

LAND ACQUISITION ACT

APPEALS BOARD

AB 2012.049

In the Matter of the Acquisition of Land at
Lot 1422X Mukim 7
1 Tuas Avenue 3 Singapore 639402

Between

- (1) M/s CWT Limited
- (2) CWT Commodities Warehousing Pte Ltd
- (3) CWT Commodities (Metals) Pte Ltd
- (4) CWT Commodities Indochine Pte Ltd

... Appellants

And

Collector of Land Revenue

... Respondent

Mr Chandra Mohan/Mr Kelvin Ong for Appellants
Mr Lee Cheow Han/Ms Joyce Lee for Respondent

DECISION

The decision of this Board is:

(1) That the award of the Collector of Land Revenue of compensation in an amount of \$670,982.17 in respect of Lot 1422X Mukim 7 at 1 Tuas Avenue 3 Singapore 639402 be confirmed.

And

(2) That the costs of this appeal to the Board be paid by the appellants.

Introduction

1. The notification for the acquisition of Lot 1422Z Mukim 7, also known as 1 Tuas Ave 3 (“acquired land”) for the public purpose of a Mass Rapid Transit extension and for road works under section 5 of the Land Acquisition Act (“the Act”) was declared and gazetted on 5 January 2011. Possession was scheduled to be given to Collector of Land Revenue (“Collector”) on December 2012 (“scheduled handover date”).

Summary and Issues

2. Summary of appellants’ case – The 3rd and 4th appellants, CWT Commodities (Metals) Pte Ltd and CWT Commodities Indochine Pte Ltd respectively, who occupied the acquired land premises, say that they had to lease new warehouse space at 3 locations, in advance of the scheduled handover date, to store their London Metal Exchange metals (3rd appellant) and coffee beans (4th appellant).
3. They claim compensation for the rent for the new warehouse space or “interim storage cost,” as described by them, as being reasonable expenses incidental upon the change in their place of business under section 33(1)(e) of the Act. Their claim of \$1,932,197.37 in the Petition of Appeal of 5 July 2013 was a reduction of their original claim of \$2,227,023.25.
4. This is 3rd and 4th appellants’ appeal against Collector’s refusal to award compensation for the rent paid for the new warehouse space. There is no appeal against Collector’s award of \$670,982.17 for the relocation costs of the warehoused cargo. Although there are 4 named appellants, the Petition of Appeal deals only with the 3rd and 4th appellants’ claims.¹ 1st and 2nd appellants say that they want to remain as appellants so as not to prejudice their position. The appellants are companies in the CWT group and 1st appellant is the ultimate holding company.
5. Issue – The issue is: Are the rental payments for the new warehouse space compensable under section 33(1)(e) of the Act ?
6. Onus and Standard of Proof - Under section 25(3) of the Act, the appellants have the onus of proving on a balance of probabilities that the Collector’s award is inadequate.² Case law has recognised that an appellant in a land acquisition case is analogous to a plaintiff.
7. Regulation 11(3) of the Land Acquisition (Appeals Board) Regulations provides that the Board shall take note of all evidence and exhibits put in evidence at the hearing.

¹ Section 23(4) of the Act, which provides that save with the consent of the Board and on such terms as the Board may determine, an appellant may not, at the hearing of his appeal rely on any ground of appeal other than the grounds stated in his petition of appeal.

² *Tan Kok Wah Dennis Christopher v Ong Bee Poh Michelle v Collector of Land Revenue*, AB 2011.026 at [13]

