

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
DIRECTORATE OF EDUCATION
(PRIVATE SCHOOL BRANCH)
OLD SECRETARIAT, DELHI-110054

No. F.DE.15(681)/PSB/2022/4100-4104

Dated: 03/06/22

ORDER

7 WHEREAS, **G.D. Goenka Public School, Plot No. 3, Pocket- 7, Sector- 22, Rohini, Delhi-110085 (School Id: 1412249)**, (hereinafter referred to as "School"), run by **Lord Chaitnya Educational Society** (hereinafter referred to as the "Society"), is a private unaided School recognized by the Directorate of Education, Govt. of NCT of Delhi (hereinafter referred to as "DoE"), under the provisions of Delhi School Education Act & Rules, 1973 (hereinafter referred to as "DSEAR, 1973"). The School is statutorily bound to comply with the provisions of the DSEAR, 1973 and RTE Act, 2009, as well as the directions/guidelines issued by the DoE from time to time.

AND WHEREAS, every School is required to file a full statement of fees every year before the ensuing academic session under section 17(3) of the DSEAR, 1973 with the Directorate. Such statement is required to indicate estimated income of the School to be derived from fees, estimated current operational expenses towards salaries and allowances payable to employees etc. in terms of rule 177(1) of the DSEAR, 1973.

AND WHEREAS, as per section 18(5) of the DSEAR, 1973 read with sections 17(3), 24 (1) and rule 180 (3) of the above DSEAR, 1973, responsibility has been conferred upon to the DoE to examine the audited financial statements, books of accounts and other records maintained by the School at least once in each financial year. Sections 18(5) and 24(1) and rule 180 (3) of DSEAR, 1973 have been reproduced as under:

Section 18(5): *'the managing committee of every recognised private School shall file every year with the Director such duly audited financial and other returns as may be prescribed, and every such return shall be audited by such authority as may be prescribed'*

Section 24(1): *'every recognised School shall be inspected at least once in each financial year in such manner as may be prescribed'*

Rule 180 (3): *'the account and other records maintained by an unaided private School shall be subject to examination by the auditors and inspecting officers authorised by the Director in this behalf and also by officers authorised by the Comptroller and Auditor-General of India.'*

AND WHEREAS, besides the above, the Hon'ble Supreme Court in the judgment dated 27.04.2004 held in Civil Appeal No. 2699 of 2001 titled Modern School Vs. Union of India and others has conclusively decided that under sections 17(3), 18(4) read along with rules 172, 173, 175 and 177, the DoE has the authority to regulate the fee and other charges, with the objective of preventing profiteering and commercialization of education.

AND WHEREAS, it was also directed by the Hon'ble Supreme Court, that the DoE in the aforesaid matter titled Modern School Vs. Union of India and Others in paras 27 and 28 in case of private unaided Schools situated on the land allotted by DDA at concessional rates that:

"27 (c) It shall be the duty of the Director of Education to ascertain whether terms of allotment of land by the Government to the Schools have been complied with..."



28. We are directing the Director of Education to look into the letters of allotment issued by the Government and ascertain whether they (terms and conditions of land allotment) have been complied with by the Schools.....

.....If in a given case, Director finds non-compliance of above terms, the Director shall take appropriate steps in this regard."

AND WHEREAS, the Hon'ble High Court of Delhi vide its judgement dated 19.01.2016 in writ petition No. 4109/2013 in the matter of Justice for All versus Govt. of NCT of Delhi and Others, has reiterated the aforesaid directions of the Hon'ble Supreme Court and has directed the DoE to ensure compliance of terms, if any, in the letter of allotment regarding the increase of the fee by recognized unaided Schools to whom land has been allotted by DDA/ land owning agencies.

AND WHEREAS, accordingly, the DoE vide order No. F.DE.15 (40)/PSB/2019/2698-2707 dated 27.03.2019, directing all the private unaided recognized Schools, running on the land allotted by DDA/other land owning agencies on concessional rates or otherwise, with the condition to seek prior approval of DoE for increase in fee, to submit their proposals, if any, for prior sanction, for increase in fee for the session 2018-19 and 2019-20.

