IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-11-2025

CORAM

THE HONOURABLE MR JUSTICE M.DHANDAPANI

WP No. 18612 and 20431 of 2014

M/s.SHV Energy Private Ltd
(formerly Caltex Gas India Pvt. Ltd)
3rd Floor, Gold Crest, Alpha Centre,
No.150 and 151, 7th Floor,
North Usman Road, T.Nagar,
Chennai -17.
(CAUSE TITLE AMENDED VIDE
ORDER DT 07.10.2021 MADE IN
WMP.19038/2021 IN WP.18612/2014
BY SMSJ)

Petitioner in WP.No.18612 of 2014

1. M/s.DCW Ltd.,
Rep.by its General Manager (Legal and Indirect Taxation)
New No.358, Old No.645, Anna Salai, Thousand Lights,
Chennai-600006

Petitioner in WP.No.20431 of 2014

Vs

1. Union of India,
Rep. by the Secretary to Government,
Ministry of Shipping, Road Transport
and Highways, Transport Bhavan, No.1,
Parliament St, New Delhi-1

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, Mazagaon,
Mumbai 400 010.
(R2 Cause Title Amended Vide Order
Dated 30.10.2025 Made in

WMP.46499/2025 In
WP.No.18612/2014 By MDIJ)

3.V.O.Chidambaranar Port Trust,
(formerly Tuticorin Post Trust), Rep.
By Its Chairman, V.o.chidambaranar
Port, Tuticorin-628 004.

Respondents in both the writ petitions

PRAYER in WP No. 18612 of 2014; This petition is filed under Article 226 of Constitution of India, to issue a writ of certiorarified mandamus, Calling for the records comprised in the Notification bearing No.TAMP/ 6/2012-VOCPT and dated 19.5.2014 notifying the order dated 4.4.2014 passed by the 2nd respondent, 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, and consequently direct the 2nd respondent to revise the Scale of Rates in respect of the petitioner strictly in terms of the provisions of the Major Port Trusts Act, 1963

PRAYER in WP No. 20431 of 2014; This petition is filed under Article 226 of Constitution of India, to issue a writ of certiorarified mandamus,calling for the records comprised in the notification bearing No. G. No.156 and dated 21.5.2014 notifying the order dated 4.4.2014 passed by the 2nd respondent, 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, and consequently direct the 2nd respondent to revise the Scale of Rates in respect of the petitioner strictly in terms of the provisions of the Major Port Trusts Act, 1963

For Petitioner(s):	M/s.Rahul Balaji in both the writ petitions
For Respondent(s):	Mr.S.Hajamohideen Gisthi R2 Mr.J.Madanagopal Roa, SPC R1 Mr.Yashod Wardhan Sr.C. For Mr.Yashwanth R3 in both the writ petitions

COMMON ORDER

These two writ petitions are filed challenging the revision of lease rent by the third respondent approved by the second respondent.

2. It is the case of the petitioners that the third respondent leased out certain un-utilised lands of Port to the petitioners herein for port related and non port related activities/works. As per the lease agreement entered into between the parties, the third respondent is entitled to increase annual lease rent by 5% at the end of each year. After 30.06.2004, the revision of lease rent permitted at 2% per annum. The clause has a proviso that the port has the right to revise the basic rent on the expiry of every five years.

3. The second respondent, vide order dated 18.11.2004, revised the lease rent of lands of the third respondent for a period of five years from 01.07.2002 to 30.06.2002. The third respondent had filed a proposal for revision of lease rent for a period of five years from 01.07.2007. The said proposal was disposed of by the second respondent vide order dated 11.10.2007 directing the third respondent to submit a revised proposal.

4. Thereafter, the third respondent had engaged an approved a land valuer who had submitted a valuation report. A committee was constituted to refix the lease rent with effect from 01.07.2007. The committee recommended lease rent

rates for two 5 year periods based on the highest valuation of land. Accordingly, the second respondent passed the impugned order challenging the writ petitions has been filed.

5. The learned counsel for the petitioners vehemently argued that the revision of rent was done immediately by the second respondent and the petitioners were kept in dark about the meeting held by the third respondent. The learned counsel contended that the revision of lease rent ought to be prospective not to be retrospective. Since the second respondent has increased rent for expire periods and the same is not sustainable in the eye of law. Likewise, the respondents have also made incorrect calculation of land cost and development cost. The learned counsel further submitted that enhancement of lease rent ought to be reasonable and in the present case, the proposed lease rent revision is almost 22 times be present paid by the petitioner. Likewise, re-classification of lands allotted to the petitioner as industry is done only to collect rates applicable commercial areas. The learned counsel therefore submitted that the revision of lease rent has been made in arbitrary manner, the impugned orders ought to be set aside.