Background

8. 2007 Sale and Leaseback Agreement – Under a 2007 Sale and Leaseback agreement, 2nd appellant, Commodities Warehousing Pte Ltd sold their leasehold interest in the acquired land as lessee from Jurong Town Corporation (“JTC”) to RBC Dexia Trust Services Singapore Limited (“RBC”). The latter then, concurrently, granted 1st appellant, CWT Limited, an 8 year lease of the acquired land from 31 October 2007. It was agreed that in the event of land acquisition, RBC had the right to terminate the lease on written notice.
9. Further Sub-Lease - 1st appellant then sub-leased the acquired Land to 2nd appellant, which further sub-leased 248,814 sq ft of the Acquired Land premises to 3rd appellant to store metals (London Metal Exchange or LME metals) and 59,718 sq ft to 4th appellant to store coffee beans.
10. Upon acquisition, Collector awarded compensation for acquired land to JTC, the registered proprietor and JTC’s lessee, RBC. The 1st appellant, who was awarded \$1 compensation by Collector, has not appealed.
11. CWT Group Policy on warehouse space - The CWT group of companies is one of the largest warehouse operators in Singapore. The unwritten group policy (according to Ow Teck Hiong (“Ow”), Chief Financial Officer of 2nd, 3rd and 4th appellants and Director of 3rd and 4th appellants and Paribalan Annamalai (“Paribalan”), the appellants’ Regional Operations Manager) is for CWT companies to first source for warehouse space within the group at arms-length³. Senior CWT group management would have to approve before a company could source external warehouse space. Ow acknowledged that this was for the benefit of the CWT group to ensure that warehouse rental paid by a CWT company remained within the group.⁴ The new warehouse space for which 3rd and 4th appellants claim compensation rental from Collector, were rented from companies in the CWT group.
12. Reasons given by appellants - The appellants say that they needed to rent the new warehouse space early for LME metals storage, some 12.5 months, 9 months and 1.5 months in advance of the 31 December 2012 scheduled handover date and also 5 months earlier for the storage of coffee beans, because of they needed to comply with special requirements for storage of the LME metals and to secure space, that was in short supply:
 - a) The supply of available warehouse space in 2011 and 2012 was limited. As they needed significant warehouse space, they had to enter into separate leases for different premises to meet their warehousing needs;
 - b) They had to ensure that the new warehouse spaces were not leased to other tenants in the interim

³ 1st affidavit of Paribalan at [31], NE 24 April 2014 at page 26:22 – 27:1, page 30:2 – 30:6,

⁴ NE 24 April 2014, at page 33:31

and that the space would be available and ready by 31 December 2012;

- c) They spent a long time to relocate the warehoused goods from the acquired land premises to the new warehouse space due to the sheer volume of the warehoused goods;
- d) 3rd appellant had to comply with stringent requirements for the storage of LME metals, such as floor loading, alteration of the new warehouse space, inspection by LME officers before approved listing as LME warehouses;
- e) 3rd appellant had to get a licence from Singapore Customs to operate under the Zero-GST warehouse scheme; and
- f) 4th appellant had to ensure that the areas surrounding the new warehouse storage for coffee beans, were not used for the storage of chemicals or other food commodities.

Summary of 3rd Appellant's Appeal

13. 3rd appellant's case relating to storage of LME metals - In essence, 3rd appellants' case is that they were required to lease new warehouse space for LME metals storage some 12.5 months, 9 months and 1.5 months in advance of the 31 December 2012 scheduled handover date, because of the need to comply with special requirements for storage of the LME metals and to secure space, that was in short supply.
14. The London Metals Exchange ("LME") is a futures exchange and world centre for industrial markets trading, which also approves and licenses LME warehouse storage space around the world to facilitate physical delivery of LME metals pursuant to physical trades⁵. 3rd appellant has been in the business of LME metal storage before 2002. The group had other LME warehouses in other locations, including Jalan Buroh, which were occupied most of the time.⁶ The storage capacity at the acquired land premises was around 65,000 or between 60,000 to 70,000 metric tons of LME metals (depending on the metal stored, eg copper, lead, zinc or aluminium)⁷.
15. New warehouse space secured by 3rd appellant - 3rd appellant rented space for LME storage as follows:
 - a) a combined area of 122,395 sq ft at 33 Pioneer Street 1 from OCWS Logistics Pte Ltd ("OCWS"), a CWT group company in two stages: i) 49,229 sq ft area from 18 November 2011 ("Phase 1 area"); and ii) an additional 73,166 sq ft area 1 April 2012 ("Phase 2 area"). The rental compensation claimed is \$1,522,474.41 for 3.5 months for Phase 1 from 15 December 2011 and for 9 months for Phases 1 and 2 from 1 April 2012 to end December 2012; and

⁵ 1st affidavit of Paribalan at [12]

⁶ NE 24 April 2014 at page 44:31 – 45-32, page 65:20 – 67:12, 103:25 – 104-12,

⁷ 1st affidavit of Paribalan at Tab 19 page 48.

- b) an area of 52,690 sq ft at 20 Gul Way from 1st appellants from 1 November 2012. The rental compensation claimed is \$310,350 for 1.5 months from 15 November to 31 December 2012.

