

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

TARIFF AUTHORITY FOR MAJOR PORTS

G.No. 319

New Delhi,

23 August 2018

NOTIFICATION

In exercise of the powers conferred under Section 49 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal received from Kolkata Port Trust (KOPT) for revision of Schedule of Rent for Buildings of KOPT at Kolkata, as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/62/2016 – KOPT

The Kolkata Port Trust

Applicant

QUORUM

- (i). Shri. T.S. Balasubramanian, Member (Finance)
- (ii). Shri. Rajat Sachar, Member (Economic)

ORDER

(Passed on this 31st day of July 2018)

This case relates to the proposal received from Kolkata Port Trust (KOPT) for revision of Schedule of Rent for Buildings of KOPT at Kolkata.

2.1 This Authority vide its Order no. TAMP/62/2016-KOPT dated 29 March 2017 had approved the rentals for the Land and Buildings of Kolkata Port Trust (KOPT) at Kolkata and Haldia. This Order was notified in the Gazette of India on 31 May 2017 vide Gazette No. 224.

2.2 In the proposal of KOPT which had culminated into the Order dated 29 March 2017 as referred above, in addition to prescription of rentals for the lands, the KOPT had also, inter alia, proposed rentals for warehouses and buildings, Godowns, other structures used for commercial activities, Office/ shop rooms in the Docks, Sheds and other structures like bathrooms, garages etc., in case of Kolkata Dock System (KDS).

2.3 The Valuation of Buildings and Structures at KDS had been done by the Valuer by estimating the depreciated replacement cost method. As explained in the Valuation Report, depreciated replacement cost of the building had been estimated by the Valuer by ascertaining its current replacement cost with the same utility (prevailing Plinth Area Rates (PAR) of CPWD had been considered to arrive at Current Replacement Cost of Buildings) and deducting accrued depreciation on the current replacement cost. Thereafter, annual rent had been calculated by the Valuer at 6% of the market value of the building so determined in case of KDS.

3.1 The Land Policy Guidelines, 2014, lays down the procedure and methodology to be followed for determining the market value and lease rental of the port lands. No specific Guidelines are prescribed in Land Policy for fixation of lease rentals for the premises owned and constructed by a Port Trust. In this regard, Ministry of Shipping (MOS) was requested vide our letter no. TAMP/8/2014-Gen dated 18 March 2014 to advise us suitably on the matter. The response of MOS was awaited at that point of time.

3.2 This Authority is statutorily mandated under Section 49(1) of the Major Port Trusts Act, 1963 to frame Scale of Rates (SOR) and conditionalities governing application of the SOR from time to time for any property belonging to or in the possession of a Port Trust. Further, Land as per Section 2(K) of the MPT Act, 1963 includes, inter alia, things attached to the earth or permanently fastened to anything attached to the earth. That being so, the methodology prescribed in the Land Policy Guidelines to determine the market value and reserve price in terms of annual lease rent for port "land" would have to be applied mutatis-mutandis for determination of market value and reserve price in terms of lease rent for "buildings" also.

3.3 With regard to fixation of rentals for the structures, it is noteworthy that this Authority vide its Order no. TAMP/32/2015-MOPT dated 27 February 2016 had fixed rentals for the various port structures of the Mormugao Port Trust (MOPT). In the said case in reference, to determine the rentals for the structures, the MOPT had stated that it had arrived at valuation of structures considering the total value of land and constructed areas adopting the five factors prescribed in the Land Policy Guidelines. The valuer engaged by MOPT had considered the total value of land and constructed areas as the base for arriving the valuation of the structures. Under the cost approach adopted at MOPT, the cost of constructing a new structure with same type of construction, same or similar specifications, design, building materials, etc. was computed. To this reinstatement cost, a suitable discount/ allowance towards the age of the structure, locality and other factors, considering a balance economic life based on the present state, strength, maintenance, was considered. The 'fair market value' of the property was arrived at after considering all the discount/ allowance/ depreciation from the cost of a new construction for each of the structure. The MOPT had also conclusively clarified that the valuation of structure is not the current construction cost or replacement cost of structures, but the present value of the premises. Thus, this Authority in its Order no. TAMP/32/2015-MOPT dated 27 February 2016 had gone with the proposal of the port and has prescribed rentals for the structures of MOPT, as proposed by the Port.

