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1. Copy of Govt. Ir.No.Ms.No.565, dated 31.12.2002, Revenue
2. Department, Chennai-9.

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

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

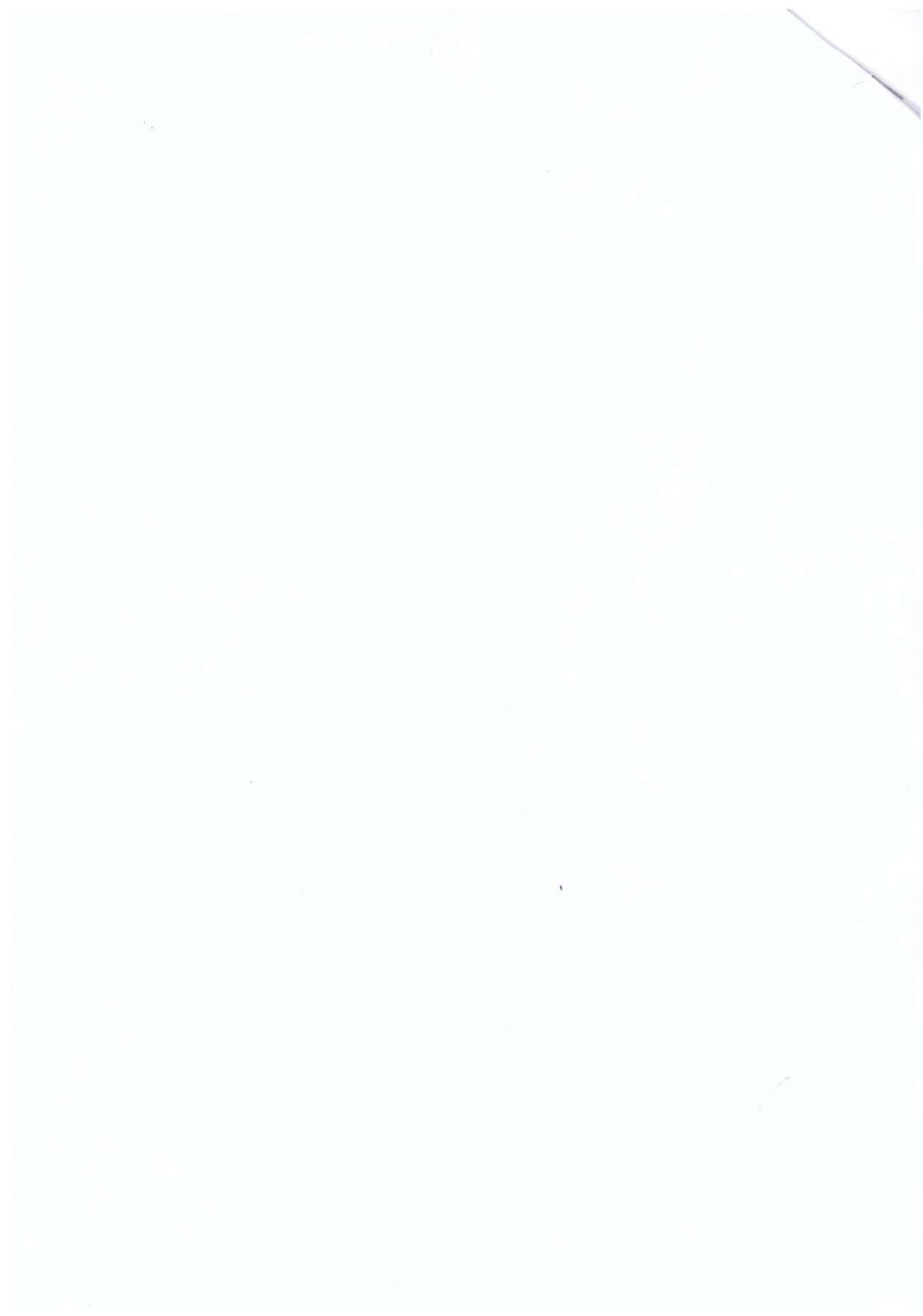
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11. I am directed to refer to your letter first cited wherein
12. it has been stated that the amount of compensation determined
13. in certain category of cases was not in conformity with the
14. provisions of the Land Acquisition Act (Central Act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

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

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

39. 2. You have also pointed out some specific cases for which 12%
40. additional market value was paid through prior entry was made even
41. prior to the notification under section 4(1). You have also
42. stated that the clarifications issued to the District Collectors/
43. District Revenue Officers regarding the payment of 12% additional
44. amount and 9% and 15% interest vide Govt. letter No.19658/C.spl.1/
45. 92-4, Revenue, dated 23.11.1992 are in contradiction with the
46. relevant ~~provisions~~ provisions of the Act and has requested the
47. Government to reconsider the issue and send the remarks of the
48. Government in the matter.



it, after it 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 Acquisition, 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