Summary of 4th Appellant's Appeal

16. New warehouse space for 4th appellant - To secure new warehouse space to replace the acquired land premises, 4th appellant leased from OCWS, 51,725 sq ft at 31 Pioneer Sector 1, for storage of coffee beans from 1 August 2012. The rental compensation claimed is \$99,373.34 for 5 months from 1 August to 31 December 2012.

Summary of Collector's Case

17. Collector's case is that a claim is compensable only if it falls within section 33(1) of the Act, which states that "the Board shall take into consideration the matters specified therein and no others". The rental compensation claim for the new warehouse space pending handover of the acquired land premises to Collector on the scheduled handover date, are expenses that affect the actual earnings of a person operating a business on the Acquired Land. These expenses cannot be claimed because of a 1973 amendment to section 33(1)(d) of the Act.
18. For ease of reference, Section 33(1)(d) and (e) of the Act is reproduced below, showing the amendments made to section 33(1)(d) in December 1973, to remove the words: "his actual earnings":

Matters to be considered in determining compensation

33.- (1) *In determining the amount of compensation to be awarded for land acquired under this Act, the Board shall take into consideration the following and no others:*

(d) the damage, if any, sustained by the person interested at the time of the Collector's taking possession of the land by reason of the acquisition injuriously affecting his other property, whether movable or immovable or in any other manner, or his actual earnings;

(e) if, in consequence of the acquisition, he is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to that change; ..."

Pursuant to the 1973 amendment, a claim for loss of "actual earnings" is not compensable. The rent for new warehouse spaces before the scheduled handover date is a component of the actual earnings of a person operating a business on the acquired land. As actual earnings are dependent on the profits less the expenses for a business, the rent for the new warehouse spaces is an expense affecting the actual earnings of a person, who has a place of business on the acquired land.

19. Even if the rent for the new warehouse space is a compensable claim under section 33(1)(e) of the Act as

“reasonable expenses, if any, incidental to that change...” in the place of business, the appellants had failed to prove that the rent was incurred in consequence of the acquisition. The appellants remained in possession of the acquired land premises and gave vacant possession to Collector only after they had rented the new warehouse space for up to 12.5 months, 5 months, 1.5 months (LME metals) and 5 months (coffee beans). They did not, at any time, offer to give earlier possession of the acquired land to Collector.

3rd Appellant’s appeal for rental/interim storage costs for new warehouse space for LME metals at 33 Pioneer Sector 1 and 20 Gul Way

20. Based on the totality of the evidence, the Board finds that the 3rd appellant had expanded their LME warehouse storage capacity to meet their business needs and had used the new warehouse space pending the move of LME metals in September 2012 to store LME metals, that could not have been stored at the acquired land premises and to store other goods, albeit that the ultimate intention was for the new warehouse space to be used to store the LME metals at the acquired land premises. They had failed to show that they paid market rent for the new warehouse space or that there was a basis to compensate them for the rental for the new warehouse space, whilst they were still occupying the acquired land premises.

a) That 3rd appellant expanded their LME warehousing capacity for their business needs - The evidence shows that 3rd appellant wanted to expand their LME warehousing capacity in 2011/2012. Paribalan in his 22 November 2011 email to Singapore Customs for a licence for Phase 1 33 Pioneer Sector 1, said that in addition to replacing the acquired land premises, where there was 60,000 metric tons of LME metals, “*there is also an increase of LME metals to Singapore and we need to secure additional warehouse space in advance.*”⁸ In his 16 March 2012 email to 1st appellant’s Managing Director, Business Development and copied to Ow and senior management,⁹ he said that they were “*expecting the tonnage to increase soon*” and that they would “*source for external warehouse space to accommodate more metals storage.*” He also said that they intended to extend their existing warehouse space at Jalan Buroh after an existing tenant left¹⁰. His table (reproduced below) showed the actual and estimated metal tonnage capacity of the warehouse space, already rented or to be considered for rent and the then stock of warehoused metals.

**below table is based on today (16th March) tonnage and we are expecting the tonnage to increase soon.

⁸ 1st affidavit of Paribalan at Tab 12, page 188

⁹ 1st affidavit of Paribalan at [87]. Also Tab 19 at page 248 – This email said that the maximum storage tonnage at the acquired land premises was 65,000 metric tons, whilst the estimated maximum storage tonnage for the combined area at 33 Pioneer Sector 1 was 77,500 (15,500 + 62,000) metric tons. The actual tonnage at the acquired land premises was 62,000. There were 10,850 tons stored in Phase 1 area, 33 Pioneer Sector 1. NE 24 April 2014 at page 114:28 – 116:6 - Paribalan in his evidence on 24 April 2014, said that the acquired land premises could accommodate between 60,000 to 70,000 tons, depending on the metal. See also NE 24 April 2014 at page 76:21 – 76:31, where Paribalan says the minimal floor loading strength for an LME warehouse is 5 tonne per sqm “ but if there is more, we can store more cargos.”

