

# Treatment of Interest Paid on Compensation for Lands Acquired

## A. Facts of the Case

1. A listed public sector company, engaged in refining of crude oil for production of various petroleum products, acquires land for various capital projects. The method of land acquisition and the compensation paid for these acquisitions is given in the following paragraphs.
2. A Cadastral survey is conducted for obtaining the details of extent of land, persons affected and the number of owners. Based on the outcome of the survey, a requisition is submitted to the District Collector (authority nominated by the Government under the Land Acquisition Act, 1894) for acquiring the identified land. The District Collector designates a Tahsildar to take care of this land acquisition. The Tahsildar on behalf of the Government publishes a notice under the Survey and Boundaries Act, 1961. A Gazette notification is also issued identifying the land for a public purpose. Thereafter, notices are issued to land owners and a hearing is conducted. In the meantime, the Tahsildar fixes value of land after assessing the local prevailing market rate. Buildings are valued based on the schedule of rates of Public Works Department. Trees are valued based on the norms fixed by the state forest department. The District Collector (or the State Government in case the compensation is above Rs. 2 crore to a single person) approves the values fixed by the Tahsildar. A Gazette declaration regarding the acquisition of land for public purpose is issued. The Tahsildar, thereafter, issues a notice intimating the company, i.e., the requisitioner, to remit the money to the Government treasury. After the remittance, the possession of the land is handed over to the company by the Tahsildar. As per the provisions of the Land Acquisition Act, 1894, any interested person who has not accepted the award may, by application to the

### Expert Advisory Committee

**The following is the brief version of an opinion given by the Expert Advisory Committee of the Institute in response to query sent by a member. This is being published for the information of readers.**

District Collector, require that the matter be referred for determination of the Court. In such cases, it is mandatory for the Tahsildar to refer all the land acquisition cases to the Sub-Court. These are called the Land Acquisition Reference (LAR) cases. Additional (enhanced) compensation is paid for the land acquired, strictly as per the decree passed by the Courts, under the provisions of the Land Acquisition Act, 1894.

3. As per the querist, the typical package for enhanced compensation in LAR cases decreed by the Court is as follows:
  - (a) On receipt of a reference, the Sub-Court may provide for enhanced compensation (by determining the market value) to be awarded for land acquired under the Land Acquisition Act, 1894, after considering various factors.
  - (b) In addition to the market value of the land determined, the Court shall, in every case, award an amount calculated at the rate of 12% p.a. for the period commencing on and from the date of publication of notification to the date of Award or the date of taking possession of the land, whichever is earlier. This is provided for bringing the value of the land to its market value as on the date of possession of land or award of compensation, as the case may be.
  - (c) Further, a sum of 30% on such market value is provided as solatium, in consideration of the compulsory nature of the acquisition.
  - (d) The Court also directs to pay interest on such excess compensation at the rate of 9% p.a. from the date on which the possession of the land is taken to the date of payment to the Court.
  - (e) If the enhanced compensation is paid to the Court after the date of expiry of one year from the date of possession, interest

at the rate of 15% p.a. shall be payable from the date of expiry of the said period of one year till the payment of such enhanced compensation to the Court.

- (f) If the company prefers to appeal against the decree of the Sub-Court, it can move the High Court. In the meantime, the claimants file execution petitions before the Sub-Court praying for attachment of the common properties. The High Court ordinarily orders conditional stay against the decree of the Sub-Court/execution petitions. The stay orders will be effective, say, on payment of 50% of the total of enhanced compensation decreed by the Sub-Court (i.e., the total of (a) to (e) above) into the Sub-Court.
- (g) On disposal of the appeal by the High Court, balance compensation if awarded shall also be remitted to the Sub-Court. In a few cases, when the enhanced compensation decided by the High Court on final disposal of the appeal is less than the amount ordered while granting stay, necessary refund applications would also be filed before the Sub-Court.

	Land area: 6.45 Acres	Rs.
(a)	Enhanced Compensation @ Rs.5281 per Acre	34062
(b)	12% p.a. additional from 30th May 1997 (date of publication of notification) to 27th March 1998 (date of taking possession) - 301 days	3371
(c)	30% solatium on (a) above	10219
(d)	9% interest on (a) above from 28th March 1998 to 27th March 1999 - 365 days	3066
(e)	15% interest on (a) above from 28th March 1999 to 31st May 2005 - 2256 days	31580
	Total of (a) to (e)	82298
(f)	50% of the above to be deposited to Court, if the company prefers to appeal	41149

4. The querist has also provided a typical computation of enhanced compensation as shown below for easy reference:
5. According to the querist, the company settles for the land compensation as per the decree of the Sub-Court and accordingly, the amount is

deposited with the Court. The appeal, if any, filed by the company against the decree of the Sub-Court is disposed off at a later date by the High Court either at the same rate as already remitted or at a lower or higher amounts as may be decided by the High Court.

## B. Query

6. The querist has sought the opinion of the Expert Advisory Committee of the Institute of Chartered Accountants of India on the following issues:
- (i) Whether the interest paid referred to in paragraph 3(d) and (e) above can be capitalised as cost of the land considering the decision of the Courts as a total package or whether it should be treated as revenue expenditure.
- (ii) If the interest payment has to be treated as capital nature, then whether it is of capital nature up to:
- (a) the date of possession of land, i.e., upto the date the land is available for use by the company; or
- (b) the date the project facility put up on the land is capitalised.

## C. Points considered by the Committee

7. The Committee, while expressing its opinion, has considered only the issues raised in paragraph 6 above and has not considered any other issue arising from the Facts of the Case such as accounting treatment of enhanced compensation and additional payment as referred to in paragraphs 3(b) and 3(c) above.
8. The Committee notes paragraph 9.1 of Accounting Standard (AS) 10, 'Accounting for Fixed Assets', issued by the Institute of Chartered Accountants of India, which requires as follows:
- "9.1 The cost of an item of fixed asset comprises its purchase price, including import duties and other non-refundable taxes or levies and any directly attributable cost of bringing the asset to its working condition for its intended use; any trade discounts and rebates are deducted in arriving at the purchase price. Examples of directly attributable costs are:
- (i) site preparation;
- (ii) initial delivery and handling costs;
- (iii) installation cost, such as special foundations for plant; and
- (iv) professional fees, for example fees of architects and engineers.

The cost of a fixed asset may undergo changes subsequent to its acquisition or construction on ac-

count of exchange fluctuations, price adjustments, changes in duties or similar factors.”

9. The Committee notes that the interest payments referred to in paragraph 3(d) and (e) above, are in the nature of cost for delay in the payment of enhanced compensation and are not directly attributable to bringing the asset to its working condition for its intended use. These costs also do not generate any future economic benefit. Accordingly, in the view of the Committee, these interest payments should not be capitalised but recognised in the profit and loss account for the year in which these are incurred.

#### D. Opinion

10. On the basis of the above, the Committee is of the following opinion on the issues raised in paragraph 6 above:

- (i) The interest payments referred to under paragraph 3(d) and (e) above cannot be capitalised as cost of the land, rather these should be treated as revenue expenditure and charged to the profit and loss account for the year in which these are incurred.
- (ii) Answer to this question does not arise as the interest payments are not of capital nature. □

#### Notes:

1. The Opinion is only that of the Expert Advisory Committee and does not necessarily represent the Opinion of the Council of the Institute.
2. The Compendium of Opinions containing the Opinions of Expert Advisory Committee has been published in twenty four volumes which are available for sale at the Institute's office at New Delhi and its regional council offices at Mumbai, Chennai, Kolkata and Kanpur.

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