3.4 When the rentals for the structures at MOPT has been fixed based on the present market value of the structure as arrived by the Valuer, in line with the stipulation contained in the Land Policy Guidelines, prescribing rentals for the various structures of KOPT at KDS and HDC based on the Depreciated Replacement Cost of improvement Method as proposed by KOPT then would not have reflected the market value of the structures. At the

same time, if only the rentals for the land was revised based on its market value and the rentals for the structures was left untouched, it would have led to an anomalous position where a lessee for an open land would pay increased rentals on account of the updation of land values whereas a lessee of the structure, who enjoys value added services at the structures, as compared to a lessee of an open land, would not be subjected to any increase in his rentals. It was recognized that lease rentals for structure would have to be based not only on the value of the structure but also on the value of land on which it was erected/ constructed. To overcome this anomalous position, it was felt necessary to increase the rentals for the structures at KDS also.

3.5. Accordingly, this Authority vide its Order no. TAMP/62/2016-KOPT dated 29 March 2017 had increased the rentals for the structures of KOPT at Kolkata by 40% (being the average increase in rentals for the Lands at KDS) or the increase in rentals of structures sought by KOPT, whichever is lower, on an adhoc basis, in line with the approach adopted during the last review of rentals of KOPT in the year 2011.

3.6. Simultaneously, the KOPT was advised to come up with a well analysed proposal within two months from the date of notification of the Order passed to fix rentals for the structures of KOPT at Kolkata based on the market value as stipulated in the Land Policy Guidelines of 2014. The KOPT was also requested to refer the MOPT Order as indicated earlier, to determine the market value of the structures and rentals thereof.

3.7. The KOPT was also requested to note that the revised rentals to be fixed for the structures of KOPT based on a proposal to be filed by the KOPT, shall have a prospective effect and that its validity shall be co-terminus to the validity to be prescribed in respect of the validity of the rentals to be fixed in respect of the KOPT lands at KDS and HDC.

4.1. Subsequent to passing of the above referred Order, the KOPT vide its letter dated 11 April 2017 had stated that from the position explained by the Authority about the methodology adopted for determining the rate of structures at MOPT, it appears that valuation of structures has been made by considering the value of land and replacement /reinstatement cost of constructing a new structure of same type along with necessary depreciation. KOPT has also followed the same approach. The terminology used as "depreciated replacement cost of improvement" is nothing but the replacement cost of the concerned structure after allowing depreciation for age and condition of the building. Further, the replacement cost of structures has been determined by following the unit construction cost prescribed in CPWD manual. Since the method followed by KOPT is similar to the approach approved by this Authority in case of MOPT, the KOPT had requested not to insist on submission of fresh proposal and had requested for approval of the rates already proposed by KOPT.

4.2. In this connection, the KOPT was requested vide our letter dated 20 April 2018 to take note of the following:

- (i). The methodology followed by KOPT for valuation of its structures is given below:
 - (a). Valuation of structures has been done by estimating the depreciated replacement cost method.
 - (b). The depreciated replacement cost of the building has been estimated by ascertaining its replacement cost with the same utility and deducting accrued depreciation of the same.
 - (c). Current Replacement Cost (CRC) of the buildings have been arrived based on prevailing Plinth Area Rates (PAR) of CPWD.
 - (d). The Re-valued Value after Depreciation (RVAD) of the buildings have been derived after consideration of its depreciation.
 - (e). Value of land on which the building is situated is considered with further addition for circulation area @10% of the area of building.
 - (f). RVAD of the building is then added to this computed cost of land to arrive at the value of the structure.
- (ii). The methodology followed by Mormugao Port Trust (MOPT) for valuation of its structures is given below:
 - (a). Cost Approach is adopted for valuation of its structure. Under the cost approach, the cost of constructing a new structure with same type of construction, same or similar specifications, design, building materials, etc. is computed.
 - (b). To this cost, a suitable discount/ allowance towards the age of the structure, locality and other factors, considering a balance economic life based on the present state, strength, maintenance, is considered.

