceeding with the exercis by	i) Contentions are denied as the charges payable are Compensation for wrongful use & occupation of premises are statutory and binding on the lessee who is holding over the premises unauthorizedly alongwith the other penal charges as per PT policy. ii) Vide Clarification no 1 of 2018 dated 14.06.2018 issued under sec 111 of MoPS&W, GoI extended the PGLM 2015 guidelines to the extended Township Matter was taken up with Ministry for withdrawal of notification did 15.03.2000. MoPS&W,GoI vide their no secy(s)/visit-Mumbai/land management /2018 (333915) letter dated 15.05.2019 directed TAMP to fix the SoR for Mumbai port Trust land wef. 01.10.2012 onwards. Accordingly TAMP vide Their letter dated 15.07.2019 issued a clarification that in view of PGLM 2015 guideline the TAMP notification 28.03.2000 has become infructuous so far as MbPT is concerned and it is not applicable for MbPT for period prior to 01.10.2012 and same may be treated prior to TAMP High Court writ petition as withdrawn by the no 1153 of 2000 filed by MbPT challenging TAMP notification was withdrawn vide HC order dated 08.08.2019. The LAC recommendation dated 13.08.2019 was placed before the Board, however same was deferred by Board by TR 114 of 201 0.08.2019, TR 149 dated 24.09.2019 and TR 169 dated 01.11.2019. Finally, Board I gave approval to submit the proposal of SOR 2012-17 to TAMP vide TR 122 dated 03.08 Accordingly, immediately after Board approval

	virtue of the present notice to invite comments on proposed revision of rates. In any event, the proposal to revise rent can only be done prospectively i.e. for future period MBPT in the instant case has accepted the terms of the lease and have continued in light thereof to honour the obligations set out therein to be performed the parties. In effect, the terms and condition of the original lease have been continued although on revised terms (with reference to the rentals). The provision of the Transfer of Property Act, 1882 would govern the leases executed by and between the parties. In particular, sections 105 up to section 117 of the said act would be applicable. In the instant cases i.e. the leases in question although have expired by efflux of time/expity of term, the principle of promissory estoppel entitles BPCL to occupy and continue in the lease premises on payment of the rent. Although. MBPT has never finalized the rates and/or rentals beyond the original period of lease, non- issuance of any demand notice and/or any proposal of what so ever nature for renewal of the lease for the subject period, and during subsistence of the said period, now does not give any right to MBPT to retrospectively finalize the rates and rentals. In view of the actions and/or inactions on the part of MBPT during the relevant period, to not seek revision through renewal of the lease, to now demand revised rates for the period which has passed. It can only be done with reference to future period and that too on renewed terms. The Indian Contract Act, 1872 and the provision there under cannot be ignored and overlooked by MBPT. In the absence of express agreement by and between the parties the proposal for revision is ill founded and without any basis. The internal notes, circulars or notifications issued by MBPT, would not be binding on BPCI, more so if the same are contrary or inconsistent with any prevalent law. Hence the demand raised vide notice by MBPT is contrary to the settled principles of law, opposed to equity and are arbitrary and	the said proposal was submitted to TAMP on 06.08.2021. iii) Contention raised in this para is not correct. After expiry of the lease since there was no renewed clause revised lease rental as per SoR is payable in term of PGLM guidelines. iv) The Lease for 30 years will be granted prospectively as per PGLM. However, arrears upto the Date of commencement fresh lease should be liquidating as per arrears statement calculated taking upto consideration approved SoR time to time. The provisions as regards Transfer/Assignment/Major/Amalgamation will be as per the policy approved by the Board. The contention raised in this para is not correct. The contention raised regarding Retrospective demand is not correct. This issue has already covered in length in the para I above The contention raised is not correct. There is no fault on the para of MbPT as already been clarified in para regarding retrospective demand of Revised rent. In terms of PGLM guidelines MbPT is well within its rights to demoted revised rates & BPCL shall liquidate the same. Lease Agreement not have renewal clause therefore there is not question that Lease Deed will include revision beyond lease period. v) It is to state that there is no contract post expiry of lease for extension & renewal. In absence of any renewal of lease contract lessee is holding over the premises unauthorisedly without any legal right and liable to pay compensation for wrongful use of premises as stated in para 11.3(h) .(i) & 12(F)of PGLM-2015.

	unreasonable and therefore being beyond the purview of law, not tenable. The express terms of the lease agreement also do not contemplate such revision. Needless to state that the entire exercise sought to be carried out belatedly by MBPT is not in line with any agreement or understanding arrived at between the parties, therefore the same is not tenable.	
4	Apart from the grounds of maintainability of the notice as setout herein above, we wish to provide brief comments without prejudice as under: 1. Repeated requests for renewal of leases which has expired on 30.06.2021 are yet to be answered by MBPT	It is Not correct. The MbPT stand has already been clarified to BPCL. There were several meetings conducted by Chairman and val Dy. Chairman and the PGLM guidelines were thoroughly explained to the officials of BPCL elaborately. be The issue of renewal will be dealt with separately on case to case basis by Board of Trustees.
5	2. There is no basis, rational or justification for the arbitrary proposed revision of schedule of rates retrospectively.	Refer para 2 & 3 above for reply to contention regarding retrospective demand.
6	3. The instances or nature of transaction relied upon cannot be considered for reasons detailed herein above. 4. The valuation reports are neither realistic nor based on thorough research. An exorbitant rate has been determined erroneously by MBPT in placing reliance on such reports. In the absence of any like, comparable land instances and reports of valuation providing realistic values, the same cannot be even considered. Hence, we strongly object to such documents (valuation reports and instances) being taken account of in determining lease rental rates.	The contentions are not correct. The valuation of JD island is based on recent transaction of allotment of land made to IOCL by JNPT at JNPT Port which is nearby to JD. In fact, JD island is well developed island and is important, best suited place for trade and handling of oil traffic Therefore, the valuation is realistic and based on thorough research and with comparable land instances and based on the five factors in term of PGLM 2015.
7	5. Bare perusal of the notice reveals that MBPT is proceeding with predetermined intention to revise the schedule of rates and comments have been invited only with a view to record that the rates have been determined after due notice to all concerned.	The contention raised in this para is not correct. No instruction was given by MbPT to the valuer. Tender was called for appointment of Govt. Register Valuer in MbPT panel and different RR Zones were entrusted for valuation to different valuers. The valuation strictly in terms of PGLM 2015.
8	6. The proposed rates are not only exorbitant but also without rational or basis and therefore cannot be accepted.	The rates are arrived at by the Govt. approved Valuer on the basis of transactions taken place and in term sof PGLM 2015.
9	7. It is an undisputed fact that no demand was ever raised by MBPT for the subject period. Hence, it is not open now to demand. Not only such demand would be contrary to law but also unjust and unfair	Refer para 2 & 3above for reply to contention regarding retrospective demand
10	We therefore place our strong objection to the proposed revision & further request that the notice/proposal to revise SOR for the period of 2017-2022 be withdrawn.	In view of above, the SoR proposal needs to be approved.

<table>
<tr><th>Sr. No.</th><th>Specific comments received from BPCL – Wadi Lube</th><th>Respone of MBPT</th></tr>
<tr><td>1</td><td>We are in receipt of your Notice No. EM/AS (G)/ F-382/1925 dated 06/10/2021(Proposal no 4) from MbPT regarding submission of our comments on revision of Schedule of Rates for period 01.10.2017 to 30.09.2022 by MbPT to TAMP on or before 20.10.2021.

Since the records are old pertaining to the lands and are kept at various locations within our organization, considering the paucity of time we shall be submitting detailed factual chronology of various relevant data and documents which have been exchanged between MBPT and us. Hence, we request that we may be granted 3 months' time to produce further documents and make further submissions that may be necessary.

At the outset it may be noted here only that under the provisions of Section 5 r/w Section 7 Burmah Shell Act, 1976 the term of the lease stood continued and renewed for further term, on the same terms and conditions. The said lease period post renewal (statutory) is still subsisting. Consequently there is no question of raising any demand for revised lease rental and no such occasion has arisen.

All rules, regulations, contrary/ inconsistent to the said Act cannot be relied upon the Act shall prevail.

We are hereby submitting our comments/objections to the revision in Schedule of Rates for the period of 01.10.2017 to 30.09.2022.

Kindly note that we are submitting our comments for the Plots described hereunder only (only for the lands which are under control of Wadilube Installation, BPCL and mentioned in the above mentioned proposal), and comments as mentioned in the SOR for 2017-2022.

<table>
<tr><th>Name of BPCL set up</th><th>RR No's / Plot No's</th><th>Area in Sqr Mtr</th><th>MbPT Customer Code</th></tr>
<tr><td>Wadilube Installation (Main Plant)</td><td>1705, 1713 & 1899</td><td>29606.06</td><td>30901413</td></tr>
</table>
</td><td>(i). BPCL stated that by various letters to MbPT they had requested for renewal of lease however MbPT has not taken any action. Contentions raised are not correct. After expiry of the lease, since there was no renewal clause, revised lease rental as per SoR is levied in terms of PGLM guidelines. The issue of renewal will be dealt with separately on case to case basis by Board of Trustees.
In this regards it is too state that as per Ministry of Finance notification dt. 08.08.2021 stated that without cabinet approval there should be no alienation of government land and accordingly renewal of leases and fresh allotment were kept in abeyance. Thereafter PGLM, 2014 was received from Ministry of Shipping which had excluded the township areas of Mumbai, Kandla and Kolkata Port trust. After follow up with Ministry, MoS had issued Clarification no. 1 of 2018 thereby extending PGLM, 2015 to township areas of Mumbai, Kandla and Kolkata port trust. Also Ministry had issued direction to TAMP for approval of SOR which as per provision of PGLM, 2015. Accordingly, Board as per various TR had approved SoR for 2012-17 and 2017-22 for various Ready Reckoner zones in MbPT jurisdiction. Also provisional offers where made to oil companies conveying the upfront premium based on proposed SoR subject to approval of TAMP. After expiry of lease BPCL & HPCL & IOCL were called on called several occasions, 4 meetings were held with respective Chairman & Dy. Chairman. OMC did not accept proposed revised rents. However, oil companies did not come forward for accepting the SoR and did not agree for payment of upfront premium conveyed to them as recommended by LAC and approved by the Board. Hence there is no delay in part of MbPT for the renewal of leases.

(ii). 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</td></tr>
</table>

Wadilube Installation (FO Section)	1698, 1708 & 1714	16464.28	30901414
Wadilube Installation (Grease and bunkering sections)	1960, 2027 & 2016	11739.13	30901404/ 30901336/ 30901405

Thus a total area of 57,809 SQMT has been leased to BPCL by MbPT for our Wadilube Installation. It is submitted that leases for lands stated herein above continued to be valid during the period of proposed revised SOR period i.e. 2017-2022. At the outset, we deny that MBPT is entitled to seek revision of schedule of rates of rent payable retrospectively for the period of 01.10.2017 up to 30.06.2021 for the said lands and also submit that the rentals will be governed by the agreement.

Kindly note that we have addressed various correspondences for the renewal of lease of said plots and fixation of rates up to 2017. The said correspondences shall be separately filed and relied upon on a later date.

Now, with regard to your notice, since the same is general in nature and not with regard to any specific plot of land, it is apparent that the plots, their locations, usage etc have not been taken into consideration at all. We, however, submit as under:

1) It is submitted that much before the expiry of leases for plots of land as mentioned in the table herein before provided, we had addressed several communications for renewal of the lease in line with the MOU executed between Chairman MBPT and Chairman BPCL dated 30.07.1991.
2) Vide letter dated 08.09.2021 we had once again extended our willingness for renewal of leases for all plots at mutually agreed rates, terms and conditions.

During such period no attempt was made on the part of MBPT either to respond to such requests for renewal of leases.