AND WHEREAS, in pursuance to order dated 27.03.2019 of the DoE, the School submitted its proposal for enhancement of fee for the academic session 2018-19. Accordingly, this Order dispenses the proposal for enhancement of fee submitted by the School for the academic session 2018-19.

AND WHEREAS, in order to examine the proposals submitted by the Schools for fee increase for justifiability or not, the DoE has deployed teams of Chartered Accountants at HQ level who has evaluated the fee increase proposals of the School very carefully in accordance with the provisions of the DSEAR, 1973, and other Orders/ Circulars issued from time to time by the DoE for fee regulation.

AND WHEREAS, in the process of examination of fee hike proposal filed by the aforesaid School for the academic session 2018-19, necessary records and explanations were also called from the School through email. Further, the School was also provided an opportunity of being heard on 25.11.2019 to present its justifications/ clarifications on fee increase proposal including audited financial statements. Based on discussions, the School was further asked to submit necessary documents and clarification on various issues. During the aforesaid hearing compliances against order no. F.DE.15(270) PSB/2019/1435-1439 dated 29.03.2019 issued for academic session 2017-18 were also discussed and school submissions were taken on record.

AND WHEREAS, the response of the School along with documents uploaded on the web portal for fee increase, and subsequent documents submitted by the School, were evaluated by the team of Chartered Accountants, the key findings noted are as under:

A. Financial Observations

1. Section 18(4) of DSEA, 1973 states "*Income derived by unaided recognised schools by way of fees should be utilized only for such educational purposes as prescribed.*"

Further, Rule 177 of the DSER, 1973 states "*income derived by way of fees shall be utilised in the first instance, for meeting the pay, allowances and other benefits admissible to the employees of the school. Provided that savings, if any, from the fees collected by school may be utilised by its management committee for meeting capital or contingent expenditure of the school.*"



Review of the financial statements of FY 2018-19 revealed that the school has purchased cars for INR 21,47,452 in FY 2018-19 (Honda INR 10,77,882 and Toyota INR 10,69,570) by taking loan of INR 9,88,570 from ICICI bank. The remaining amount of INR 11,58,882 was paid out of the school funds. During the personal hearing the school was asked to provide calculation of saving under Rule 1973 which the school has not provided. These cars have been purchased without complying with Rule 177 of the DSER, 1973. During the financial year 2018-19, the school has paid INR 41,543 towards principal repayment and INR 20,239 towards interest cost. Therefore, the expenditure incurred by the school totalling to INR 12,20,664 (i.e. INR10,58,882 + INR41,543 + INR 20,239) is recoverable from the Society.

The DoE in its Order No. F.DE.15(270) PSB/2019/1435-1439 dated 29.03.2019 issued post evaluation of fee increase proposal, directed the School to recover INR 22,21,410 from the Society towards purchase of car. In the aforesaid order, it was observed that the school had purchased car for INR 21,59,683 during the FY 2014-15 by taking loan of INR 17,00,000 from the financial institutions while the remaining amount of INR 4,59,683 was paid from the school funds. The school had paid INR 14,84,408 towards principal repayment and INR 2,77,319 towards interest cost during the period from FY 2014-15 to 2016-17. As the school had purchased this car without complying with Rule 177 of DSER, 1973. Accordingly, the school was directed to recover INR 22,21,410 (i.e., INR 4,59,683+ INR 14,84,408+ INR 2,77,319) from the Society which is still pending for recovery.

In view of the above, the total amount of INR 34,42,074 (INR 12,20,664 plus INR 22,21,410) utilized by the school for purchase of car without complying with the requirement of Rule 177 of DSER, 1973 has been included while deriving the fund position of the school with the direction to the school to recover this amount from the Society within 30 days from the date of issue of this order.