¹⁰ 1st affidavit of Paribalan at Tab 19, page 247 – Paribalan’s email of 9 April 2012 confirms that the balance warehouse space at Jalan Buroh will be available for takeover in July 2013.

Location	Area (sq ft)	Max Tonnage (mt)	Current stock (mt)	
Tuas	226,500	65,000	62,000	
Jalan Buroh (WH1)	112,500	38,000	41,000	
Jalan Buroh (WH3)	38,250	12,000	11,000	CWTC occupied bay 10 ~ 18. Other tenant occupied bay 1 ~ 9
33 Pioneer Sector 1	49,229	15,500	10,850	
33 Pioneer Sector 1	73,166	62,000	0	TOP 22 nd March 2012
31 Pioneer Sector 1	35,000	11,000	0	OCWS to hand over on July 2012
20 Gul Way	134,000	40,000	0	TOP mid Oct 2012
15 Gul Way	??	??	??	
		232,500	124,850	

The need for LME warehousing space worldwide and in particular Asia is borne out by the London Metal Exchange Summary Public Report of the LME Warehousing Consultation, November 2013 in Paribalan's affidavit.¹¹

- b) That new warehouse space was used to store new incoming metals and other goods - Paribalan and Ow acknowledged that 3rd appellant used the new warehouse space to store new incoming metals¹² as part of ongoing business. Paribalan confirmed in his 1st affidavit¹³ and at the hearing that the Phase 1 area at 33 Pioneer Sector 1 was not left vacant and was used to store new incoming LME metal shipments as early as December 2011 to minimise damage to the cargo and because it did not seem sensible to receive new cargo at the acquired land knowing that all cargo would have to be vacated from the acquired land at handover. It is instructive to note that the table in paragraph (a) shows that as at 16 March 2012, there were 62,000 metric tons stored at the acquired land premises and 10,850 metric tons in the Phase 1 33 Pioneer Sector 1 warehouse. The combined tonnage of 70, 850 exceeds the tonnage capacity of the acquired land premises of around 65,000 as stated in Paribalan's email of 16 March 2011, 63,000¹⁴ or between 60,000 to 70,000.¹⁵ It was stated that moving new incoming stock to 33 Pioneer Sector 1 would benefit Collector, who would save on having to pay transfer costs from two locations.¹⁶ This point is misconceived as Collector was obliged to pay only the costs for moving LME cargo once from the acquired land premises to the new warehouse space. It must also be noted that 3rd appellant's application for LME warehouse listing for Phase 1 33 Pioneer Sector 1 stated that they did not intend to use the space solely for LME

¹¹ 1st affidavit of Paribalan at Tab 2, page 55 at paras 3.1 -3.3 - The LME report said that there had been considerable inflow of metal into LME warehouses because of the financial crisis, particularly in 2008 and 2009, which saw a significant amount of metal, presumably originally intended for industrial usage, being delivered to LME warehouses. The graph showed an upward trend in the inflow of LME metals into LME warehouses in Asia then and generally thereafter from 2011 to May 2013. This had led to LME warehouses continuing to load-in significantly in excess of their load-out leading to the formation of load out queues at LME warehouses, which issue the LME was seeking to address

¹² NE 24 April 2014 at page 58:6 - 58:26 and NE 24 April 2014 at page 96:1 – 96:10, NE 24 April 2014 at Page 121:16 – 121:24

¹³ 1st affidavit of Paribalan at [60]-[61] at pages 16-17.