(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 land use, present infrastructure and facilities in the area and has arrived at market rate by using appropriate method of valuations to make the land rate comparable to the present land use. Also the valuer had 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 contention are incorrect.

(iii). Reply has already stated in para 2 above. Further it is to state that in case of petrol pump full FSI is not realizable. The circumstances are howver completely differernt. The oil companies knows that if they set up a petrol pump, they cannot use full FSI. Still they choose to establish a petrol pump etc. Obviously oil companies have consider that use to be the most economical. Hence oil companies cannot be granted any relief in case of SoR.

(iv). Reply has already stated in para (ii) and (iii) above.

(v). 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

	It is notable fact that Corporation is paying regular rentals as per the demand of MbPT. We submit that from time to time we have been requesting MbPT to come forward for renewal of leases and to offer land on long term lease at mutually agreeable rates, terms and conditions after giving concession as per clause 11.2. (h) of PGLM, 2015. However, even after our repeated written and oral requests, MbPT failed to concede to our request. We submit the revised SOR for 2017-2022 has been uploaded on TAMP website, which claims to be as per provisions of PGLM 2015 at Rs. 851.2 /- per SQM. We refer to clause 13(a) of PGLM 2015 which is as follows i. State Government's ready reckoner of land values in the area, if available for similar classification/ activities. ii. Highest rate of actual relevant transactions registered in last three years in the Port's vicinity (the vicinity of the Port is to be decided by the respective Port Trust Boards), with an appropriate annual escalation rate to be approved by the Port Trust Board. iii. Highest accepted tender-cum-auction rate of Port land for similar transactions, updated on the basis of the annual escalation rate approved by the Port Trust Board. iv. Rate arrived at by an approved valuer appointed for the purpose by the Port. v. Any other relevant factor as may be identified by the Port. As per said PGLM guidelines, LAC has to consider the above mentioned factors for determining the fair market value of the port land. The above guidelines are very clear and evident to do necessary assessment of “Fair Market Value” of subject plots. The LAC is relied on the valuation report of valuer which is the highest of the factors as per above clause. We have perused the valuation report relied upon by MBPT. We now submit our objections to the said LAC report and as to why the said report should not be considered by TAMP for revision of	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. (vi). Already stated in para (ii) and (iii) above. (vii). The statement made is incorrect as provisional arrears statement and upfront premium as per proposed SoR had been conveyed to oil companies and meetings had been held at senior management level for the renewal of leases. With respect to revision of rent/ compensation retrospectively, 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”

	SOR for plots mentioned herein above for 1.10.2017 to 30.09.2022. Upon perusal of referred transactions by MBPT based on which valuation report has been prepared and relied upon, we submit that “relevant transaction” shall always mean and include comparable properties or similar properties, and hence the reliance of placed by LAC on above transactions are incorrect and consequently entire assessment becomes defective and incorrect for the following reasons: a) That the said transactions pertains to constructed facilities occupying FSI>1 therefore cannot be referred to as these exist in densely populated and developed areas whereas plots leased to us have FSI of less than 0.4 moreover are located in an uninhabited areas. Therefore, there being no similarities on the referred plots and lease plots, the rationale adopted by LAC is not only illogical but also not in accordance with law. b) That the size of the transacted area referred to in the above table vis- a –vis the size of the plots leased to us are not comparable for the reason that the transacted areas are in the sizes which are completely in contrast to plots leased to BPCL which are of total size 57,809 SQM. Therefore, it can be seen that the comparison is completely incorrect and should not have been adopted by LAC. c) Moreover the nature of transactions in the said transacted area cannot be compared since our Corporation had been allotted plots on long lease by MbPT. **It is imperative that the Ready Reckoner Guideline factors affect valuation and should be read along with Ready Reckoner Value to arrive at proper valuation. The same are not considered, which resulted in erroneous calculation of calculation as the SDRR for FSI 1 was considered whereas the FSI being occupied by BPCL is less than 0.4 (approved is maximum of 0.5). Accordingly, due to application of incomplete guidelines of SDRR (Stamp Duty Ready Reckoner) the method used to ascertain the valuation of the immovable property is incorrect and incomplete.** **Hence, it is submitted that thevassessment of the ‘SOR’ for the period 2017 to 2022 is erroneous.** **We reserve our right and contentions to produce our counter valuation report**	

mentioning the discrepancy in the method of calculation.

Now, having said the above with regard to the LAC report and as to why the same should be rejected by TAMP, we put before your additional points for consideration

(1). As far as the leased Plots of land are concerned we state that in absence of any agreement or understanding recorded between BPCL and MBPT to the effect that MBPT would be entitled to seek revision of rates retrospectively or in future (in absence of any renewal terms agreed upon between the parties); it is not open now for MBPT to seek revision of schedule of rates for plot of land as mentioned herein above.

a. It being barred by limitation
b. Revised rentals cannot be decided unilaterally and retrospectively
c. Even after repeated request by BPCL to renew the lease, MbPT failed to take any action or even respond to our request. Therefore the same cannot be revised by them without any rationale or basis and that too retrospectively. Any revisions in rentals are to be prospectively and mutually agreed.

(2). We state that the rentals for the allotted plots were to be governed by the provisions of clause iii of land allotment letter dated 11.10.1991 till the validity of lease period i.e. till 30.06.2021. As far as question of implementation of revised SoR effective 01.07.2021 is concerned we place reliance on clause (iii) as per clause 11.3 (j) of PGLM 2015 it is stated that "The process of renewal of existing leases should be initiated by the respective Ports well in advance, before the term of lease expires. The automatic renewal of existing leases should be preferably done within three months of receipt of such application for renewal.

Liability to pay compensation for wrongful use by the lessee will not arise, if the delay in renewing such leases is wholly attributable to the Port." As till date there is no action taken by MbPT on repeated request to renew the lease, any revision on lease rental (on mutually agreed terms and condition) can now be made effective three months from the date of finalization of the said rates or strictly as per terms of lease.

(3). That MbPT in there submission for revised SOR has not explained/clarified the basis for considering land rental value and escalation on annual basis.

It is worthy to note we are the enterprise of Government of India, involved in the business

	of refining and marketing of Petroleum products in the interest of Public and Nation. It is also notable fact MbPT is also one of state instrumentalities and their actions should be fair, transparent and reasonable, however, in the instant case same is grossly not followed by MbPT Strictly, without prejudice to and in the alternative to the above, it is most humbly submitted that undoubtedly our acts, performs and discharges its duties, powers and functions directly under the superintendence of Ministry of Petroleum and Natural Gas. We also submit that MbPT too acts, performs and discharges its duties, powers and functions directly under the superintendence of Ministry of Major Port. Thus, both of us are the Central Government Department and/or an extended arm of Central Ministry and hence, issue has to be settled amicably. Without entering into the legality of such claim to revise the schedule of rates, it must be pointed out here only that the same j prohibit any predated claims and or passed claims beyond the period of limitation. Hence, any action by MBPT to demand any revised rates retrospectively for the subject period would be barred by law of limitation. The principles of estoppel would also come into play where under MBPT is stopped from seeking any revision to the schedule of rates retrospectively, having accepted the amount duly and diligently paid by j any enabling provision either as an by way of an agreement or understanding with BPCL or under any law in force, MBPT is precluded from proceeding with the exercise by virtue of the present notice to invite comments on proposed revision of rates. In any event, the proposal to revise rent can only be done prospectively i.e. for future period. MBPT in the instant case has accepted the terms of the lease and have continued in light thereof to honor the obligations set out therein to be performed the parties. In effect, the terms and condition of the original lease have been continued although on revised terms (with reference to the rentals). The provision of the Transfer of Property Act, 1882 would govern the leases executed by and between the parties. In particular, sections 105 up to section 117 of the said act would be applicable.	

	In the instant cases i.e. the leases in question although have expired by efflux of time/expiry of term, the principle of promissory estoppel entitles BPCL to occupy and continue in the lease premises on payment of the rent. Although, MBPT has never finalized the rates and/or rentals beyond the original period of lease, non- issuance of any demand notice and/or any proposal of what so ever nature for renewal of the lease for the subject period, and during subsistence of the said period, now does not give any right to MBPT to retrospectively finalize the rates and rentals. In view of the actions and/or inactions on the part of MBPT during the relevant period, to not seek revision through renewal of the lease, to now demand revised rates for the period which has passed. It can only be done with reference to future period and that too on renewed terms. The Indian Contract Act, 1872 and the provision there under cannot be ignored and overlooked by MBPT. In the absence of express agreement by and between the parties the proposal for revision is ill founded and without any basis. The internal notes, circulars or notifications issued by MBPT, would not be binding on BPCL, more so if the same are contrary or inconsistent with any prevalent law. Hence the demand raised vide notice by MBPT is contrary to the settled principles of law, opposed to equity and are arbitrary and unreasonable and therefore being beyond the purview of law, not tenable. The express terms of the lease agreement also do not contemplate such revision. Needless to state that the entire exercise sought to be carried out belatedly by MBPT is not in line with any agreement or understanding arrived at between the parties, therefore the same is not tenable. Apart from the grounds of maintainability of the notice as setout herein above, we wish to provide brief comments without prejudice as under: 1. Repeated requests for renewal of leases which has expired on 30.06.2021 are yet to be answered by MBPT	

	2. There is no basis, rational or justification for the arbitrary proposed revision of schedule of rates retrospectively. 3. The instances or nature of transaction relied upon cannot be considered for reasons detailed herein above. 4. The valuation reports are neither realistic nor based on thorough research. An exorbitant rate has been determined erroneously by MBPT in placing reliance on such reports. In the absence of any like, comparable land instances and reports of valuation providing realistic values, the same cannot be even considered. Hence, we strongly object to such documents (valuation reports and instances) being taken account of in determining lease rental rates. 5. Bare perusal of the notice reveals that MBPT is proceeding with predetermined intention to revise the schedule of rates and comments have been invited only with a view to record that the rates have been determined after due notice to all concerned. 6. The proposed rates are not only exorbitant but also without rational or basis and therefore cannot be accepted. 7. It is an undisputed fact that no demand was ever raised by MBPT for the subject period. Hence, it is not open now to demand. Not only such demand would be contrary to law but also unjust and unfair. We are ready and willing to participate in any hearing and to substantiate our stand has been briefly stated hereinabove and to produce any document which may be necessary. We may be granted 3 months' time for the said purpose. We therefore request that our strong objection to the proposed revision be recorded and accepted. We further request that the notice/proposal to revise SOR for the period of 2017-2022 be dropped / withdrawn with immediate effect.	

