IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2025

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.20020 of 2014
And
M.P.Nos.2 and 3 of 2014

CHEMPLAST SANMAR LIMITED
Represented by its Authorized Signatory
Mr.KG Bhushanam – General Manager – Legal
Having Office at No.9, Cathedral Road,
Chennai – 600 086. ... Petitioner

Vs.

1.Union of India,
Rep. by Secretary to Government,
Ministry of Shipping, Road Transport & Highways,
Transport Bhavan,
No.1, Parliament Street,
New Delhi.

2.Tariff Authority for Major Ports (TAMP)
With Director, Adjudicatory Board for Major Ports,
Ministry of Ports,
Shipping and Waterways,
Government of India,
IV Floor, Bhandar Bhavan,
Muzawar Pakhadi Road,
Mazagon, Mumbai – 400 010.

[R2 Cause Title amended vide order
dated 30.10.2025 made in WMP.No.
46503 of 2025 in WP.20020/2014 by MDIJ]

3.V.O. Chidambaranar Port Trust,
Represented by its Financial Officer &
Chief Accounts Offficer
having its Office at Finance Department
Administrative Office,
V.O.Chidambaranar Port Trust,
Tuticorin 628 004. ... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus calling for the records comprised in the Order bearing No.TAMP/6/2012-VOCPT and dated 04.04.2014 passed by the second respondent vide Notification dated 19.05.2014 and quash the same in so far as the petitioner is concerned, in as much as it is illegal and contrary to the provisions of the Major Port Trusts Act, 1963 as well as the provisions of the Land Use Policy.

For Petitioner : Mr.Rahul Balaji

For Respondents : Mr.J.Madhanagopal Rao for R1
SCGSC
Mr.Haja Mohideen Gisthi for R2
Mr.Yashod Vardhan for R3
Senior Counsel
for Mr.S.Yashwanth

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Mandamus calling for the records comprised in the Order bearing No.TAMP/6/2012-VOCPT and dated 04.04.2014 passed by the second respondent vide Notification dated 19.05.2014 and quash the same in so far as the petitioner is concerned, in as much as it is illegal and contrary to the provisions of the Major Port Trusts Act, 1963 as well as the provisions of the Land Use Policy.

2.The learned counsel appearing for the petitioner submitted that the petitioner company entered into lease agreement with the third respondent on 09.08.1987 in terms of plot admeasuring an extent of 12,783.40 sq.mtrs. for a period of 30 years from 01.06.1984 on an yearly rent of Rs.54,457.30 and the lease rent was regularly paid by the petitioner. The revision in lease rent is made every five years keeping in line with the provisions of the agreement. The second respondent was set up by the Central Government in the year 1997 and has been vested with the Authority of fixing scale of rates for services to be performed by the Port Trusts and the lands belonging to it, the third respondent Port also comes under it.

3.The learned counsel appearing for the petitioner further submitted that the Central Government has set up the second respondent for fixation of scale of rates for the Major Ports, however, prior to it, the third respondent had fixed the rent for the subject land. He contended that there is no provision available prior to the year 2017 for specifically fixing the lease rent retrospectively, however, the second respondent without any provision or authorization had fixed the rent with retrospective effect, which is impermissible in law. He added that whatsoever, as per the notification of the second respondent, the third respondent demanded arrears of lease rent amount from the petitioner. The learned counsel further submitted that the petitioner Company vacated the premises and handed over the premises prior to the order passed by the second respondent.

4.Per contra, the learned counsel appearing for the second respondent submitted that the second respondent is the competent authority appointed by the Central Government for fixation/ revision of tariff for the Major Ports Trusts and private terminals. He submitted that the second respondent after following the provisions of Land Policy guidelines and Ports Trust Act passed the impugned order and hence, prayed for dismissal of the petition.

5.The learned Senior Counsel appearing for the third respondent submitted that the Central Government has appointed the second respondent which is the competent authority for fixing the scale of rates for the Major Ports and for fixing the lease rent for the Port lands and as per the directions of the second respondent and with the expert land valuer, as well as the recommendations of the Committee, the Port has revised the proposal for the lease rent of Port lands from 01.07.2007 to 30.06.2012 and 01.07.2012 to 30.06.2017, which is strictly in accordance with Land Policy of the Major Ports approved by the Government.

6.I have considered the rival submissions made by the respective counsels and also perused the materials available on record.

7.Admittedly, the petitioner has entered into a lease agreement with the third respondent to the land to an extent of 12,783.40sq.mtrs. which fact is not disputed by the respondents. Earlier transactions between the petitioner and the third respondent is covered by the Major Ports Act and subsequently, the Central Government has appointed the second respondent as authority for fixation of scale of rates and passed an order calculating the rent retrospectively which has been challenged before this Court.

