Copy of Govt. lr,No.Ms.No.565, dated 31.12.2002,Revenue Department, Chennai-9.

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Sub:- Land Acquisition - Prior entry cases - Payment of 12% additional amount - Clarification sought by the Accountant General - clarification - issued.

Ref:-1) Your lr.No.AG(AU)Rep.I/60-3/Spl/1999-2000/ DP2/5, dated 30.8.99.
2) From the Commissioner of Land Administration lr.No.M3/9494/2000, dated 30.3.2001.

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I am directed to refer to your letter first cited wherein it has been stated that the amount of compensation determined in certain category of cases was not in conformity with the provisions of the Land Acquisition Act (Central Act I of 1894) as explained below:--

"Additional compensation at 12 percent per annum was allowed upto the date of award in cases where land had been taken possession of prior to the date of award and even before notification. Payment towards additional interest amount at 9 per cent and 15 per cent as the case may be for delay in payment of compensation to awarded (i.e. after allowing 12 per cent additional compensation upto the date of award) was also made.

In some cases, the determination of amount of additional compensation and the interest for delay in payment is not in accordance with the provisions of section 23(1A) and 34 of the Act as mentioned above. As per the provisions of the Act, additional compensation at 12 per cent on the market value has to be restricted to the date of possession and in cases where possession was affected prior to Notification, no additional compensation at 12 per cent would become payable. Further 9per cent or 15 per cent interest for delay in payment has to be calculated on the compensation amount correctly arrived at as per section 23(1A)".

2. You have also pointed out some specific cases for which 12% additional market value was paid through prior entry was made even prior to the notification under section 4(1). You have also stated that the clarifications issued to the District Collectors/ District Revenue Officers regarding the payment of 12% additional amount and 9% and 15% interestm vide Govt. letter No.19658/C.spl.1/ 92-4, Revenue, dated 23.11.1992 are in contradiction with the relevant provisions of the Act and has requested the Government to reconsider the issue and send the remarks of the Government in the matter.

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it, after is has fallen due, and thus, it is a charge for the use of forbearance of money. In this sense, it is a compensation allowed by law or fixed by parties, or permitted by custom or usage, for use of money, belonging to another, or for the delay in paying money after it has become payable. In common expectation, "interest" is the earning, profit, income or compensation from use of money. Whenever a liquidated sum is unjustly withheld, "interest" is allowed to the creditor by way of compensation on account of delay of payment by the debtor. Interest is in the nature of legal damages, allowed for failure to pay money due, or for wrongful retention of money. Interest is said to bear the same relation to money that rent does to land, wages to labour, and hire to chattel; it is a necessary incident and the natural growth of money. It also is considered in the nature of premia paid for use of money usually reckoned on percentage basis.—*Commissioner of Income-tax* v. *Sham Lal Narula*, AIR 1963 Punj. 411 at 413, 414.

(ii) For period anterior to publication of Notification could not be awarded.—Interest could not be awarded in cases where possession was taken before issuance of notification under Section 4 (1). Expression "such possession" and "so taking possession" occurring in Section 34 of the Act means taking possession in accordance with Sections 16, 17 of the Act. Any possession taken prior to issuance of notification was *de hors* the Act. In such cases landowner will retain title over property and was entitled to rent/damages for period Government had retained possession of property. The provisions of Section 48 of the Act support such an action.—*R.L. Jain* v. *D.D.A.*, AIR 2004 SC 1904 : 2004 (4) SCC 79.

Interest could not be allowed from date anterior to date of publication of notification.— *Collector, Land Acquisiton, HPPWD, Kangra* v. *Kehar Singh*, AIR 2005 H.P. 24 :2005 LAC 799.

(iii) On additional compensation and solatium.—As additional compensation and solatium awarded under Sections 23 (1-A), (2), forms integral part of compensation awarded to landowner, consequently interest under Sections 28 and 34 was payable on whole amount of compensation so awarded and not merely on market value of the land.—*Shyam Prakash Agarwal* v. *State of U.P.*, AIR 2007 All 107.

(iv) Payable on solatium.—In order to appreciate the main question, it is necessary to refer to the relevant provisions of the Act. Section 23 deals with the matters to be considered in determining compensation. Sub-section (1) of that section says that in determining the amount of compensation to be awarded for the land acquired under the Act, the Court shall take into consideration the six matters mentioned therein. The first is the market value of the land at the date of the publication of the notification under sub-section (1) of Section 4. The others relate to damage sustained on account of acquisition. Sub-section (2) of Section 23 provides that in addition to the market value of the land as above provided, the Court shall in every case award a sum of

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