6. The learned counsel for the respondent on the other hand would submit that the petitioners are squatting property by paying very meager lease rent amount. The parties are aggrieved over even at that time of entering lease

agreement that the respondents are entitled for increasing lease by 5% by every year. According to the learned counsel, during the period, for which, lease is now revised, there was no proper revision at marker price. The petitioners were literally fail very little while enjoying a prime property. The learned counsel therefore, prayed that the impugned orders may be sustained and the writ petitions may be rejected.

7. Heard the learned counsel for either side and perused the materials available on record.

8. The short point that is to be decided in these writ petitions as to whether the respondents 2 & 3 are entitled for revising lease tent and whether the revision was made in a lawful manner. There is no dispute that the petitioners have aggrieved by the lease agreement for revision of lease rent for 5% every year. The respondents have taken a stand that the highest tender rate has been prescribed as one of the auction are arriving at the market value of the land. The revision of lease rent was made on the market value of the land. Therefore, this Court of the opinion that the third respondent perfectly justified in revising the lease rent for the period mentioned in the impugned order. The petitioners were given lease of land on a prime location. They were paying only a pittance. The rent should be fixed only a prevailing market rate and none prevail the same. It is common knowledge. Therefore, the action of the

respondents in revising the lease rent in accordance with prevailing market rat, cannot faulted with.

9. The writ petitions are disposed of with the following directions;

1. The petitioners are permitted to pay the lease rent arrears as on date in 24 equated monthly instalments.

ii. Payment of each instalment shall be made before the 5^{th} day of English Calender Month; and

iii. Failure to pay any instalment in invite simple interest at 9%.

No costs.

06-11-2025

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Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No

To

1.Union of India,
Rep. by the Secretary to Government,
Ministry of Shipping, Road Transport
and Highways, Transport Bhavan, No.1,
Parliament St, New Delhi-1

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, Mazagaon, Mumbai
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3.V.O.Chidambaranar Port Trust,
(formerly Tuticorin Post Trust), Rep.
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M.DHANDAPANI J.

rli

WP No. 18612 of 2014
WP NO. 20431 OF 2014

06-11-2025

W.P.Nos.18612 and 20431 of 2014

M.DHANDAPANI,J.

The matter is today listed under the caption 'for being mentioned' at the instance of the learned counsel appearing for the petitioners.

2.The learned counsel appearing for the petitioners submitted that this Court disposed of the writ petitions in W.P.Nos.18612 and 20431 of 2014 by dictating the order in the open Court on 06.11.2025, however, inadvertently, some paragraphs are omitted and he wants to include some more paragraphs for which the learned counsel appearing on the side of the respondents raise no objection.

3.Considering the submissions made by the learned counsel appearing for the petitioners, the order dated 06.11.2025 made in W.P.Nos.18612 and 20431 of 2014 from paragraph no.4, is to be read as follows:

> *"4.Thereafter, the third respondent had engaged an approved land valuer who had submitted a valuation report. A committee was constituted to refix the lease rent with effect from 01.07.2007. The committee recommended lease rent rates for two 5 year periods based on the highest valuation of land. Accordingly, the second respondent passed the impugned orders. Challenging the same, the writ petitions have been filed.*

5.The learned counsel appearing for the petitioners 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.

6.The learned counsel for the petitioners further vehemently argued that the revision of rent was done immediately by the second respondent and the petitioners were kept in dark about the meeting held by the third respondent. The learned counsel contended that the revision of lease rent ought to be prospective and not retrospective. Since the second respondent has increased rent for expired periods, the same is not sustainable in the eye of law. Likewise, the respondents have also made incorrect calculation of land cost and development cost. The learned counsel further submitted that enhancement of lease rent ought to be reasonable and in the present case, the proposed lease rent revision is almost 22 times be present paid by the petitioner. Likewise, re-classification of lands allotted to the petitioners as industry is done only to collect rates applicable in commercial areas. The learned counsel therefore submitted that the revision of lease rent has been made in arbitrary manner, the impugned orders ought to be set aside.