- (c). Thus, a fair market value of the property is arrived at after considering all the discount/ allowance/ depreciation from the cost of a new construction for each of its structures.
- (d). The valuation of structures is not the current construction cost, but the present value of the premises.
- (iii). From the above, it was seen that the basic difference between the methodology adopted by KOPT vis-à-vis the methodology followed by MOPT lies in the discounting factor, i.e. after arriving at the current replacement cost, the MOPT has considered a discount factor keeping in view the age of the structure, locality and balance economic life, thereby reflecting the market value of the structure whereas, KOPT has reduced the accumulated depreciation pertaining to the structure in reference, which may not reflect the market value of the structure.

4.3. Since the Land Policy Guidelines requires fixation of rentals based on the market value, the KOPT was requested to arrive at the market value in respect of each of the structure in Kolkata and Haldia, for fixing the rentals of the structures at Kolkata and Haldia.

5.1. In this backdrop, the KOPT vide its letter no.Lnd.464/F/RFC/XIX(ADDL)/18/912 dated 18 June 2018 has made the following submissions:

- (i). The Methodology followed by KOPT, Methodology followed by MOPT and the Clarification issued by Ministry of Shipping vide Clarification Circular (Land Management) no. 1 of 2018 dated 14 May 2018 at sl. No.6 has been tabulated below:

Sr. no.	Methodology followed by KOPT	Methodology followed by MOPT	Clarification on Policy Guidelines Circular (Land Management) No. 1 of 2018.
1.	Valuation of structure has been done by estimating the depreciated replacement cost method.	Cost Approach was adopted for valuation of its structure.	The valuation of the structure should be done on a 'replacement basis'.
2.	The depreciated replacement cost of the building has been estimated by asserting its replacement cost with the same utility and deducting accrued depreciation of the same.	Under the Cost Approach, the cost of constructing a new structure with same type of construction, same of similar specifications, design, building materials etc. is computed.	The valuation of the structure should be done on a 'replacement' basis which is defined in Indian Accounting Standard (Ind AS 113) as Fair Value measurement on cost basis i.e. the current replacement value /cost of the asset i.e. current market value of the original assets less the depreciation for the period of usage and obsolescence.
3.	Current Replacement Cost (CRC) of the building have been arrived based on prevailing Plinth Area Rates of CPWD.	To this cost, a suitable discount / allowance towards the age of the structure, locality and other factors, considering a balance economic life based on the present state, strength, maintenance, is considered.	Moreover, in terms of Rule 310(3) of GFR2017, "Transfer of buildings and superstructures on land shall be at the present day cost minus depreciation of these structure(s) standing on the land".

4.	The Re-valued value after depreciation (RVAD) of the buildings have been determined after consideration of its depreciation.	A fair market value of the property is arrived at after considering all the discount/allowance/depreciation from the cost of a new construction for each of its structures.	
5.	Value of land on which the building is situated is considered with further addition for circulation area @ 10% of the area of building.		
6.	Re-valued value after depreciation (RVAD) of the building is then added to this computed cost of land to arrive at the value of structure.	The valuation of structures is not the current construction cost, but the present value of the premises.	

A copy of the Clarification Circular (Land Management) no. 1 of 2018 dated 14 May 2018 is furnished by KOPT.