¹⁴ NE 24 April 2014 at page 97:11 – 96:17

¹⁵ NE 24 April 2014 at page 114:28 – 116:6

¹⁶ NE 24 April 2014 at page 98:5 – 98:21

metals, which Paribalan confirmed, only to hastily add that when they took over the new warehouse space, they used it “one hundred percent” for LME metals.¹⁷

- c) Movement of LME cargo from acquired land Premises to new warehouse space at 33 Pioneer Sector 1 and 20 Gul Way was to suit 3rd appellant's business needs - Records on the movement of LME cargo,¹⁸ which began on 3 September 2012 show that although there should have been space at 33 Pioneer Sector 1 (from 15 December 2011 for Phase 1 and from 1 April 2012 for Phase 2) and later 20 Gul Way (from 15 November 2012) to store the LME metals to be moved, 3rd appellant chose to also store over 5000 metric tons in their 2 other warehouses in Jalan Buroh. Although Paribalan said they rushed to move the LME metals to 20 Gul Way from 3 to 15 December 2012, it should be noted that on the last day of the move on 19 December 2012, the remaining LME metals were moved not to any of the new warehouse space but to their Jalan Buroh warehouse.¹⁹ There was also a gap of about 3 weeks from 9 November to 2 December 2012, where there was no movement of goods from the acquired land premises, for which no satisfactory reason was given.²⁰ The stock movements suggest that 3rd appellant was likely maximising the use of the new and existing warehouse space to store new incoming metals and other goods, before and also during the move of the metals beginning September 2012.
- d) 3rd appellant has not proved that there was a need to secure and lease the new warehouse space well in advance to ensure that available space was not leased in other tenants in the interim and to be ready by 31 December 2012 - General statements were made by Ow and Paribalan on the shortage of warehouse space necessitating the securing of space through early leases. While there is evidence of increased demand for LME warehouse space, this does not, in itself and without more, prove that there was a shortage of warehouse space, that could be used for LME storage.
- e) 3rd appellants has not proved that the new warehouse space was secured at market rates - Ow acknowledged that companies in the group had to first take care of group interests.²¹ His evidence would seem to be that they ascertained the rental market rate by checking with 1st appellant and going online to check published rates on property agent website.²² He acknowledged that reasonable efforts had not been made to source external warehouse sites.²³ Paribalan's evidence was that he contacted some property agents, whose names he had obtained online but could not recall, save for one and was told that warehouse space would cost at least \$1.60 per sq ft²⁴. He said that it was not his job to source for rentals outside the group²⁵ and that apart from his directors,

¹⁷ NE 24 April 2014 at page 80:3 – 80:20

¹⁸ 1st affidavit of Paribalan at Tab 15 page 203 – 36,233.344 mt moved to 33 Pioneer Sector 1 and 12,486.085 mt moved to 20 Gul Way.

¹⁹ Paribalan's 1st affidavit, Para 102, Page 26, Tab 15, Page 202.

²⁰ NE 24 April 2014 at page 102:18 – 103:13, page 130:2 – 130:15

²¹ NE 24 April 2014 at page 27:3, 33:28 – 33:31

²² NE 24 April 2014 at page 30:11 – 30:16

²³ NE 24 April 2014 at page 59:31 to 60:3

²⁴ 1st affidavit of Paribalan at [33]

²⁵ NE 24 April 2014 at page 86:1 – 86:20.

he did not get help from others in the CWT group.²⁶ No opinion on market rental was sought from independent valuers or property agents. It must be noted that, although the 18 November 2011 lease for 33 Pioneer Sector 1 did not provide for a review or increase, parties “mutually agreed” to increase the rent and service charge on 1 April 2012, indicating a level of informality in dealings between landlord and tenant, both.²⁷ This lease was also characterised by senior management in the group as an “internal” agreement or arrangement.²⁸

- f) That 3rd appellants have not proved, light of other factors, the need to secure leases well in advance because of the need to comply with requirements for approved LME metals storage status and License required from Singapore Customs for Zero-GST warehouse scheme - Contrary to assertions that they needed a long time to get a Customs license and LME warehouse Listing approval, actual approvals for the premises once ready, were obtained not long after the required information or documents were provided by 3rd appellants²⁹.

21. On such evidence as there is before the Board, the 3rd appellant’s appeal to claim as compensation, the rent for the new warehouse storage for LME metals at 33 Pioneer Sector 1 and 20 Gul Way, under section 33(1)(e) of the Act fails. These are business costs incurred by 3rd appellants for their LME storage or other business, albeit that the new warehouse spaces so leased some 12.5 months, 9 months and 1.5 months before the 31 December 2012 scheduled handover date, was to ultimately replace the acquired land premises. These costs are not “interim storage costs” or transition costs. The new warehouse spaces were used by 3rd appellants for other or new business to earn profits. It is not conceivable that the new warehouse space at 33 Pioneer Sector 1 could have been left wholly or largely vacant from 15 December 2011 and 1 April 2012 (save to move in LME metals, that would otherwise have been stored at the acquired land premises) or that that space as well as the space at 20 Gul Way was not used to maximise 3rd appellant’s storage for metals or other goods, beyond the space required to house the LME metals moved from the acquired land premises. It must be noted that the stock movement records show that over 54,000 metric tons of LME metals were moved from the acquired land premises.