7.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 orders.

8.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.

9.The learned counsel appearing for the second respondent as well as the learned Senior Counsel appearing for the third respondent submitted that the petitioners are squatting property by paying very meager lease rent amount. The parties are aggrieved over even at that time of entering lease agreement that the respondents are entitled for increasing lease by 5% by every year. According to the learned counsel, during the period, for which, lease is now revised, there was no proper revision at market price *and the petitioners were literally paying very little while enjoying a prime property. Accordingly, they prayed that the impugned orders may be sustained and the writ petitions may be rejected.*

10.Heard the arguments advanced on either side and perused the materials available on record.

11.The short point that is to be decided in these writ petitions is as to whether the respondents 2 & 3 are entitled for revising lease tent and whether the revision was made in a lawful manner. There is no dispute that the petitioners are aggrieved by the lease agreement for revision of lease rent at 5% every year. The respondents have taken a stand that the highest tender rate has been prescribed as one of the auction are arriving at the market value of the land. The revision of lease rent was made on the market value of the land.

12.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].

13.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) <u>not be with retrospective effect</u>;

(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).

14.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.*

15.However, at the same time, it cannot be disputed that the petitioners continued to remain in occupation of the Port lands during the relevant period and derived the benefit of such occupation. The petitioners were granted lease of land in a prime location and were paying only a pittance. Therefore, some reasonable mechanism is required to determine the rent payable for the past period.

16.During the course of hearing, this Court was of the opinion that a reasonable approach to compute the lease rent payable for the past period would be to apply a reasonable escalation over the earlier lease rent, instead of enforcing the revised rates retrospectively.

17.Taking into account the terms of the lease agreements and the escalation clauses contained therein, this Court is of the view that a 10% escalation per year over the existing lease rent would constitute a reasonable basis for determining the rent payable for the past period, i.e., 2007 – 2014.

18.Pursuant to the directions, the learned counsel for the petitioners and the respondents have furnished their respective computation sheets taking into account a 10% annual escalation of the lease rent for the past period from 2007 to 2014. Upon comparison of the computations furnished by the parties, it is observed that in W.P. No.18612 of 2014 (SHV Energy Private Limited) the amount furnished by the petitioner is higher, whereas *in W.P. No.20431 of 2014 (DCW Limited) the amount furnished by the third respondent is higher. Accordingly, the higher of the two amounts in each of the writ petitions may be taken into consideration for the purpose of determining the lease rent payable for the said period.*

19.Insofar as the period subsequent to 2014 is concerned, this Court is not inclined to interfere with the determination of lease rent made by the respondents. It is stated that the petitioner in W.P.No.18612 of 2014 (SHV Energy Private Limited) has already discharged the lease rent payable for the subsequent period under the revised lease rent rates. In respect of W.P.No.20431 of 2014 (DCW Limited), the third respondent, is directed to ascertain the lease rent payable for the period subsequent to 2014 and communicate the same to the petitioner within a period of 4 weeks.

20.Accordingly, the writ petitions are disposed of with the following directions:

(i)SHV Energy Private Limited / Petitioner in W.P. No.18612 of 2014 shall pay a sum of Rs.36,03,925/- [Rupees Thirty Six Lakhs Three Thousand Nine Hundred and Twenty Five Only] towards lease rent payable for the past period from 2007 to 2014, calculated on the basis indicated above, within a period of eight weeks from 11.03.2026.

(ii)DCW Limited / Petitioner in W.P. No.20431 of 2014 shall pay a sum of Rs.49,67,725/- [Rupees Forty Nine Lakhs Sixty Seven Thousand Seven Hundred and Twenty Five Only] towards lease

rent payable for the past period from 2007 to 2014, calculated on the same basis. The petitioner/ DCW Limited is permitted to discharge the said liability in 24 equated monthly installments commencing from 7th April, 2026 and shall pay the installments on or before 7th of every succeeding English Calendar month and the failure to pay any installment will invite simple interest at 9%.

21.The writ petitions are disposed of with the above directions. No costs. Consequently, the miscellaneous petitions are closed."

4.Registry is directed to carry out the necessary corrections and re-issue copy of the order to the respective learned counsel appearing for the parties.

11.03.2026

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M.DHANDAPANI,J.
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W.P.Nos.18612 and 20431 of 2014

11.03.2026