2. Clause 2 of Public notice dated 04.05.1997 states *"Schools are not allowed to charge building fund and development charges when the building is complete or otherwise as it is the responsibility of the society. Society should raise such fund from their own sources because the immovable property of the school become the sole property of the society. Therefore, the students should not be burdened by way of collecting the building fund or development charges"*. Moreover, the Hon'ble High Court of Delhi in its Judgment dated 30.10.1998 in case of Delhi Abibhavak Mahasangh concluded that *"Tuition Fee cannot be fixed to recover capital expenditure to be incurred on the properties of the Society"*. Also, clause (vii) of order No. F.DE/15/Act/2k/243/KKK/883-1982 dated 10.02.2005 issued by this Directorate states *"Capital Expenditure cannot constitute a component of financial fee structure."*

Rule 177 of DSER, 1973 states *"income derived by an unaided private recognised school by way of fees shall be utilised in the first instance, for meeting the pay, allowances and other benefits admissible to the employees of the school. Provided that savings, if any, from the fees collected by such school may be utilised by its management committee for meeting capital or contingent expenditure of the school, or for one or more of the following educational purposes, namely award of scholarships to students, establishment of any other recognised school, or assisting any other school or educational institution, not being a college, under the management of the same society or trust by which the first mentioned school is run. The abovementioned savings shall be arrived at after providing for the following, namely:*



- a) Pension, gratuity and other specified retirement and other benefits admissible to the employees of the school;
- b) The needed expansion of the school or any expenditure of a developmental nature;
- c) The expansion of the school building or for the expansion or construction of any building or establishment of hostel or expansion of hostel accommodation;
- d) Co-curricular activities of the students;
- e) Reasonable reserve fund, not being less than ten percent, of such savings."

Based on the aforesaid Public Notice and Judgement of the Hon'ble High Court, the cost relating to construction of Building has to be met by the Society, being the property of the Society and the school funds should not be used for this.

The DoE in its Order No. F.DE.15(270) PSB/2019/1435-1439 dated 29.03.2019 issued post evaluation of fee increase proposal, observed that during FY 2014-15 and 2015-16 the school incurred INR 1,21,56,028 and INR 87,92,888 on addition to school building. The above expenditure incurred without complying with the requirement of Rule 177 of DSER, 1973. Therefore, the School was directed to recover total amount of INR 2,09,48,916 from the Society which is still pending for recovery.

In the aforesaid order, DoE further noted although the building of INR 15,02,16,344 (gross block) was reflecting in the audited financial statements of FY 2014-15. However, corresponding capital contribution from the Society was not reflected. For which the school did not submit any details relating to sources which were utilised by the school for construction of the abovementioned building. However, in FY 2016-17, the school reported capital contribution of INR 3,90,25,092 in the audited financial statements which has been increase to INR 13,19,25,092 as on 31.03.2019. In the absence of the necessary information, the concerned District Deputy Director were directed to taken necessary steps to identify the sources of funds which were utilised by the school for construction of school building and the purpose for which capital contribution was received from the Society. As this enquiry is still pending, the concerned District Deputy Director is again directed to look into this matter.

Further, the school has received INR 9,29,00,00 as capital contribution from the society during the previous year 2017-18 and 2018-19. From review of the audited financial statements, it has been noted the school has utilized these funds majorly towards repayment of loan secured and unsecured loans taken from various individuals and HUFs and interest cost thereon. The details of amount received and utilized is provided below.

Particulars	Amount (in INR)
Amount received from Society during FY 2017-18	9,29,00,000
Less: Repayment of Loan (Secured and unsecured loan) during FY 2017-18	8,44,41,042
Payment of Interest on Secured and unsecured loans during FY 2017-18.	1,85,79,239
Balance met out of school funds to be recoverable from the Society	(1,01,20,281)

In view of the above, total amount of INR 4,91,45,373 (i.e., INR 3,90,25,092 as per the previous order and INR 1,01,20,281 as per the above calculation) is recoverable from the Society and

therefore, it has been included while deriving the fund position of the school with the direction to the school to recover this amount from the Society within 30 days from the date of issue of this order.

3. The DoE in its Order No. F.DE.15(270) PSB/2019/1435-1439 dated 29.03.2019 issued post evaluation of fee increase proposal for the academic session 2017-18, noted that school was not preparing fixed assets schedule with respect to the assets purchased out of the development fund until FY 2015-16. Accordingly, the asset purchased out of the development fund was not reflecting in the audited financial statements of the school. However, during FY 2016-17, the school got the revaluation of its asset by the Chartered Engineer with respect to the assets purchased out of the development fund account for the purpose of recording these assets.