²⁶ NE 24 April 2014 at page 86:14 – 87:25.

²⁷ 1st affidavit of Paribalan at Tab 7 at pages 129-157. It must also be noted, that although the floor loading is required to be able to accommodate 5 metric tons per sqm, clause 3.14.11 of the 18 November 2011 lease (at page 143) provides for floor loading up to only 20KN/m2, which is very much less. This is unlike the lease agreement for 20 Gul Way, which provides for a floor loading of 5 metric tons per sqm (Clause 6 at 1st affidavit of Paribalan at Tab 23, page 268)

²⁸ 1st affidavit of Paribalan at Tab 8 at page 160.

²⁹ Paribalan’s 1st affidavit, Tab 12, Pages 180, 187 and 188 - The Customs license for Phase 1, 33 Pioneer Sector 1 was issued on 26 November 2011 after Paribalan, on 22 November 2011, gave Customs, the documents and information requested in their 4 October 2011 email. Paribalan’s 1st affidavit, Tab 3, Page 115, Tab 9, Pages 167-173 - LME warehouse listing approval was given after an inspection in October 2011, on 7 December 2011, after Paribalan sent the Customs license and a formal application dated 5 December 2011. Paribalan’s 1st affidavit, Tab 12, Pages 186-187 - As for Phase 2, 33 Pioneer Sector 1, it would seem that upon request on 16 August 2012 to Customs and after Paribalan gave a copy of the lease agreement, Customs issued the license on 23 August 2012. 1st affidavit of Paribalan at [59] - The LME warehouse listing was approved on 24 August 2012 pursuant to 3rd appellants’ application that same day. Paribalan’s 1st affidavit, Tab 25, Page 273-275 and Tab 26, Page 278 - As for 20 Gul Way, the Customs license as well as relocation were approved respectively on 9 and 29 November 2012, after Paribalan sent the Temporary Occupation Permit on 30 October and confirmed on 15 November 2012, that intruder security systems had been installed that day and security CCTV systems would be installed by end November 2012. Paribalan’s 1st affidavit, Tab 28, Pages 283-285 and Tab 29, Page 287 - LME warehouse listing approval was given on 28 November 2012 following upon 3rd appellants’ email to LME on 20 November 2012 and a warehouse inspection on 28 November 2012 itself, after 3rd appellants had paid to fly out an inspector from London.

4th Appellant's appeal for rental/interim storage cost for the new warehouse space for storage of coffee beans.

22. The Board finds that 4th appellant has failed to prove the claim for rent of \$310,350 for 5 months for 51,725 sq ft at 31 Pioneer Sector 1 from 1 August 2012 to 31 December 2012.
23. The stock movement records show that it took only 12 days for the 4th appellant to move the coffee beans, albeit in 3 stages, beginning 19 September 2012 for 4 days, on 5 October 2012 for 4 days and lastly on 5 November 2012 for 4 days ending 8 November 2012.³⁰ No reason was given for spreading this move over 1.5 months, save that 3rd appellant was then also moving the LME metals and time was also required to move the coffee beans in the warehouse for the external move.
24. There was no evidence given to substantiate the alleged shortage of warehouse space for coffee bean storage, efforts made to ascertain or secure external warehouse, time to prepare premises or of the market rent for such warehouse space. It would also seem that the transfer of the coffee beans by 4th appellant was linked to 3rd appellant's choice of timing for the transfer of the LME metals.

Conclusion

25. The appellants submit that Collector had conceded rental payments for a number of months as compensation payable to the appellants. The Collector's case has consistently been that the rent expenses are not compensable. Collector's submission on these rental payments was essentially a statement of Collector's position in the event the Board should decide that rental payments were compensable under section 33(1)(e) of the Act.
26. This decision is based on the facts of this case and does not seek to or decide on the interpretation of section 33(1)(d) or (e) of the Act.

Commissioner of Appeals Ms Foo Tuat Yien
Assessor Mr Wong Chak Wai
Assessor Mr Teo Pin

³⁰ Paribalan's 1st affidavit – Tab 15, Page 201,