8. At this juncture, it is relevant for this Court to refer to Section 49 of the Major Ports Act, 1963 and the same is extracted hereunder for ready reference:

> ***"49. Scale of rates and statement of conditions for use of property belonging to Board.—***
>
> *(1) [The Authority shall from time to time, by notification in the Official Gazette, also frame a scale of rates on payment of which, and a statement of conditions under which, 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 may be used for the purposes specified hereunder-]*
>
> *(a) approaching or lying at or alongside any buoy, mooring, wharf, quay, pier, dock, land, building or place as aforesaid by vessels;*
>
> *(b) entering upon or plying for hire at or on any wharf, quay, pier, dock, land, building, road, bridge or place as aforesaid by animals or vehicles carrying passengers or goods;*

(c) leasing of land or sheds by owners of goods imported or intended for export or by steamer agents;

(d)any other use of any land, building, works, vessels or appliances belonging to or provided by the Board.

(2) Different scales and conditions may be framed for different classes of goods and vessels.

[(3) Notwithstanding anything contained in sub-section (1), the Board may, by auction or by inviting tenders, lease any land or shed belonging to it or in its possession or occupation at a rate higher than that provided under sub-section (1).]

[49A. Fees for pilotage and certain other services.—

(1) Within any port, fees may be charged for pilotage, hauling, mooring, re-mooring, hooking, measuring and other services rendered to vessels, at such rates as the Authority may fix.

(2) The fees now chargeable for such services shall continue to be chargeable unless and until they are altered in exercise of the power conferred by sub section (1).

(3) The Central Government may, in special cases, remit the whole or any portion of the fees chargeable under sub-section (1) or sub-section (2).

49-B. Fixation of port-dues.--

(1)The Authority shall from time to time, by notification in the Official Gazette, fix port-dues on vessels entering the port.

(2) An order increasing or altering the fees for pilotage and certain other services or port-dues at every port shall not take effect until the expiration of thirty days from the day on which the order was published in the Official Gazette].

9.Furthermore, it is also pertinent to extract the provisions of Section 27 of the Major Port Authorities Act, 2021, which reads as under:

*"**27.** (1) The Board of each Major Port Authority or the committee or committees constituted in this behalf by the Board in accordance with section 14, may,––*

(a) frame scale of rates at which, and a statement of conditions under which, any services shall be performed or made available; Powers of Board in respect of planning and development. 52 of 1962.

(b) frame scale of rates at which, and a statement of conditions under which, the access to and usage of the port assets may be allowed by the Board;

(c) frame consolidated scale of rates for any combination of services specified in clause (a) or for any combination of such service or services with any user or permission to use or access to any port assets as specified in clause (b);

(d) pass an order for refund of any amount overcharged by the Board in relation to the services provided to any person;

(e) pass an order for recovery of any rate or charge which is short-levied or erroneously refunded by the Board to any person under this Act; and

(f) frame different scales, fees, rates and conditions for different classes of goods and vessels under this section:

Provided that the fixation and implementation of such scales, fees, rates and *conditions shall be in consonance with the norms as may be prescribed and shall––*

(i) not be with retrospective effect;

(ii) not be in derogation with the rules made by or directives of the Central Government in this behalf;

(iii) not be inconsistent with the provisions of the Competition Act, 2002; and

(iv) not be inconsistent with the provisions of any other law for the time being in force:

Emphasis Added

Provided that in case of Public Private Partnership projects after the commencement of this Act, concessionaire shall fix the tariff based on market conditions and on such other conditions as may be notified:

Provided further that the revenue share and other conditions would be as per the provisions of the specific concession agreement between the Board and the Public Private Partnership concessionaire appointed under the Public Private Partnership project.

(2) Notwithstanding anything contained in clause (b) of sub-section (1),the Board

may, by auction or by inviting tenders, lease any port asset belonging to or in its possession or occupation at a rate higher than that provided under clause (b) of sub-section (1).

10.On perusal of Section 49 makes it clear that the Authority has no power to fix the rent retrospectively as there is no provision for claiming the lease amount retrospectively from the person to whom the land was leased out as per the Major Ports Act and hence, retrospective claim made by the second respondent is not tenable. It is made clear that there is no specific clause for retrospective claim as per the new Act also. As such, the retrospective demand made by the second respondent, is not permissible without any enhancement of rent.

11.The writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

03.11.2025

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

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