The Chartered Engineer's determined the value of these assets at INR 2,32,41,051 which the school has reported in its audited financial statements. It was also noted that the school had utilized the development fund of INR 5,38,79,135 during the FY 2014-15 to 2015-16 which was also form part of the above revaluation. Thus, the difference of INR 3,06,38,084 (INR 5,38,79,135- INR 2,32,41,051) between the amount of development fund utilised and the value determined by the Chartered Engineer was considered as unaccounted. Accordingly, the School was given direction to recover this amount of INR 3,06,38,084 from the Society which is still pending for recovery. Hence, this amount of INR 3,06,38,084 has been included in the calculation of fund availability of the school with the direction to the school to recover this amount from the Society within 30 days from the date of issue of this order.

4. The Hon'ble High Court in the case of Abibhavak Mahasangh dated 30.10.1998 concluded that "*Tuition fee cannot be fixed to recover the capital expenditure to be incurred on the properties of the society*". Also, clause (vii) of order No. F.DE/15/Act/2k/243/KKK/883-1982 dated 10.02.2005 issued by this Directorate states that "*Capital expenditure cannot constitute a component of financial fee structure*".

However, on review of the audited financial statements of the school, it has been observed that the school has obtained secured loans for purchase/upgradation of machinery & equipment, furniture & fixture, electrical equipment, air conditioning equipment, IT infrastructure and purchase of vehicles but has not provided asset wise detail, purchased out of the aforesaid loans.

It was also noted that the school has paid principal amount by utilising unsecured loans and interest on secured loans by utilising school funds. Similar observation was also noted by DoE in its Order No. F.DE.15(270) PSB/2019/1435-1439 dated 29.03.2019 issued for academic session 2017-18 wherein the school was directed to recover the school funds utilised for payment of interest on secured loan amounting to INR 2,45,99,118 and not to make any further payments in respect of secured loan out of the school funds. However, on review of financial statements of FY 2017-18 and FY 2018-19, it has noted that the school has paid INR 21,66,902 (excluding the interest on vehicle loan) out of school funds which is not in accordance with the above-mentioned orders. As payment of interest during the FY 2017-18 & 2018-19 has already been considered in point no. 2 above, no further amount is added again to avoid duplicity. However, the amount of INR 2,45,99,118 which is still recoverable as per the previous year's order has been included while deriving the fund position of the school with the direction to the school to recover this amount from the Society within 30 days from the date of issue of this order.



5. The DoE through its order no. F.DE.15(270) PSB/2019/1435-1439 dated 29.03.2019 issued for academic session 2017-18, directed the school to recover INR 1,32,17,161 towards payment of interest out of the school funds on unsecured loans taken from various individuals and HUFs during the FY 2014-15 to 2016-17 as the major position of this loan was used for payment of secured and unsecured loans including payments interest thereon. However, on review of financial statements of FY 2017-18 and FY 2018-19, it has noted that the school has paid interest on unsecured loans amounting to INR 1,79,10,496 which has already been considered in point no. 2 mentioned above. Therefore, only INR 1,32,17,161 as per the previous years' order which is still pending for recovery has been included while deriving the fund position of the school with the direction to the school to recover this amount from the society within 30 days from the date of issue of this order.
6. As per Accounting Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India states *"Accounting for defined benefit plans is complex because actuarial assumptions are required to measure the obligation and the expense and there is a possibility of actuarial gains and losses."* Further, the Accounting Standard defines Plan Assets (the form of investments to be made against liability towards retirement benefits) as:
- Assets held by a long-term employee benefit fund; and
 - Qualifying insurance policies.

Para 57 of Accounting Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India, *"An enterprise should determine the present value of defined benefit obligations and the fair value of any plan assets with sufficient regularity that the amounts recognised in the financial statements do not differ materially from the amounts that would be determined at the balance sheet date."*

On review of the financial statements of FY 2018-19, the school has made provision for gratuity and leave encashment basis of actuarial valuation report. The total liability for retirement benefit is INR 4,57,15,504 as on 31.03.2019. However, the school has not invested any amount in plan assets against this liability.