Sr. No.	**Specific comments received from TATA Power Co. Ltd.**	**Respone of MBPT**

1.	It is submitted that the letter intimating that the proposal No. 4 was uploaded on the MbPT website on 6.10.2021 was received on 13 th October 2021 and accordingly the last date for submission of remarks should be extended by 7 days i.e. up to 27.10.2021.	This is to state that Proposal No. 4 was uploaded on the Mb.P.T website and thereafter sufficient time was given. 15 days time granted after uploading the proposal on MbPT website i.e, upto 28.08.2021 as per directions of the TAMP
2.	Without prejudice to the above, the remarks are offered as hereinbelow. The remarks below are without prejudice to one another and in the alternative.	No comments
3.	The page numbers of valuation reports referred are the page numbers displayed on the computer screen since the pages are physically un-numbered. It appears that Valuer recommendation Land Allotment Committee (LAC) report on MbPT Valuer SOR recommendation is not approved by MbPT Board as Bord approval is not uploaded on MbPT website. In that case, the proposal is without authority is liable to be rejected. The comments are given based on LAC Valuers reports.	All Proposals for revision of SoR were approved by the Board based on the recommendations LAC. All related documents were submitted to TAMP alongwith proposal.
4.	We reiterate our comments as offered in our letter no. BP/225-A/360 cit. 26.8.2021	No comments
5.	That Ready Reckoner rates for 2016-17 to 2019-20 have been kept same by GOM whereas MbPT has increased the rates @4% every year from 2017 is without logic arbitrary and is liable to be rejected.	No comments
6.	In the specific comments given below, for many of the zones requisite documents have not been supplied as specified therein. TAMP is requested to arrange to furnish these documents & grant suitable time for additional remarks if any.	All Proposals for revision of SoR were approved by the Board based on the recommendations LAC. All related documents were submitted to TAMP alongwith proposal
	In the specific comments given below, it is seen that valuation reports have derived valuation for only one of the MbPT properties for each of the respective zones while MbPT has proceeded to adopt the same for all properties located in that zone which is completely irrational as not only the plot sizes vary from one another but also have different characters. On this basis also. the proposal is liable to be rejected.	MbPT is duty bound to implement PGLM 2015 issued by MoS, GoI. In each RR Zones, 3 sample plots have been considered by the valuer. Hence, contentions are not correct.
7.	In the specific comments given below. it is seen that valuation reports have derived valuation for vacant MbPT properties proceeded to adopt the same for the entire zone. Tt needs to be clearly understood that	The SoR rates are based on the laid down procedure under para 13 of PGLM 2015, and the same is recommended by the LAC and approved by the Board and further submitted to TAMP for approval.

	the letting of MbPT being occupied, these rates derived for vacant plots cannot be made applicable the proposal is liable to be rejected. In the specific comments given below, it is seen that valuation reports have derived valuations for MbPT commercial/ industrial properties by choosing comparable residential properties/ in residential zones & proceeded to adopt the same for the entire zone. Such derivation is irrational is liable to be rejected. LAC in their reports has recommended for 6% return on land value 4% increase every October, basis of this is not described. Specific Comments: Ready Reckoner Zone -14/101 A (Unit- ND-Unit 1. Dadar Naieaon) of Annexure Ill A: Land Allotment Committee Report for Zone Valuation report are not uploaded. Hence unable to give any comments. Ready Reckoner Zone -1 1/86 (Unit-ND/CD/Bunders/ Unit Parel-Sewree) of Annexure Ill A: Land Allotment Committee Report for Zone Valuation report not uploaded. Hence unable to give any comments. Ready Reckoner Zone -1 1/85A (Unit- ND-Unit 3 Parel-Sewree) of Annexure Ill A: 1 . As per LAC report Sr. no 6(iii), TR 61 of 2018 TR 105 of 2018 are not uploaded. Need to submit these TRs to review and give comments. At the outset as per LAC report Sr. no 6 (i) it is submitted that the land rate proposed to be adopted is Rs. 1,78,448/- per Sqm which is -455% of the ready reckoner rate. It is not only too exorbitant but also against the principles laid down by the Hon 'ble Supreme Court as cited in our letter no. BP/225-A/360 cit. 26.8.2021 & therefore not acceptable. LAC tabulation report Sr. 3 has wrongly considered the Ready reckoner rate of Rs. 31 ,300/- for Zone 1 1 /85A. As per Ready Reckoner FY 2017-18 rate for Zone 1 1 /85A is Rs. 39200/- per sqm for open land and the Valuer's report has also relied upon the RRV as 31,300/- at Pg. 8,11,14 which is factually incorrect (Ready Reckoner pg. attached Annexure 1). As per Valuer report at Pg. 14 at Sr. no 34, it is mentioned that Property tax is borne by Owner i.e. MbPT, which is factually incorrect as the tax for any property is liable to be borne by Lessee/ Tenant of MbPT. The quantum needs to be deducted appropriately which is not done and hence the report gives	Para 13: MbPT proposed 6% return on FMV and annual escalation of 4% every October as per para 13 of PGLM 2015. For example, Ready Reckoner Land value of Wadala (14/101) in 2012 is Rs. 24,000 and in 2017 is 40,200 which is almost 10% annual growth, whereas MbPT proposed escalation at the rate of 4%. **Reply to Specific Comments:** The land values in the Ready Reckoner Zones of MbPT lands are varying from Rs. 19,400 to Rs. 2,80,000 and average value works out to Rs. 1,50,000, whereas land rates of Ready Reckoner Zones outside MbPT lands varies between Rs. 19,400 to Rs. 3,77,200 and average value works out to Rs. 1,98,000. Considering the mean value (RR 2017) of is Rs. 1,74,000 for lands in MbPT area and outside MbPT area. The MbPT valuers have recommended FMV which are average of Rs. 1,75,718 for lands which ranges between Rs. 53,820 to Rs. 3,31,600. In all cases Valuer has considered nearest available sale instance which is within 2 to 2.5 k.m. The Valuer has done the Valuation scientifically for all zones & LAC has deliberated on the same and recommended the rates furnished by the Valuer. Valuer has furnished Land Value for industrial/commercial use after taking into consideration 5 factors stipulated in PGLM-2015. Valuer has properly & scientifically done the valuation and all heads of expenses prevailing at present market in Mumbai as on 2017 is considered by him (Since as Architect fees, Structural Engineer's fee / cost to be incurred for plan approval as per present market norms in 2017 is considered & Board vide TR 112 of 20.08.2019 approved the said rates. MbPT is bound by PGLM 2015 and dictats issued by MOPS &W. In PGLM 2015 it is clearly stipulated 5 factors need to be considered, one of them is State Govt. Stamp Duty Ready Reckoner Rates. Govt. Registered Valuers entrusted the job of Valuation who have furnished FMV after considering 5 factors. Rates determined by state Governments do not have any bearing with MbPT SoR. The Land allotment Committee (LAC) had deliberated on the rates furnished by the Valuer and recommended the same which is approved by Chairman and Board of Trustees. In the PGLM guidelines, it is stated

	incorrect derivation hence cannot be relied upon. As per valuer reports pg. 26,the land rate derived at on the basis of transaction instances cannot be considered as representative since it is done for a very small area varying from 38.57 sqm to 129.69 sqm of residential properties whereas the valuation is being done for the area of 955.97 sqm, for land building for commercial use property. Hence the report is liable to be rejected. Valuer has derived in pg.26 average value of Mazgaon area Rs. 2,85,516/-sqm and the same is transposed to Parel- Sewree Division having entirely different characteristics. Hence this valuation cannot be relied upon being devoid of any documentary evidence. Pg. no 26 of valuer report, Valuer has considered several assumptions to derive the rate of the land; 30% profit of the developer Deduction of Rs. 30,000/-sqm Deduction of 15% for lease/rental/license land Deduction of 15% for present facilities Deduction of 7.5% for lack of amenities No evidence has been supplied as to the applicability of these assumptions as any change in these parameters will completely alter the derived land rates per sq. mtr.& hence it is liable to be rejected. Valuation report at Pg. 28 to 33 is not legible hence comments cannot be offered. Requesting MbPT to submit the same grant of suitable to offer remarks. Valuer has not considered the Environmental assessment study for valuation of the zone. Hence report cannot be relied upon. At Page 33, the Valuer has provided a disclaimer about environmental hazard that may impact valuation also suggested environmental assessment report to be prepared. However, MbPT has neither given any EIA report as recommended by Valuer nor any clarification thereon. Hence valuation report is liable to be rejected. Conclusion In view of the above, the rate recommended in the valuation report i.e. Rs. 1 ,78,450/- for Zone 1 1 /85A cannot be relied upon for application is liable to be rejected. Ready Reckoner Zone -1 1/85 (Unit-ND/CD/Bunders/ Unit 4.5.13? Parel- Sewree) of Annexure Ill A: . Zone 1 1 /85 Land Allotment Committee report not uploaded on the MbPT website.	that sale instances within a radius of 2-2.5 k.m. may be considered for determining FMV of the Port Land. In view of the above, MbPT has followed PGLM 2015 in revision of SoR.

	Requesting MbPT to submit the same grant of suitable time to offer remarks. At the outset as per Valuer report derived vatue of Rs. 1,68,450/- sqm for zone 1 1 /85 of Paret-Sewree is -538% of the ready reckoner rate. It is not only exorbitant but also against the principles laid down by the Hon'ble Supreme Court as cited in our letter no. BP/225-A/360 cit. 26.8.2021 therefore not acceptable. As per Valuer report at Pg.5 at Sr. no 34, it is mentioned that Property tax is borne by tenant. This quantum needs to be deducted appropriately which is not done and hence the report gives incorrect derivation hence cannot be relied upon. As per valuer report pg. 6-7, the land rate derived at on the basis of transaction instances cannot be considered as representative since it is done for a very small area varying from 38.57 sqm to 129.69 sqm of residential properties at a dist. Of 1.1 to 2.8 KM away, whereas the valuation is being done for the area of 5464.37 sqm, for lease hold plot at industriat/commercial use property. Hence the report is liable to be rejected. Pg. no 7 of valuer report, Valuer has considered several assumptions to derive the rate of the land; 30% profit of the developer Deduction of Rs. 30,000/-sqm Deduction of 41% for basic civil amenities No evidence has been supplied as to the applicability of these assumptions as any change in these parameters will completely alter the derived land rates per sq.mtr. hence it is liable to Valuer not considered Environmental assessment study report. Hence valuation report is liable to be rejected. Conclusion - In view of the above, the rate recommended in the valuation report i.e. Rs.l ,68,450/- for Zone 1 1 /85 cannot be relied upon for application is liable to be rejected. 5 Readv Reckoner Zone -1 1/84 (Unit- ND/ Unit 2. Pare(- Sewree) of Annexure Ill A: 1 . At the outset as per Valuer report, derived value of Rs. 1,71 ,310/- sqm for zone 1 1 /84 of Parel-Sewree is -180% of the ready reckoner rate. It is not only exorbitant but also against the principles laid down by the Hon'ble Supreme Court as cited in our letter no. BP/225-A/360 dt. 26.8.2021 & therefore not acceptable. Pg. no 4 of valuer report Part I , Valuer has considered several assumptions to derive the rate of the land;	

	30% profit of the developer Deduction of Rs. 30,000/-sqm Deduction of 10% for lease/ rental/ license land Deduction of 10% for present facilities Deduction of 5% for lack of amenities No evidence has been supplied as to the applicability of these assumptions as any change in these parameters will completely alter the derived land rates per sq.mtr. Valuer has derived in pg. 4 at Sr. no 4, average value of Mazgaon area Rs. 2,28,510/and the same is transposed to Parel- Sewree Division having entirely different characteristics. Hence this valuation cannot be relied upon being devoid of any documentary evidence. As per Valuer report at Pg. 7 of Part I Questioner at Sr. no 34, it is mentioned that Property tax is borne by Owner i.e. MbPT, which is factually incorrect as the tax for any property is liable to be borne by Lessee/ Tenant of MbPT. The quantum needs to be deducted appropriately which is not done and hence the report gives incorrect derivation & hence cannot be relied upon. TR 61 of 2018 TR 105 OF 2018 are not uploaded in the MbPT site which should be done forthwith & suitable time granted for additional remarks, if any. Pg. 9 of Valuer report Part II: Valuer has considered 3 sale instances. Two of Byculla & one of Chinchpokali of distance 1 to 3 Km away from the MbPT property for which valuation is being derived. All three sale instances are of Residential properties having non-comparable area ranging from 67 sqm to 87 sqm. whereas the valuation is being done for disproportionately large area of 766.87 sqm, that too for Commercial zone. Hence the report is liable to be rejected. Valuer report Part II Pg. 13 Valuer has given condition about valuation of the land only to be considered subject to Environmental clearance/Assessment study if property used only for port trust activity. However, MbPT has neither given any EIA report nor activity as recommended by Valuer nor any clarification thereon. In Pg. 15 Valuer has suggested to prepare Environmental assessment study. In absence of all above, this report cannot be relied upon. Conclusion - In view of the above, the rate recommended in the valuation report i.e. Rs. 1 ,71 ,310/- for Zone 11/84 cannot be relied upon for application is liable to be rejected. 6. Ready Reckoner Zone -1 1/84A (Unit- ND/ Unit 2, Parel- Sewree) of Annexure III A:	