- (ii). The discounting factors as followed by MOPT may be applicable only where numbers of structures are very limited but same discounting factors may not be applicable in KOPT because in KOPT numbers of structures are very large. For such large numbers of structures, individual valuation may not be possible at the time of preparation of SOR.
- (iii). After TAMP's communication dated 20 April 2017 to KOPT, the KOPT had consulted the matter with reputed consultant/ valuers i.e. M/s Colliers International for revaluation of KOPT's structures as per TAMP guidelines.
- (iv). After the observation, valuers/ consultant had submitted its reports on 8 February 2018 which stated as follows:

"In addition to this and while reconfirming our position this may be noted that we had considered the parameters of age of structure, balance economic life, locality etc while estimating market value of structure. Please be noted that we have estimated market value of the structure adding up the following value components:

- *Market value of associated land parcel of the structure.*
- *Depreciated replacement value of the structure.*

While deriving market value of the land we already considered and adjusted varies factors like time, land use, location and physical infrastructure, ownership etc. On the other side while deriving depreciated replacement value of the structure we adjusted factor like age, balance economic life etc. Hence, the estimated value reflects the market value."

The copy of the valuers/ consultant report is furnished by KOPT.

- (v). Further, the procedure adopted by KOPT is in line with the procedure mentioned in Rule 310(3) of GER-2017 and procedure suggested by Ministry of Shipping in clarification no. 6 of Clarification Circular (Land Management) No. 1 of 2018 dated 14.05.2018. The copy of GFR-2017 is furnished by KOPT.

5.2. Based on the above submission, the KOPT requested to approve the rates as already proposed by KOPT. At present, in terms of TAMP's Order dated 29 March 2017, the KOPT is recovering rent from the tenants for its structures at the reduced rate i.e. 35% lower than the proposed rate w.e.f. 7.04.2016. Therefore, the port requested to consider original proposal of KOPT regarding KOPT's structure w.e.f. 7.04.2016.

6. The rentals for the various structures at KOPT was part of the KOPT proposal of 2016 and has been taken on consultation with the relevant users/ user organisations at that point of time. Considering that the KOPT has now proposed for prescription of the same rentals as proposed by it earlier, the current proposal of KOPT is treated as an extension of the earlier proceedings and hence not again taken up on consultation separately with the users. The submissions made by various users/ user organisations have already been considered by this Authority at that relevant point of time.

7.1. As brought out earlier, the Land Policy Guidelines, 2014, lays down the procedure and methodology to be followed for determining the market value and lease rental of the port lands. No specific Guidelines were prescribed in Land Policy for fixation of lease rentals for the premises owned and constructed by a Port Trust.

7.2. In this connection, the Ministry of Shipping (MOS) vide its letter no. PD-13017/2/2014-PD.IV dated 14 May 2018 has issued Clarification Circular (Land Management) no. 1 of 2018. Vide the said Circular, the MOS has issued clarifications on some issues relating to the Land Policy Guidelines, 2014. In this regard, the issue no. 6 and clarification no. 6 issued in the Circular is reproduced below:

“Issue 6:

There are cases, where land was allotted on lease for setting up of industrial, service sector or commercial units. The units are still functioning as going concern and lease did not provide for renewal. What is the methodology to be adopted for grant of fresh lease and what are the rates which shall apply?

Clarification 6:

- (i). *Value of structures shall be made by a Valuer who is mutually acceptable to both Port Trusts and the existing lessee. The Valuer has to be selected by the parties amongst the panel of 3 valuers to be proposed by Port authority within a fixed time period. Here the mutual acceptance is of the Valuer and not of the structure.*
- (ii). *While the guidelines provide for EMD for a valid bid to be fixed at 10% of the latest SOR of the land being put on tender, there is no provision for EMD for the value of structures. An EMD for 10% of the value of the structures in the form of bank guarantee may also be taken from all bidders except the original lessee.*
- (iii). *The valuation of the structure should be done on a ‘replacement’ basis which is defined in Indian Accounting Standard (Ind AS 113) as Fair Value measurement on cost basis, that is, the current replacement value/ cost of the asset i.e. current market value of the original asset less the depreciation for the period of usage and obsolescence.”*

7.3. It is the above referred clarification that the KOPT has referred in its letter of June 2018.

8.1. As per the above referred clarification, the valuation of the structure should be done by taking into account the current market value of the original asset less the depreciation for the period of usage and obsolescence.