	At the outset as per Valuer report derived value of Rs. 1,71 ,310/- sqm for zone 1 1 /84A of Pare(-Sewree is -300% of the ready reckoner rate. It is not only too exorbitant but also against the principles laid down by the Hon'ble Supreme Court as cited in our letter no. BP/225-A/360 dt. 26.8.2021 therefore not acceptable. No basis is given for the average rate of land for Paret- Sewri zone Rs. 2,85,516/-, how it is arrived at is not understood since not explained. Valuer has not checked any sale transactions for last 3 years to derive the value. It is therefore arbitrary liable to be rejected. Pg. no 4 of valuer report, Valuer has considered several assumptions to derive the rate of the land; 30% profit of the developer Deduction of Rs. 30,000/-sqm Recommendation for Deduction of 40% No evidence has been supplied as to the applicability of these assumptions as any change in these parameters will completely alter the derived land rates per sqm. Pg. no. 7 Sr. n034 it is mentioned that Property tax is borne by Owner i.e. MbPT, which is factually incorrect as the tax for any property is liable to be borne by Lessee/ Tenant of MbPT. The quantum needs to be deducted appropriately which is not done and hence the report cannot be relied upon. In the Valuer's report dt.21/12/2019. at Page 8 it is declared that the report is valid for 1 year from the date of the report. One year having expired on 21/11/20202 this report cannot be relied upon to adopt the land rate for Ready Reckoner Zone of 11/84A at Rs. 1.71 ,310/-. Conclusion - In view of the above, the rate recommended in the valuation report i.e. Rs. 1,71,310/- 1 1 /84A for Zone cannot be relied upon for application is liable to be rejected 7. Ready Reckoner Zone -10/79A (Unit- ND/ Unit 3, Mazaaon) of Annexure Ill A: . At the outset as per Valuer report derived value of Rs. 1,85,590/- sqm for zone 10/79A of Parel-Sewree is -660% of the ready reckoner rate (RR rate- Rs 28100/-sqm). It is not only exorbitantly exorbitant but also against the principles laid down by the Hon'ble Supreme Court as cited in our letter no. BP/225-A/360 dt. 26.8.2021 & therefore not acceptable. Pg. no 10 Sr. n034 it is mentioned that Property tax borne by Owner i.e. MbPT, which is factually incorrect as the tax for any	

	property is liable to be borne by Lessee/ Tenant of MbPT. The quantum needs to be deducted appropriately which is not done and hence the report cannot be relied upon. Pg. no 10 Sr. no 39 no basis given for land rate adoption of Rs, 185000/-sqm to 287000/sqm. Details of the sale instances Pg. 15; Valuer has considered 3 sale instances of distance 1 to 3 Km away from the Zone. All three sales are of Residential property from Luxurious high-rise towers, having area ranging from 38 sqm to 129 sqm. whereas the valuation is being done for the area of 625.84 sqm for land Commercial zone. On this basis also, the report is liable to be rejected. Pg. no 15 of valuer report, Valuer has considered several assumptions to derive the rate of the land; 30% profit of the develöper Deduction of Rs. 30,000/-sqm Recommendation for Deduction of 35% No evidence has been supplied as to the applicability of these assumptions as any change in these parameters will completely alter the derived land rates per sq.mtr. Valuer report at Pg. 20 Valuer has given condition about valuation of the land only to be considered subject to Environmental clearance/Assessment study if property is used only for port trust activity which is not explained. However, MbPT has neither given any EIA report nor activity as recommended by Valuer nor any clarification thereon. In Pg. 21 Valuer has suggested to prepare Environmental assessment study. In absence of all the above, this report cannot be relied upon is liable to be rejected. Conclusion - In view of the above, the rate recommended in the valuation report i.e. Rs. 1 ,85,590/- 1 1 /79A is liable to be rejected. 8 Ready Reckoner Zone -10/78A (Unit-CD- Unit 6,8, Mazeaon) of Annexure Ill A: Valuation report for zone 10/78A (Unit-CD-Unit 6,8 Mazgaon) not uploaded on the MbPT site. Hence Comments offered on the LAC report. Requesting MbPT to submit the valuer report grant of suitable time to offer remarks At the outset, LAC has recommended the zone land value of Rs. 1 sqm for zone 10/78A for Mazgaon, which is -350% of the ready reckoner rate (RR rate- Rs 51 ,600/sqm). It is not only exorbitant but also against the principles laid down by the Hon'ble Supreme Court as cited in our letter no. BP/225-A/360 dt. 26.8.2021 & therefore not acceptable. In the absence of Valuer report, LAC recommendation, value for zone 10/78A	

	cannot be accepted as there is no justification described in the LAC report to derive land rate of Rs. 1, 70,240/-sqm. Hence Valuation recommended by LAC report cannot be accepted. Conclusion - In view of non-availability of Valuer report, the rate recommended in the LAC report i.e. Rs.l for Zone 11/78A cannot be relied upon for application to be rejected. 9. Ready Reckoner Zene -10/78B (Unit- CD- Unit 8, Mazgaon) of Annexure Ill A: At the outset, LAC has recommended the zone land value of Rs. 1 sqm for zone 10/ 78B for Mazgaon which is -453% of the ready reckoner rate (RR rate- Rs 37,500/sqm). It is not only exorbitantly exorbitant but also against the principles laid down by the Hon'ble Supreme Court as cited in our letter no. BP/225-A/360 dt. 26.8.2021 therefore not acceptable. In the absence of Valuer report, LAC recommendation value for zone 10/ 78B cannot be accepted as there is no justification described in the LAC report to derive land rate of Rs. 1,70,240/-sqm. Hence Valuation recommended by LAC report cannot be accepted. Requesting MbPT to submit the valuer report & grant of suitable time to offer remarks Conclusion - In view of non-availability of Valuer report, the rate recommended in the LAC report i.e. Rs.1 11 / 78B liable to 10 Ready Reckoner Zone -3/36 (Unit- SD- Unit 9t Princess Dock) of Annexure Ill A: . LAC recommendation report for Zone 3/36 (Unit- SD- Unit 9, Princess Dock) is not uploaded in MbPT website. At the outset as per Valuer report, derived value of Rs. 1,70,240/- sqm for zone 3/36 of Princess Dock is -300% of the ready reckoner rate (RR rate- Rs 56,400/-sqm). It is not only exorbitant but also against the principles laid down by the Hon'ble Supreme Court as cited in our letter no. BP/225-A/360 dt. 26.8.2021 therefore not acceptable. From Pg. 8 of Valuer report, it is observed that Valuer has admitted that there is no record of transaction in the vicinity of this property for last 3 years. Hence, he has evaluated the Princess dock Zone 3/36 land rate with that of 2 sale instances of Residential built-up property of Byculla 1 of Chinchpokali area of residential built up sale transaction, which is practically incorrect as subject property for which the valuation is being derived is commercial land of area 16464.26 sqm. On	

	the above basis the report is liable to be rejected. It is observed in the Ready Reckoner FY 2017-2018, it describes only rate of open land for Princess Dock Zone 3/36 and no rates are given for Residential/ industrial/ commercial rate. It clearly indicated that there is no activity in this zone Valuer has evaluated the land rate from Residential High-Rise building transaction of area much less that the actual area valuations required. Hence Valuer report cannot be relied upon. Details of the sale instance Pg. 8: Valuer has considered 3 sale instances of distance 1 to 3 Km away from the Zone. two are from Byculla one from Chinchpokali area. All three sales are of Residential property from Luxurious high-rise towers having area ranging from 67 sqm to 86 sqm. whereas the valuation is being done for the area of 16464.28 Sqm that too for Commercial zone. On the above basis also, the report is liable to be rejected. Pg. no 9 of valuer report, Valuer has considered several assumptions to derive the rate of the land; 30% profit of the developer Deduction of Rs. 30,000/-sqm Recommendation for Deduction of 25.5% No evidence has been supplied as to the applicability of these assumptions as any change in these parameters will completely alter the derived land rates per sq.mtr., hence cannot be relied upon. Pg. 9 of Valuer report Valuer has admitted the land use for Industrial/Commercial/ Recreation. But has evaluated the land rate on the basis of 3 no. Sale transaction of Residential. Hence this report be Valuer report Pg. 1 1 - Valuer has given condition about valuation of the land only to be considered subject to Environmental clearance/Assessment study & if property used only for port trust activity. However, MbPT has neither given any EIA report nor activity as recommended by Valuer nor any clarification thereon. In Pg. 21 Valuer has suggested to prepare Environmental assessment study. In the absence of all above, this report cannot be retied upon. Conclusion - In view of the above, the rate recommended in the valuation report i.e. Rs.I for Zone 3/36 cannot be relied upon for application & liable to be rejected.	

	1 1 Readv Reckoner Zone -3/35 (Unit-SD/Bunders- Unit 9, 10.14 Princess Dock) of Annexure Ill A: 1 . At the outset as per Valuer report derived value of Rs. 1,70,240/- sqm for zone 3/35 of Princess Dock is -217% of the ready reckoner rate (RR rate- Rs 78,400/-sqm). It is not only exorbitant but also against the principles laid down by the Hon'ble Supreme Court as cited in our letter no. BP/225-A/360 cit. 26.8.2021 therefore not acceptable. As per Valuer report Pg. 7 Sr. no 34 it is mentioned that Property tax is borne by Owner i.e. MbPT, which is factually incorrect as the tax for any property is liable to be borne by Lessee/ Tenant of MbPT. The quantum needs to be deducted appropriately which is not done and hence the report cannot be relied upon. Pg. 9 of Valuer report Part Il :- Valuer has considered 3 sale instances. two of Byculla one of Chinchpokali of distance 1 to 3 Km away from the MbPT property for which valuation is being derived. All three sale instances are of Residential property having non-comparable area ranging from 67 sqm to 87 sqm. whereas the valuation is being done for disproportionately large area of 337.5 sqm, that too for Commercial zone. Hence the report is liable to be rejected. Pg. 9 of Valuer report part Il: Valuer has derived average value of Mazgaon area Rs. 2,28,510/-sqm and the same is transposed to Princess Dock Division having entirely different characteristics. Hence this valuation cannot be relied upon being devoid of any documentary evidence. Pg. no 9 of valuer report Zone 3/35 2, Valuer has considered several assumptions to derive the rate of the land; 30% profit of the developer Deduction of Rs. 30,000/-sqm 10% for lease/ rented/licence land 7% for precent facilities on the land No evidence has been supplied as to the applicability of these assumptions as any change in these parameters will completely alter the derived land rates per sq.mtr. Hence cannot be relied upon it At page 13 of report Zone 3/35 2, the report in conclusion assumes that the parcel of land is vacant or can be made vacant by demolishing any improvements. Highest and best use of land will be for (1) Industrial (2) Commercial and (3) Recreational. Thus, the valuation is clearly applicable for a vacant land and which could be used as Industrial/Commercial/Recreational. Against	

	this backdrop, it needs to be clearly understood that the letting of MbPT being occupied these rates derived out of the valuation reports cannot be made applicable At Page 17, the Valuer has provided a disclaimer about environmental hazard that may impact valuation. However, MbPT has neither given any EIA report as recommended by Valuer nor any clarification thereon. As per LAC report pg. 3 Sr. no 6 indicates that TAMP vide order dt. 12.4.2021 has approved SOR for zone 3/35 land rate of Rs. 1 , 131.54 sqm: Hence rate is worked out at Rs. 1, 70,239.9/-sqm w.e.f. 1.10.2017. TAMP order cit. 12.04.2021 having not been enclosed, we are not in a position to offer our remarks. We therefore request to circulate above TAMP order & submission report by MbPT to TAMP so as to give our submission for the said rate & grant us suitable time duration for the same. Conclusion - In view of the above, the rate recommended in the valuation report i.e. Rs. 1 for Zone 3/35 cannot be relied upon for application liable to be rejected. Ready Reckoner Zone -3/35B (Unit- SD- Unit 9.10. Princess Dock) of Annexure Ill A: At the outset as per Valuer report derived value of Rs. 1,89,640/- sqm for zone 3/ 35B of Princess Dock is -243% of the ready reckoner rate (RR rate- Rs 77,900/-sqm). It is not only exorbitant but also against the principles laid down by the Hon'ble Supreme Court as cited in our letter no. BP/225-A/360 dt. 26.8.2021 therefore not acceptable. As per LAC report pg. 4 Sr.no. 8(iii) TR 61 of 2018 TR 105 of 2018 are not uploaded. Need to submit these TRs to review and give comments LAC report Pg. no 4 Sr.no. 8(ii): Land rate at 6% return on land value & 4% increase every October, basis of this is not described, hence cannot beacceptable As per Valuer report no. 1 at Pg. 7 at Sr. no 34, it is mentioned that Property tax is borne by Owner i.e. MbPT, which is factually incorrect as the tax for any property is liable to be borne by Lessee/ Tenant of MbPT. The quantum needs to be deducted appropriately which is not done and hence the report gives incorrect derivation & hence cannot be relied upon. Pg. 10 of Valuer report B2 :- Vatuer has considered 3 sale instances. two of Byculla & one of Chinchpokali of distance 1 to 3 Km away from the MbPT property for which valuation is being derived. All three sale instances are of Residential property having	

	non-comparable built up area ranging from 67 sqm to 87 sqm. whereas the valuation is being done for disproportionately large area of 143.54 sqm, that too for Commercial zone. Hence the report is liable to be rejected. Valuer has derived in pg. 10 of report B2 average value of Mazgaon area Rs. 2,28,510/sqm and the same is transposed to Princess Dock Division having entirely different characteristics. Hence this valuation cannot be relied upon being devoid of any documentary evidence. Pg. no 10 of valuer report B2, Valuer has considered several assumptions to derive the rate of the land; 30% profit of the developer Deduction of Rs. 30,000/-sqm 10% for lease/ rented/ licence land 7% for lack of basic facilities on the land No evidence has been supplied as to the applicability of these assumptions as any change in these parameters Will (-01 Ill-)lel-ely dllet I-I le (Jer ived Idlld IdleS pet- sq. cannot be relied upon. At page 13 of report Zone 3/35 2, the report in conclusion assumes that the parcel of land is vacant or can be made vacant by demolishing any improvements. Highest and best use of land will be for (1) Tourist Hotel (2) Commercial and (3) Recreational. Thus, the valuation is clearly applicable for a vacant land and which could be used as Tourist Hotel/Commercial/Recreational. Against this backdrop, it needs to be clearly understood that the letting of MbPT being occupied these rates derived out of the valuation reports cannot be made applicable At Page 17, the Valuer has provided a disclaimer about environmental hazard that may impact valuation. However, MbPT has neither given any EIA report as recommended by Valuer nor any clarification thereon. Conclusion - In view of the above, the rate recommended in the valuation report i.e. Rs. 1 for Zone 3/ 35B cannot be relied upon for application & liable to be rejected. Ready Reckoner Zone -2/23 (Unit-SD/Bunders- Unit 1 of Annexure Ill A: . At the outset as per Valuer report derived value of Rs. 2, 11,500/- sqm for zone 2/23 of Fort is -218% of the ready reckoner rate (RR rate- Rs. 97,000/-sqm). It is not only exorbitant but also against the principles laid down by the Hon'ble Supreme Court as cited in our letter no. BP/225-A/360 dt. 26.8.2021 therefore not acceptable.	

	LAC report Pg. no 3 Sr.no. 4(ii): Land rate at 6% return on land value basis of this is not described, hence cannot be acceptable LAC report Pg. no 3 Sr.no. 4(iii): 4% increase every October, basis of this is not described, hence cannot be acceptable As per LAC report pg. 3 Sr.no. 8(v) TR 61 of 2018 & TR 105 of 2018 are not uploaded. Need to submit these TRs to review and give comments Pg. 5 Detail of Valuation (A) of valuer report Valuation as per Ready Reckoner for Zone 2/23 :-Valuer has wrongly considered Zone value Rs.95,210/-whereas it is Rs.97000/-. Such factually incorrect information adduced in the report makes it open to question & unreliable. Under head feasibility method, loading of 20% on permissible built-up and without any basis being provided. The rate is considered for zone which is 2 KM away from the valuation zone making the report unreliable. Similarly, under total cost of the project, cost of construction is taken as Rs.30,250/- per sq.mtr, other expenses 7%, Architect fees 3%, plan approval 1%,Other expense 4% interest for 3 years 15% , developer profit 25% etc. For such variables, no evidence or rules or any valuer's guidebook have been provided / quoted regarding sanctity of these numbers. As these numbers vary, the final outcome will also vary taking away the objectivity of the entire exercise. Thus, the report is liable to be rejected. Pg. 9 Market sale instance : Valuer has considered the area ranging from 258 Sqft to 2155 Sqft as valuation to be done for 337 sqm,360 sqm 2017 sqm i.e. . Such disproportionate sizes cannot have been used to derive at the valuation. From the table sr no 2 Area 2155 Sq. feet rate /sq feet Rs 16,705/ -is almost 50% less than the other transaction. Alt these properties are 3 km away from the valuation zone considered. as mentioned in the table hence not comparable. (as index II submitted from pg. 9 to Pg 12 is not legible hence cannot sure about Residential or commercial traction. Hence valuer derived market valuation is not acceptable. Pg. 14 Method of valuation :Valuer has considered several assumptions to derive the rate of the land of sale instance of Residential which is 2-3 away from Valuation property 25% profit of the developer	

	7% other expense 7% construction cost Construction cost 30,250/sqm No evidence has been supplied as to the applicability of these assumptions as any change in these parameters will completely alter the derived land rates per sq.mtr. Hence cannot be relied upon. All index Il documents are not legible. Need to submit for review Pg. 21 Valuer has considered the area ranging from 280 Sqft to 5000 Sqft of office/ commercial properties which are 3 KM away valuation to be done for 337 sqm,360 sqm i.e. . Such disproportionate sizes cannot have been used to derive at the valuation 1 1. Pg. 25 of Valuer report 2/23 Il is not legible. To submit the legible copy 12. Pg. 27 valuer report 2/23 Il unit no 10 considered for valuation. As per SOR Ann.lll-A MbPT considered Zone 2/23 Unit 9,11,15. Hence unit 10 for valuation not understood hence not reviewed. Conclusion - In view of the above, the rate recommended in the valuation report i.e. Rs.2,11 ,500/-/- for Zone 2/23 cannot be relied upon for application & liable to be rejected. Ready Reckoner Zone -2/9 (Unit-SD- Unit 1 1 Fort) of Annexure Ill A: 1 . LAC report not uploaded on MbPT web site & the same shall be provided forthwith & time granted for remarks. At the outset as per Valuer report derived value of Rs. 2,11 ,500/- sqm for zone 2/9 of Fort is -14% of the ready reckoner rate (RR rate- Rs. 1 Pg. 4 of valuer report has wrongly attached FY 16-17 page of Ready Reckoner. The rate of Zone 2/9 for FY 17-18 is Rs. sqm for open land. Ready Reckoner page attached for reference (Ann. 2). Pg. 6 Detail of Valuation (A) Valuation as per Ready Reckoner for Zone 2/9: Valuer has wrongly considered Zone value Rs. 1,42,69 whereas it is Rs. Such factually incorrect information adduced in the report makes it open to question & unreliable. Pg. 8 of valuer report: Under head feasibility method, loading of 20% on permissible built-up and without any basis being provided. The rate is considered for zone which is 2 KM away from the valuation zone making the report unreliable. Similarly, under total cost of the project, cost of construction is taken as Rs.30,250/- per	

	sq.mtr, other expenses 7%, Architect fees 3%, plan approval 1%, interest for 3years 15%, developer profit 25% etc. For such variables, no evidence or rules or any valuer's guidebook have been provided / quoted regarding sanctity of these numbers. As these numbers vary, the final outcome will also vary taking away the objectivity of the entire exercise. Thus, the report is liable to be rejected. 6. Pg. 10 Method of valuation table (IV). Valuer has considered the area ranging from 258 Sqft to 2155 Sqft at dist. 3 KM away from subject property as valuation to be done for 358 sqm,Such disproportionate sizes cannot have been used to derive at the valuation. Valuation table not derived/mentioned the sale of Residential/Commercial. The attached Index II from pg. 10 to 13 not legible. Hence MbPT to submit the legible copy to review. 7. Pg. 15 of Valuer report :- Valuer has considered several assumptions to derive the rate of the land of sale instance of Residential which is 2-3 KM away from Valuation property 25% profit of the developer 7% other expense 3% Architect fees, 3% plan approval 1% out of expense Construction cost 30,250/sqm No evidence has been supplied as to the applicability of these assumptions as any change in these parameters will completely alter the derived land rates per sq.mtr. Also considered Residential sale instance at 2-3 KM away from valuation required Hence cannot be relied upon. Conclusion - In view of the above, the rate recommended in the valuation report i.e. Rs.2,11 ,500/- for Zone 2/9 cannot be relied upon for application liable to be rejected. 1 5. Ready Reckoner Zone -2/1 2 (Unit-SD- Unit 12 Fort) of Annexure III A: . At the outset LAC has recommended Rs. 2,90,640/- sqm for zone 2/12 of Fort which is -140% of the ready reckoner rate (RR rate-Rs 2,29,800/-sqm). It is not only exorbitant but also against the principles laid down by the Hon'ble Supreme Court as cited in our letter no. BP/225-A/ 360 dt. 26.8.2021 therefore not acceptable. Pg. no 4 of valuer report, Valuer has considered several assumptions to derive the rate of the land; 30% profit of the developer Deduction of Rs. 30,000/-sqm Recommendation for Deduction of 10% for lease/license etc.	

	No evidence has been supplied as to the applicability of these assumptions as any change in these parameters will completely alter the derived land rates per sq.mtr. Hence cannot be relied upon. Pg. 7 Sr. no 34 valuer is not sure for Property tax is borne by Owner/ occupant as the tax for any property is liable to be borne by Lessee/ Tenant of MbPT. The quantum needs to be deducted appropriately which is not done and hence the report gives incorrect derivation & hence cannot be relied upon. At Page No. 17, Valuation required for Fort Division Zone 2/12. Valuer has considered two sale instances of Colaba Division. These are of Residential property having area ranging from 144 sqm to 290 sqm. whereas the valuation is being done for the area of 938 sq.mtrs. for Commercial zone hence such arbitrary applications cannot be accepted. It is seen that though the valuer has recommended Rs. 2,90,640/- the Land Allotment Committee has recommended rate of land for Fort zone 2/12 to be same as land rate of Coloba division i.e. Rs 3,31 ,600/-sqm with the only justification that it is a prime location undermining the sanctity of valuation exercise. On this basis also, the valuation is liable to be rejected. Also, there is no justification for land rate at 6% return on land value 4% increase every October, basis of this is not described. Hence above cannot be acceptable. At Page 22, the Valuer has provided a disclaimer about environmental hazard that may impact valuation also suggested environmental assessment report to be prepared. However, MbPT has neither given any EIA report as recommended by Valuer nor any clarification thereon. Hence valuation report is liable to be rejected. Conclusion - In view of the above, the rate recommended in the valuation report i.e. Rs.2,90,640/- for Zone 2/12 cannot be relied upon for application liable to be rejected. 1 6. Ready Reckoner Zone -1/6A (Unit-SD/Bunders- Unit 12, 14 Colaba) of Annexure Ill A: . At the outset as per Valuer report derived value of Rs. 2,90,640/- sqm for zone 2/12 of Fort is -153% of the ready reckoner rate (RR rate- Rs 1,88,600/-sqm). It is not only exorbitant but also against the principles laid down by the Hon'ble Supreme Court as cited in our letter no. BP/225-A/360 cit. 26.8.2021 therefore not acceptable.	