8.2. In this regard, as brought out earlier, the KOPT, during the revision of rentals for the lands and buildings of KOPT at Kolkata, had proposed the rentals for the various structures at Kolkata, by ascertaining the replacement cost of the structure with the same utility and deducting accrued depreciation of the same. Further, as brought out by KOPT now, the Valuers while determining the rentals for the various structures of Kolkata have considered the parameters of age of structure, balance economic life, locality etc. while estimating market value of structure.

8.3. Based on the submissions as brought out above, it is seen that the market value for the various structures, based on which the KOPT had proposed rentals in the year 2016, is in line with the methodology prescribed for valuation of structures as per the clarification issued by the MOS in the year 2018. The methodology followed by KOPT, as now clarified by KOPT/ valuer generally follows the methodology followed by MOPT. It is based on the said market value so determined for each of the structure and subsequent adjustments that the annual rent at 6% of the market value has been calculated by the Valuer for each of the structures at Kolkata.

8.4. The rentals as suggested by the Valuer has been recommended by the LAC and has been approved by the Board of Trustees of KOPT.

9.1. Based on the confirmation furnished by KOPT that the methodology adopted by it in fixing the rentals for the various structures at Kolkata is in line with the Clarification Circular (Land Management) no. 1 of 2018 issued by the MOS and is recommended by the LAC and has been approved by the Board of Trustees of KOPT, this Authority is inclined to approve the rentals for the various structures of KOPT at Kolkata, as proposed by KOPT earlier in its proposal of September 2016, which had culminated into the Order no. TAMP/62/2016-KOPT dated 29 March 2017. The revised Rent Schedule for the various structures of KOPT at Kolkata is attached as **Annex**.

9.2. The KOPT has requested for a retrospective effect to the rentals for the buildings and structures at Kolkata with effect from 7 April 2016 (being the effective date when the revised rentals for the lands and buildings of KOPT at Kolkata and Haldia had come into effect). In this regard, it is to state that specific rentals have been fixed vide Order of March 2017 for the buildings and structures of KOPT at Kolkata effective from 7 April 2016. There has been no vacuum in the rentals for the buildings and structures. Further, it had already been brought to the notice of the KOPT in March 2017 Order that the revised rentals to be fixed for the structures of KOPT based on a proposal to be filed by the KOPT, shall have a prospective effect and its validity shall be co-terminus to the validity prescribed in respect of the rentals fixed for the KOPT lands at KDS and HDC.

9.3. Accordingly, this Authority gives effect to the revised rentals for the various structures of KOPT at Kolkata, after expiry of 30 days from the date of notification of the Order passed in the Gazette of India and its validity shall remain co-terminus with the validity of the rentals fixed in respect of the KOPT lands at KDS and HDC upto 6 April 2021.

(T.S. Balasubramanian)
Member (Finance)

RENTALS FOR THE STRUCTURES OF KOPT AT KOLKATA DOCK SYSTEM

(Rs./100Sq.M/ Month)

	Location & Description of Structure	Rentals
1	ARMENIAN GHAT WAREHOUSE	
i	Ground Floor Godowns	25983
ii	First Floor Godowns	18189
2	Calcutta Jetty Shed No. 1	23501
3	CANNING WAREHOUSE	
i	Ground Floor Godowns	25983
ii	First Floor Godowns	18189
iii	Second Floor Godowns	11684
4	CLIVE WAREHOUSE	
i	Ground Floor Godowns	23501
ii	First Floor Godowns	16450
iii	Second Floor Godowns	11684
5	FAIRLIE WAREHOUSE	
i	Ground Floor Godowns	23501
ii	First Floor Godowns	16450
iii	Second Floor Godowns	11684
6	CANNING WAREHOUSE (ANNEXE)	
i	Ground Floor Godowns	25983
ii	First Floor Godowns	18189
8	Import Warehouse (8 compartments)	23501
9	Import Warehouse South.	23501
10	Calcutta Jetty Shed No. 4	23501
11	Calcutta Jetty Shed No. 5. (Northernmost Bay).	23501
12	P-221/2, STRAND BANK ROAD	
i	Ground Floor (Shops).	30868
ii	Ground Floor (Godowns).	23501
iii	Ground Floor Annexe	12926
iv	Second Floor	19586
v	Top Floor.	19586
13	"A" SHED JAGANNATH GHAT	
i	Ground Floor	14072
ii	First Floor	9850
iii	Office space on the Top Floor	7036
iv	Miscellaneous structure attached to the Warehouse such as Darwans Quarters Cook Houses etc.	8443
14	R.D.F. Godowns at Jagannath Ghat Road.	20579
15	Jagannath Ghat Godowns	21829
16	PATHURIAGHAT WAREHOUSE	
i	Ground Floor Godowns (Compartment Nos. 1 to 5)	18346
ii	First Floor Godowns (Compartment Nos. 6 to 10)	9608
iii	Ground Floor Pucca Godowns Nos. 12 to 17/2 (C.I.Roof).	18346
17	Nimtallah Station Shed.	18920
18	SAHEB BAZAR GODOWNS	
i	Nos. 3, 3A, 4 & 4A	15766
ii	Godown No. 5	14823
19	Ruthtala Station Road	13983
20	BAGHBAZAR WAREHOUSE	
i	Ground Floor Godown No. 1	13419
ii	First Floor Godown No. 2 & 4, access by two wooden ramps	9393