	Pg. no 7 Sr. no 34 Property tax is borne by Lessee/ Tenant of MbPT. The quantum needs to be deducted appropriately which is not done and hence the report cannot be relied upon. Pg. 17 Valuer has considered two sale instances of Colaba Division. Both are of Residential built up property having area ranging from 144 sqm to 290 sqm. whereas the valuation is being done for the area of 12433 sqm sq.mtrs. for Commercial zone. Such disproportionate size comparison, i.e. 43 to 86 times of the plot being valued cannot be justified being arbitrary and completely irrational. Hence the recommended valuation cannot be relied upon is liable to be rejected. By no stretch of comparison, the rate for U-12 can apply for U-14. While U-12 is a completely developed area, the same is not true of U-14. It is not understood, why the rate for U-12 is not discounted for U-14. On this basis also, the rate is liable to be rejected. Pg. no 17 of valuer report, Valuer has considered several assumptions to derive the rate of the land; 30% profit of the developer Deduction of Rs. 30,000/-sqm Recommendation for Deduction of 10% for lease/license No evidence has been supplied as to the applicability of these assumptions as any change in these parameters will completely alter the derived land rates per sq. mtr. Hence cannot be relied upon. At Page 22, the Valuer has provided a disclaimer about environmental hazard that may impact valuation & also suggested environmental assessment report to be prepared. However, MbPT has neither given any EIA report as recommended by Valuer nor any clarification thereon. Hence valuation report is liable to be rejected. Conclusion - In view of the above, the rate recommended in the valuation report i.e. Rs.2,90,640/- for Zone 1 /6A cannot be relied upon for application liable to be rejected. Readv Reckoner Zone -1/4 (Unit- Bunders- Unit 14 Colaba (Pilot Bunder) of Annexure Ill A Valuer report not uploaded on MbPT web site & the same shall be provided forthwith & time granted for remarks At the outset, LAC has recommended value of Rs. 2,90,640/- sqm for zone 1/4 of Colaba which is -222% of the ready reckoner rate (RR rate- Rs 1, 30,400/-sqm). It is not only exorbitant but also against the principles laid	

	down by the Hon'ble Supreme Court as cited above. Need to submit these TR 138 of 2004 to review and give comments. Conclusion - In view of the above, the rate recommended in the Land Allotment Committee report i.e. Rs.2,90,640/- for Zone 1/4 cannot be relied upon for application liable to be rejected. 1 8 Ready Reckoner Zone -1/3 (Unit- SD - Unit 12 Colaba) of Annexure Ill A 1 . At the outset as per Valuer report derived value of Rs. 2,90,640/- sqm for zone 1 /3 of Fort is -153% of the ready reckoner rate (RR rate- Rs 1,88,600/-sqm). It is not only exorbitant but also against the principles laid down by the Hon'ble Supreme Court as cited in our letter no. BP/225-A/360 dt. 26.8.2021 therefore not acceptable. Pg. no 7 Sr. no 34 Property tax is borne by Lessee/ Tenant of MbPT. The quantum needs to be deducted appropriately which is not done and hence the report cannot be relied upon. Pg. no 17 of valuer report, Valuer has considered several assumptions to derive the rate of the land; 30% profit of the developer Deduction of Rs. 30,000/-sqm Recommendation for Deduction of 10% No evidence has been supplied as to the applicability of these assumptions as any change in these parameters will completely alter the derived land rates per sq.mtr. Hence cannot be relied upon. Pg. 17 Valuer has considered two sale instances of Colaba Division. Both are of Residentiat built up property having area ranging from 144 sqm to 290 sqm. whereas the valuation is being done for the area of 718.79 sqm. for Commercial zone. Such disproportionate size comparison, of the plot cannot be justified being arbitrary irrational. Hence the recommended valuation cannot be relied upon. At Page 22, the Valuer has provided a disclaimer about environmental hazard that may impact valuation also suggested environmental assessment report to be prepared. However, MbPT has neither given any EIA report as recommended by Valuer nor any clarification thereon. Hence valuation report is liable to be rejected. Conclusion - In view of the above, the rate recommended in the valuation report/ LAC report	

	i.e. Rs.2,90,640/- for Zone 1/3 cannot be relied upon for application liable to be rejected. 1 9 Ready Reckoner Zone -1/3A (Unit- SD - Unit 12 Colaba) of Annexure Ill A . At the outset as per Valuer report derived value of Rs.3,31 ,600/- sqm for zone 1 /3A of Colaba is -138% of the ready reckoner rate (RR rate- Rs 2, 39,300/-sqm). It is not only exorbitant but also against the principles laid down by the Hon'ble Supreme Court as cited in our letter no. BP/225-A/360 cit. 26.8.2021 therefore not acceptable. Pg 4 of valuer report is not legible. MbPT to upload to review & give our comments. Pg. 6 Valuer has wrongly considered the Ready Reckoner rate for FY 2017-18 Zone 1 /3A as Rs 2,29,670/-. It is Rs. 2,39,300/- Rate of open land . (Copy attached Ann. 3) Hence valuer evaluated valuation is wrong as per-Ready Reckoner rate. Such factual inconsistencies make the report unreliable. 4. Pg. 8 Method of valuation (iv) Under head feasibility method Loading of 20% on permissible built up and without any basis being provided. Similarly, under total cost of the project - cost of construction is taken as Rs.30,250/- per sq.mtr, other expenses 7%, Architect fees 3%, plan approval 3%, interest, developer profit for such variables. no evidence or rules or any valuer's guidebook have been provided / quoted regarding sanctity of these numbers. As these numbers vary, the final outcome will also vary taking away the objectivity of the entire exercise. 5. Pg. 10 Method of valuation table (IV). Vatuer has considered the area ranging from 118 Sqft to 4420 Sqft at dist. 3 KM away from subject property as valuation to be done for 508.18 sqm,Such disproportionate sizes cannot have been used to derive at the valuation. Valuation table not derived/mentioned the sale of Residential/Commercial. The attached Index Il from pg. 10 to 13 not legible. Hence MbPT to submit the legible copy to review 6. Pg. no 15 of valuer report, Valuer has considered several assumptions to derive the rate of the land; 25% profit of the developer Deduction of Rs. 30,000/-sqm 7% out of expense 7% for lack of basic facilities on the land No evidence has been supplied as to the applicability of these assumptions as any change in these parameters will completely	

<table>
<tr><td></td><td>alter the derived land rates per sq.mtr. Hence cannot be relied upon
Conclusion - In view of the above, the rate recommended in the valuation/LÃC report i.e. Rs.3,31 ,600/- for Zone 1/3A cannot be relied upon for application liable to be rejected.
The above submission is Without Prejudice to our Rights & Contentions in the matter and we reserve our rights to adduce to our submission as appropriate based on the future developments in the matter.</td><td></td></tr>
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<tr><th>Sr. No.</th><th>Specfic comments received from HPCL</th><th>Response of MBPT</th></tr>
<tr><td>1</td><td>We are in receipt of your Notice No. EM/AS (G) F-282/1925 dated 06.10.2021 from MbPT regarding submission of our comments on revision Df Schedule of Rates for period 01 _ 10.2017 to 3009.2022 by MbPT to TAMP on or before u. 2021 for Proposal no 4: Remaining 19 zones for Non Home Occupations.
Please note our earlier letter dated 09.09.2021, whereby we had submitted our comments/objections to the revision in Sc ᵉledule of Rates for the period of 01.10.2017 to 30.09,2022 for below mentioned RR Plots. En the prtposal 4, you have specifically mentioned the name of stakeholders with plot no under the of stakeholders, concerned RR zone for these plot numbers. The revision of schedule of rates pro,ided for the RR zones.
At the outset, we deny that MBPT is entitled tû seek revision Of schedule Of rates Of rent payable retrospectively for the period of 01.10.2017 up to 21109.2022. The descriptions of the relevant leased lands for Mumbai Petrol pump sites æe particularly set out as follows:
<table>
<tr><th>s n</th><th>Plot no. (RR</th><th>Area (In</th><th>Locations</th><th>Lease start date</th><th>Lease deed date u to</th><th>Remarks</th></tr>
<tr><td>1</td><td>OLD 2054 Code:20801618</td><td>883.04</td><td>Mazgaon Sew ree Reclamation</td><td>13.10.1939</td><td></td><td rowspan="4">Lease Vide BPT Estate dept letter dated 01.10.1991 for 30 years. Hence valid upto 30.06.2021</td></tr>
<tr><td>2</td><td>OLDRR NO. 1841 Code,</td><td>865.95</td><td>Mazgaon Reclamation</td><td>01/01/1973</td><td>31.101 1990</td></tr>
<tr><td>3</td><td>RR 1830 Code-30901234</td><td>540-6</td><td>Elphinestone Estate</td><td>15/12/1953</td><td>17/11 '2045</td></tr>
<tr><td>4</td><td>25 BEARING RR NO 1923 Code:31101128</td><td>807.51</td><td>Ba lard Estate</td><td>08_10.1963</td><td>31.10.1990</td></tr>
</table></td><td>HPCL stated that by various letters to MbPT they had requested for renewal of lease however MbPT has not taken any action. Contentions raised are not correct. After expiry of the lease, since there was no renewal clause, revised lease rental as per SoR is levied in terms of PGLM guidelines. The issue of renewal will be dealt with separately on case to case basis by Board of Trustees.
In this regards it is too state that as per Ministry of Finance notification dt. 08.08.2021 stated that without cabinet approval there should be no alienation of government land and accordingly renewal of leases and fresh allotment were kept in abeyance. Thereafter PGLM, 2014 was received from Ministry of Shipping which had excluded the township areas of Mumbai, Kandla and Kolkata Port trust. After follow up with Ministry, MoS had issued Clarification no. 1 of 2018 thereby extending PGLM, 2015 to township areas of Mumbai, Kandla and Kolkata port trust. Also Ministry had issued direction to TAMP for approval of SOR which as per provision of PGLM, 2015. Accordingly, Board as per various TR had approved SoR for 2012-17 and 2017-22 for various Ready Reckoner zones in MbPT jurisdiction. Also provisional offers where made to oil companies conveying the upfront premium based on proposed SoR subject to approval of TAMP. After expiry of lease BPCL & HPCL & IOCL were called on called several occasions, 4 meetings were held with respective Chairman & Dy. Chairman. OMC did not accept proposed revised rents. However, oil companies did not come forward for accepting the SoR and did not agree for payment of upfront premium conveyed to them as recommended by LAC and approved by the Board. Hence there is no delay in part of MbPT for the renewal of leases.</td></tr>
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5	RR 2015 (OLD RR 1682) Code:309012 28	531 E	Elphinest one Estate	3/35	14.03. 196?	31	
6.	R.R.NO 1951 Code: 30901312	549.06	Elphinest one Estate	3/35		31 10.199 0	
7	RR NO_2039 Code:309013 1 3	98.94	Elpmnest one Estate	3/35	14.03. 196?	31<0 1990	
8	OLD R R 1644 Codëi309012 34	51.93	Ephinest cne Estate	3/35	14.C3. 1 9C3	31.10. 1990	
	R R 1796 Code.414011 09		Sassoon Dock	Not rovided			
	RR 1862 Code:41401 110	1421	Sassoon Dock	Natvided			
1 1	RR 1954	1 1.61	Sassoon Dock	Not rovided			

Thus a total area Of 4380.82 Sqmt has been leased to HPCL bv MbPT f3r our retail outlets at Mumbai to enable our Corporation to supply and sale petroleum prodLCts which are also an essential commodity under the Essential Commodity Act.

It is submitted that lease for land at RR 1880 Code:30901234L admeasuring 540.60 Sqmt is valid upto Nov 2045 While the other leases continued to be valid during most Of the period of revised SOR period i.e. 2017-2022 as per the MbPT letter dated 01 10. . We state that as our leases for land at Plot No, RR 1644, 1841, 2054. 1796, 1862, 1923, 1954, 2015. 1951 and 2039 were valid till date 30.062021 therefore, the rentals will be governed by the allotment letter dated 01.10, 1991 (Attached as Annexure I) .

We are regularly paying the monthly rental based on the invoices raisžd by MbPT and all the payment has been made till 3108.2021. we also state that acceptan=e of rentals by MbPT without any objections/demands confirms that the rentals paid by our C0'voratiOn till 30.092021 were accepted by MbPT and therefore they cannot change the rentals retrospectively and unilaterally.

In this regardi we wish to bring to your notice few of the variaus lefters written to MbPT by our Corporation:

1- Letter dated 14.022019 on the renewal of tease of all olots for petrol pumps (Attached as Annexure 2). Thus, it 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 land use, present infrastructure and facilities in the area and has arrived at market rate by using appropriate method of valuations to make the land rate comparable to the present land use. Also the valuer had 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 contention are incorrect.

There is no clause in MPT Act, 1963 prohibiting to charge & recover the SOR charges retrospectively as per applicable policy such as PGLM-2015. Differential charges as per SOR finally notified by TAMP will be payable failing which MbPT will be at liberty to take legal action including refusal of the renewal of lease.

	evident that much before the expiry oi lease period we have requested MbPT to come forward for renewal of lease so as tre patties can come to a mutual consensus for terms and conditions of lease to be entered into between them, 2. Letter dated 26.08.2019 on the renewal of lease of plots no, RR i344, 1841, 2054 1796, 1862, 1923, 1 954, 2015, 1951 and 2039 for petrol pumps. Atta&ted as Annexure 3) 3. Vide letter dated 07.01-2020 we had requested 'hat 1341, 2015, 1951 and 2039 (Attached as Annexure 4) 4, Vide letter dated 0311.2020 we had once again requested MbPTto renew leases for 'and at plot no. 1951 2039, 2015, 1796, 1862, 1954 and 1841 (Attach2d as Annexure 5) During such period no attempt was made on the part of MBPT e ther --0 1?sporsd to such requests or to raise any demand for revised rates of rent payable. It is notable fact that Corporation is paying regular rentals as per the demand of MbPT however, Corporation submitted application dated 26.08.2019 for renewal of leasz and which is replied by MbPT vide letter dated 27M 1 20191 03.12201 g and 19-03.2020. To our utter shock, MbPT vide letter dated 27. Il 201 g (Attached as Annexure 3), MOPT for the first time demanded arrears of renta s for plot no. RR no 1841 at—ountirg to Rs, £6 lakhs for the period of Sep 2006 to Sep 2019. MbPT has further demanded an amount of Rs.1239 lakhs towards the 30 years period (01.10.2019 to 3009.2049) @ Rs.E65,95 Sq Mt. per month at 6% per annum rate and with 4% annual increase, which is comaletely irrational, arbitrary and unreasonable, based on incorrect assessment and contrary to p•ovisicns of our allotment letter. This conduct shows that they have pre-determined the rentals at thei- own whims and fancies and without even following the principles of natural justice as no supporting documents were provided to us contirming the basis Of revision of rentals, Thereafter, vide letter dated 0312.2019 (Attached as Annexure 7), M3Pt demanded arrears of rentals for plot no. RR no 1951 , 2039 and 1951 amounting to Rx 29 lakhs for the period of Sep 2006 to Sep 2019, MbPT has further demanded an amount of Rs_2787 lãkh towards the 30 years period (01.102019 to 3009.2049) @ Rs.92ô84 sq_ Mt- we stat2 that the said demand is completely irrational, arbitrary and unreasonable, based on	Port Trust can charge retrospective SOR charges in terms of para 11.3 of PGLM-2015 and PT can refuse the renewal of lease if past dues as per applicable SOR not paid which is as pre-condition for renewal of lease. In this connection, attention is invited to the para 11.3 (h) & (i) of PGLM-2015 – Para 11.3(h) "After the expiry/termination of lease and despite receiving the notice thereof, or forfeiture of lease on account of change of user, assignment etc., if the lessee continues to occupy it unauthorizedly, the lessee shall be liable to pay compensation for wrongful use and occupation at three (3) times the annual lease rent based on the latest SoR, till vacant possession is obtained by the Port. In cases of land allotted on upfront basis, the equivalent annual lease rent would be calculated on pro-rata basis." Para 11.3 (i) - " For existing leases, at the time of expiry/termination of lease, the lessee shall remove all structures at his own cost under the following conditions: (a) Within three (3) months of expiry/termination, if Port decides not to re-auction that land; or, (b) Three months after tender-cum-auction, if the existing lessee was not successful. Beyond this period, the lessee shall be liable to pay compensation for wrongful use and occupation at three (3) times the annual lease rent, till vacant possession is obtained. In cases of land allotted on upfront basis, the equivalent annual lease rent would be calculated on pro-rata basis. If the Port so decides, for reasons to be recorded and approved by the Port Trust Board, it may also take over the structures after third party valuation of the assets with the concurrence of the lease holder. In case removal of structures is to be carried out by the Port, it would be at the cost of the lessee." The word compensation for wrongful use & occupation means the charges payable after after the expiry/termination of lease, which is equivalent to three(3) times of annual lease rent as per applicable SOR and is paybel from date of expiry/termination till date of obtaining vacant possession. In this case PT is not proposing to recover Compensation @ 3 times of SOR. However, the lessee would be liable to pay the

	inccrrect assessment and contrary to provisions of our allotment letter. This conduct shows that they have pre-determined the rentals at their own whims and fancies and without even following the principles of natural justice as no supporting documents were provided to us confirming the basis of revision of rentais. Subsequently vide letter dated 19.03.2020 (Attached as Annexure 3), MbPt demanded arrears Of rentals for plot no. RR no 1954, 1796, 1862, amounting to Rs_ 345 lakhs for the period of Sep 2006 to Jan 2020. We state that the said demand was comaletely irrational, arbitrary and unreasonable, based on incorrect assessment and contrary to çrovisicns of our allotment letter. This conduct shows that they have pre-determined the rentaEs at their own whims and fancies and without even following the principles of natural justice as no supporting documents were provided to us confirming the basis of revision of r+ntals. We submit that from time to time we have been requested MbPT to 30me forward for renewal of leases and to offer land on long-term lease at mutually agreeatle rates, terms and conditions. However, even after cur repeated written and oral requested, MbPT failed to concede to our request, We submit the revised SOR for 2017-2022 are has been uplcade£ on TAMP website, which claims to be as per provisions of PGLM 2015, vaue of the lanc are more than Rs 7 lakh per SOM (plots no Old RR 2054 Old RR 1841 , RR no 2015, RR 1931 , RR no 2039, Old RR no 1644,) under RR zone11/84, 10178B and 3/35. We refer and rely upcn clause 13(a) of PCI-M 2015, which is as follows. QUOTE: a)State Government's ready reckoner of land values in the ar2a, if available for similar classification/ activities, b) Highest rate of actual relevant transact ons registered in as: three years in the Port's vicinity (the vicinity of the Port is to be decided by the respective Port Trust BoardS), with an appropriate annual escalation rate to be approved the Port Trust Board. C) 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, d) Rate arrived at by an approved valuer appointed for the pur30se by the Port.	occupation of charges from date of expiry/termination. Reply has already stated above. Further it is to state that in case of petrol pump full FSI is not realizable. The circumstances are howver completely differernt. The oil companies knows that if they set up a petrol pump, they cannot use full FSI. Still they choose to establish a petrol pump etc. Obviously oil companies have considered that use to be the most economical. Hence oil companies cannot be granted any relief in case of SoR. 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. 5. Reply has already stated in para 2 above. 6. Also 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

	e) Other relevant factor as may be identified by the Port Tha 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 annual lease rent would be latest SOR determined in accordance with para 13 (a) and 13 (c) and would in no cases be less than 6^{0}/0 of the latest value recommended by the port trust The pod trust would make a proposal as outlined in para 13 ia) 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 TAMPE UNQUOTE As per said PGLM guidelines, LAC has to consider the above-mentioned factors for determining the fair market value of the port land, The above guidelines are very clear and evident to do necessary assessment of "Fair Market Value" of subject plots. The LAC is relied on the valuation report of valuer which is the highest of the factors as per above clause. We have perused the valuation reports. As per valuer the highest rate of actual transactions registered in last three years in the port's vicinity which is one of the factor as per sub-clause (b) quoted hereinabove. We now submit our objections to the said LAC report and as to why the said report should not be considered by TAMP for revision of SOR for plots mentioned In the table above effective 01.07.2021 to 3009.2022 1) We state that the as per clause 13(a)(i) the LAC is to consider "State Government's reedy reckoner of land values in the area, if available for similar classification/ activities". We state that for most of our retail outlets the FSI is less than Therefore, the SDRR needs to be suitably considered by LAC before formulating any revision to SOR. 2) We state that as per ciause the LAC is to consider rate of relevant transactions registered in last three years in the Ports vicinity (the vicinity of the Port is to be decided by the respective Port Trust Boards), wth an appropriate annual escalation rate to be approved by the Port Trust Board.". For the valuation of RR Zone 3/ 35 by empaneled valuer of MBPT Mr. Avinash Pendse the following are the details	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. 7. With respect to revision of rent/ compensation retrospectively, 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" 8. No comment as not relevant to present proposal. 9. Oil companies are bound to pay the revised compensation as per proposed SoR as approved by TAMP. It is to state that they where already informed of the proposed revision of rates and also provisional arrears statements and upfront premium where conveyed to them. Still oil companies have neglected to take into account the proposed revision of rates and denying to pay as per proposed SoR. 10. The statement made is incorrect as provisional arrears statement and upfront

Sr. No.	Nature of transaction and ro rt details	Area SQM	Existing use
	Parasram Dhan at Gu ta	820.22	Commercial
2.	Ebrahim Abdul Latif 81 other	740.32	Commercial
3-	M/S Hillson Dinshaw PVt td	337.53	Commercial/residential

For the valuation of RR Zone 1 1/ 84 by empaneled valuer, Mr. Avinash Pense the following are the details

Sr , No.	Nature of transaction and propert details	Arîa SQM	Existing use
	Sa -r adi Khannum & 12 others	738,47	No details rovided

For the valuation of RR Zone 10/78 B by empaneled valuer Avinash Pendse the following are the details

Sr No.	Nature of transaction and property details	Area	Existing use
	Sh Manharlal Obhan & Sh Kishan lal Manharla Obhan		No details rovided
2	Pandit Aundhanath Kantanath		Sho

Upon perusal of transactions considered in LAC, we suomit that "rebevant transaction" shall always mean and include comparable properties or similar prcpertiæ, and hence the reliance Of placed by LAC on the transactions are incorrect and consequently entire assessment becomes defective and incorrect for the following reasons:

a) That the said transactions pertains to commercial/ raidertial use whereas the lands leased to HPCL are not forming pads of commercid/ shops and are being used to ensure uninterrupted supplies of an essential commodity. The-efcre, there being no similarities on the referred plots and lease the rationale edop:ed LAC is not only illogical but also not in accordance with law.

b) Moreover the nature of transactlcns in the said transacbd are ir the form of license agreements or expired leases or leases for commercial/residential, whereas our Corporation had been allotted plots on long leases ry MtPT and is willing to further execute lease for 30 years.