21	Cossipore Receiving Shed	9912
22	4 shop rooms with verandah at Armenian Ghat	18049
23	Shed at Outram Ghat	19319
24	OTHER STRUCTURES	
	i Building with pucca roof	4228*
	ii Building with R.T. and Asbestos roof	3223*
	iii Building with C.I. roof	2629*
	DOCK	
25	HIDE ROAD GODOWNS	
	i Godowns, enclosed verandah & miscellaneous closed floor space	10338
	ii Open sided verandah space	5169
26 i	Hoboken sheds (including naval transit sheds)	8955
26 ii	Brooklyn T.N. Shed	7762
26 iii	Brooklyn T.G. Shed	8150
27	Jinjinrapole Sheds	9186
28	Structures/ Rooms In any Zone (not covered within mentioned within zones)	
	i Building with Pucca Roof	5035*
	ii Building with R.T. and Asbestos roof	4028*
	iii Building with C.I. roof	3287*
29	Kantapukur Sheds	8955
30	TEA WAREHOUSES	
	i Hide Road Warehouse	7960
	ii Sale Tea Warehouse	9023
	First Floor Rate 70% of Ground Floor Rate	6316
	2nd floor and above	4512
	iii Sale Tea Warehouse (Annexe)	7932
	iv Lybian Depot Warehouse	
	a Ground Floor	11615
	b 1st Floor	8130
	c 2nd Floor upwards	6960
	v T.T. Sheds	6960
	1st Floor	4449
	vi T.T. Sheds Extension	6960
31	Import Warehouse "A" N.S.D.	
	Ground Floor	6407
	1st Floor	4997
	2n Floor upwards	3661
	HOWRAH	
32	SHED AT 14 FORESHORE ROAD, RAMKRISTOPUR	
	i Ground Floor Space	6667
	ii First Floor Space	4667
33	Station Shed (North) Ramkristopur	7033
34	Station Shed (South) Ramkristopur	7033
35	New Goods Shed Ramkristopur	7033
36	Structures at 109, Foreshore Road, Ramkristopur	7124
37	Nissen Sheds at 108, Foreshore Road, Ramkristopur	6967
38	Small office Building at Timber Pond	3142
	BUDGE BUDGE	
39	Budge Budge Godown / Sheds	4370
	OTHER STRUCTURE	
40i	Building with pucca roof	4228*
	ii Building with R.T. and Asbestos roof	3223*
	iii Building with C.I. roof	2629*
41	Gangway and Pontoon of KoPT	1,28000 (pm L.S)**
42	Gangway and Pontoon of Party	9000-per month(L.S)#

* Land Cost of respective zones to be added for final rate.

**including foreshore occupation charge where Approach and/or back land belongs to KopT only

including foreshore occupation charge subject to minimum of Rs 27000/- where Approach and/or back land belongs to KopT only