3) We state that as per clause 13(a) (iii) the LAC to consider "Hghest accepted tender-cumauction rate cf Port land for similar transactions, up:ated on the basis of the annual escalation rate approved by the Port Trust

premium as per proposed SoR had been conveyed to oil companies and meetings had been held at senior management level for the renewal of leases.

11. Reply already stated in para 6 and 7

12. The actual quantum rent for grant of fresh lease will be on basis of fresh joint site survey undertaken by MbPT and oil companies and at revised SOR as approved by TAMP.

	Board." Ps sœted in the SOR there is no transaction carried out by MbPT and hence there is no i•ubrnssicn is made under the said provlsion. 4) We state that as per clause 13(a) (iv) the LAC to consicžr "Rate arrived at by an approved valuer appointed for the purpose by the Port." As state•: in the LAC report that the valuers have arrived at rate ranging from Rs 856.55 per Scmt arnum to 356.55 per Sqmt per annum (plots no Old RR 2054, Oid RR 1841, RR no 20" 5, RR no 1951, RR no 2039, Old RR no 1644,) under RR zonel 1/84, 10/78B and 3/35 fct petrol pumps and not considering restricted usage of land by HPCL of FSI than 1. However, as we have pointed out earlier the areas transacted eaflier cannot be zomoarec or used for reference for determination cf SOR for HPCL allotted lands. 5) We state that the end use of Retail Outlet premises is restricted to only for same end use by the State Govt. of Maharashtra and therefore, the and under the utilization of Petrol Pump cant be used for any other end use. The necžssary Govt. Circular is enclosed herewith. 6) We state that as per clause 13(a) (v) the LAC to cors der 'Any other relevant factor as may be identified by the Port." It is to be noted that HPZL is 'o be considered under public utility services engaged in supply and marketing Of essEÄtia commodities under the Essential Commodities Act. Moreover, as per Gazette Notfication dated 03.12.2009 Of Order no TPB 430B 1 911/ Praxra87/ 20091 Ne Vi=ll issued by Maharashtra Govti Mantalya. Mumbai, the end use Of petrol pump canrot be changed. (Copy of Gazette Notification attached as Annexure 9). This factor shculd have been considered by LAC before revision of SOR as land being used for retail outta could mt be used for any other purposes. The facilities of HPCL are in existence and in operation since more than 70 years at the plots allotted to us and not a fresh incumbent planning to set L p facilities, It is material to note before assessing the rentals it is exoecied that necessary demarcation and measurement shall be carried so as to know status actual lands, as leases are granted prior 70- 80 years and thus on ao:nunt cf seri0Js developments in town planning and thus area of leased lands may be recuced under set back or for other concerr'h and thus on this account also the valuation assessed by the valuer is incorrect. It is imperative that the Ready Reckoner Guideline factors affect valuation and shoutd be read along with Ready Reckoner Value to arrive at proper va uation. The same are not	

	considered which resulted in erroneous calculation of ærcu'ations. Accordingly, due to application of incomplete guidelines of SDRR (Stamp Duty Ræd'/' Reckoner) the method used to ascertain the valuation cf the immovable property is incorrect and incomplete .Hence, it is submitted that the assessment ot the 'SCR' for the perod 2017 to 2022 is erroneous amount and we reserve our right and cmientions -.0 produce our counter valuation report menüoning the discrepancy in the mett- od of calculation. Now, having said the above with regard to the LAC repc.-t and as to the same should be rejected by TAMPI we put before your additional poi-r.s tor consideration as per below: 1) With regard to plots as mentioned table ebover we state that the rentals for the allotted plots were to be governed by the provisions of clause iii of land ailotment letter dated 01.10.1991 till the vatidity of lease period i.e. till 3006.2321. A; far as question of implementation of revised SOR effective 01 07.207 is concerned we place reliance on clause 11.3 (j) of PGLM 2015 it is stated that •The o: renewal of existing leases should be initiated by the respectve Ports well in advance, before the term of lease expires. The automatic renewal of existing ieases should be preferably done within three months of receipt of such appbicaton for renewal, Liability to pay compensation for wrongful use by the lessee will not arise, if the delay in renewing such leases is wholly attributable to the POft." As t t! date there is no action taken by MbPT an a repeated request to renew the lease, any revision on lease rental (on mutually agreed terms and condition) can now be made effective three months from the date of finalization of the said rates or strictly as per terms cf lease. 2) That MbPt in there submission for revised SOR not explained/ clarified the basis for considering 6% land rental value and 4% escala! ion on annual basis Strictly without prejudice to and in the alternative to the above, it is mcst humbly submitted that undoubtedly our acts, performs and discharges ts duties, powers and functions directly under the superintendence of Ministry of Petr04eum and Netural Gas. We also submits that MbPT's too acts, performs and discharges its duties, powers and functions directly under the superintendence of Ministry of Ma.cr Por. Thus, both of us are the Central Government Department and/or an extended erm of Centrai Ministry and hence, issue has to be settled amicably.	

	Post expiry of leases the renewed terms can be entered into executed at revised rates. Thus for determination of the terms and conditions with -egard to the renewai of the leases and the rates to be agreed thereunder, the pei)d can be 0107.2021 onwards only and in no manner prior thereto. Moreover, in the absence of any agreement or understanding re:orded between HPCL and MBPT to the effect that MBPT would be entitled -.0 revision of rates retrospectively or in future(in absence of any renewal te$ms agaed upon between the patties); it is not open now for MBPT to seek revision of schedule of rates. It deserves to be noted here only that the agreed lease rent has teen paid for the subject period and even till date i.e. up to 31 +08_2021 and there has Isen no grievance raised by MBPT In this regard moreover on the contrary MbPT has giving assurances to Corporation that its proposal for renewal of lease will te subr-ütted to the competent authority at earliest Without entering into the legality of such claim to revise the s:hsdule of rates, it must be pointed out here only that the same would be expressly barred b,' law of Limitation. The Limitation Act, 1963 and the provision thereunder prohitit predated claims and or passed claims beyond the period of limitation. Hence, any actin by MBPT to demand at revised rates retrospective'y for the subject period WOUld be barred under the said Act The principles of estoppel would also come into play where under KIBPT is estopped from seeking any revision to the schedule of rates retrospectivedy, accepted the amount duly and diligently paid by HPCL during the said subject pericd even thereafter from month to month till date. In the absence of any enabling provision either as ar by o: an agreement or understanding with HPCL or under any law in forcer MBPT is pre:ud2d from proceeding with the exercise by virtue of the present notice to invite œmrnere on proposed revision of rates. In any eventl the proposal to revise rent can only be dcne aro*ectively i.e. for future period. MBPT in the instant case has accepted the terms of the I—se and have continued in light thereof to honor the obligations set out therein t) be performed the parties. In effect, the terms and condition of the original lease ha^{n}æ been continued although on revised terms (with reference to the rentals), The provision of the Transfer of Property Act, 1832 would gan—rr the leases executed by and between the parties. In palticular, sections 105	

	up to æction 7 of the said act would be applicable. 'n the instant cases i.e. the leases in question although have expired by efflux of time/expiry of term, the principle cf promissory estoppe entitles HPCL to occupy and continue in the bease premises on payment of the rent Although, MBPT has never finalized the rates and/or rentals beyond the original period of lease, non-issuance ot any demand notice and/or any pro)osal o' what so ever nature for renewal of the lease for the subject period, and during subsistencz of the said period, now does not give any right to MBPT to retrospectively finalize the rates and rentals. In view of the actions and/or inactions on the part of MBFT durir-a the relevant period, to not seek revision through renewal of the lease, to now demand res. sec rates for the period which has passed- It can only be done with reference to futurê period and that too on renewed terms. The Indian Contract Act, 1872 and the provision there under cannot be ignored and overlooked by MBPT. In the absence of express agreement Ey anc between the parties the proposal for revision is ill founded and without any tasjs. The internal notes, circulars or notifications issued by MBPT, svould not be binding on HPCL, more so if the same are contrary or inconsistent wi-.h ary prevalent law. Hence the demand raised vide notice by MBPT is contrary to the settled pnncip'es of law, opposed to equity and are arbitrary and unreasonable and the •efcre being beyond the purview Of law, not tenable. The express terms of the lease agreement also do not tonterrpêate such revision. Needless to state that the entire exercise sought to be ca eried cut belatedly by MBPT is not in line with any agreement or understanding arrived at between the parties, therefore the same is not tenable. Apart from the grounds of mantainability of the notice as setout herein above, we wish to provide brief comments without prejudice as under: a.Repeated requests for renewal Of leases which has expired on 30.06.2021 are yet to be answered by MBPT b There is no basis, rational or justification for the arbitrary proposed revision of schedule of rates retrospectively, c. The instances in the nature of industrial/residentia p sem sžs cannot be referred to and relied upon in any manner to justify proposed revisi3n of rates. The valuation reports are neither realistic nor based on	

	thorough researcñw An exorbitant rate has been determined erroneously by MBPT in placing reliance on such reports, Not a single instance sought to be relied upon by MBPT pertains -.0 any land nearby to the leased premises. The instances Of lease/license/sale are -her comparable with the leased premises nor are anywhere even close to o- in prcx mity in terms of distance and/or size of the lands. In fact industrial gala, and flat camot be taken into account for any purpose much less in determining lease renta values and rates. Thus in the absence of any like, comparable land instances and reports of valuation providing realistic values, the same cannot be even considered. Heme, we strongly object to such documents (valuation reports and instant2S being taken account of in determining lease rental rates. d. Bare perusal of the notice reveals that MBPT is proceeding with predetermined intention to revise the schecne of rates and comments have been invited only with a view to record that the rates have been determined after due nctice to all concerned. e. The proposed rates are not only exorbitant but witlcut rational or basis and therefore cannot be accepted. f. We have strong objection to any demand revision of SCR retrospectively or for interest and/or penalty raised/proposed to be raised, for the first tû•ne now. The same cannot be raised in the absence of any agreement to begir wi-.h coupled with a demand at the relevant point of time raised for payment Of lease rentals. g. It is an undisputed fact that no demand was ever Gised by MBPT for the subject period. Hence, it is not open now to demand any revision retrospectively. Not only such demand for interest]penalty would be contrary tc law but also unjust and unfairv h. As per DCR of MCGM the said lands can be used on17 for the purpose of fuel station and end use of land cannot be Changed. i. The petrol pumps are facilities for the general public. Any cost towards lease rentals will hava a direct impact on the viability of the petro pu The rentals paid during the last 30 years has already been accounted for and our account books are closed. Any arrears due to revision of rentals cannot be apporticned to the earlier productions, which have already been consumed. j. Since there was no communication from MBPT that there may be a revision of rentals retrospectively, being a CPSE unit no	

	budgetary provision has been made for paying any arrears. k We had already paid the monthly rentals during the period 2017-22, which are in average for all plot is Rs 22.85 per Sqmt and the same has been increased to Rs 852 per Sqmt, whlch are on average 3623 % higher than the existing invoices being paid every month, Moreover, the Government itself is collecting revenues on retrospective basis and proposing for collecting revenue cn prospective basis. l.All the plots leased to us have gone under major roac •widening since 'ast more than 20 years and hence joint Visit to be done for ascertainirg the final area available to our corporation before finalizing any rental calculation sc that any rental henceforth shall be payable on actual area being enjoyed and oœupied by our Corporation. We are ready and willing to participate in any hearing and to substantiate our stand as has been briefly stated hereinabove. We therefore request that our strong oblection to the proposed revision be recorded and accepted. We further request that the notice/prcposal to impose lease rertal retrospectively be dropped/ withdrawn with immediate effect.	

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