The DoE in its Order No. F.DE.15(270) PSB/2019/1435-1439 dated 29.03.2019 issued to the school post evaluation of fee increase proposal for FY 2017-18, noted total liability towards retirement benefit was INR 3,86,61,254 as on 31.03.2017. As the school had sufficient funds therefore, the school was allowed INR 1,93,30,627 for retirement benefits with the direction to invest the same in the plan assets as per requirement of AS-15 and remaining balance of liability should be deposited with LIC over the period of next 4 to 5 years. As the school has not complied with the direction given in the order dated 29.03.2019. Therefore, amount allowed to the school INR 1,93,30,627 as per the previous year's order has been considered for calculation of available funds of the school in order to cover up the actual expenditure incurred by the school during the previous year 2018-19.

The school is hereby directed to make investment of an amount equivalent to total liability determined by the actuary that qualify as 'Plan Assets' within 30 days from the date of issue of this order. Non-compliance with this direction will be viewed seriously while evaluating the fee increase proposal for the subsequent financial year.



B. Other Observations

1. Rule 176 - 'Collections for specific purposes to be spent for that purpose' of the DSER, 1973 states *"Income derived from collections for specific purposes shall be spent only for such purpose."*

Para No. 22 of Order No. F.D E./15(56)/ Act/2009/778 dated 11.02.2009 states *"Earmarked levies will be calculated and collected on 'no-profit no loss' basis and spent only for the purpose for which they are being charged."* Sub-rule 3 of Rule 177 of DSER, 1973 states *"Funds collected for specific purposes, like sports, co-curricular activities, subscriptions for excursions or subscriptions for magazines, and annual charges, by whatever name called, shall be spent solely for the exclusive benefit of the students of the concerned school and shall not be included in the savings referred to in sub-rule (2)."* Further, Sub-rule 4 of the said rule states *"The collections referred to in sub-rule (3) shall be administered in the same manner as the monies standing to the credit of the Pupils Fund is administered."*

However, it has been noted that the school charges earmarked levies in the form of transport fee, health & hygiene charges, safety & security charges, refreshment and meal charges, scholastic enrichment charges, orientation charges, computer fee and science fee.

Earmarked levies collected from the students are form of restricted funds, which, according to Guidance Note-21 on Accounting by Schools issued by the Institute of Chartered Accountants of India, are required to be credited to a separate fund account when the amount is received and reflected separately in the Balance Sheet.

Further, the aforementioned Guidance Note lays down the concept of fund-based accounting for restricted funds, whereby upon incurrence of expenditure, the same is charged to the Income and Expenditure Account ('Restricted Funds' column) and a corresponding amount is transferred from the concerned restricted fund account to the credit of the Income and Expenditure Account ('Restricted Funds' column).

The DoE in its Order No F.DE.15(270) PSB/2019/1435-1439 dated 29.03.2019 issued for academic session 2017-18, directed the school to maintain separate fund account depicting clearly the amount collected, amount utilised and balance amount for each earmarked levy collected from students. However, on review of audited financial statements of the school of FY 2018-19, it has been noted that the school has not followed fund-based accounting for earmarked levies in accordance with GN-21 issued by the Institute of Chartered Accountants of India. Accordingly, the school was directed to follow fund-based accounting in accordance with aforesaid GN-21. The summary of the surplus/ deficit on these earmarked levies as provided by the school is as under:

Particulars	Total Income	Total Expenditure	Surplus/ Deficit
Transport Fee	14,20,19,652	12,89,75,291	1,30,44,361
Health and Hygiene Charges	4,51,73,056	4,44,08,130	7,64,926
Safety and Security Charges	6,14,51,490	6,04,79,582	9,71,908
Scholastic Enrichment Charges	3,76,30,643	3,99,56,400	-23,25,757
Orientation Charges	1,47,68,052	1,47,67,898	154

Particulars	Total Income	Total Expenditure	Surplus/ Deficit
Computer Fee	4,76,869	2,48,763	2,28,106
Science Fee	13,54,586	5,81,081	7,73,505
Refreshment and Meal Charges	1,61,90,738	1,81,10,527	-19,19,789
Total	31,90,65,086	30,75,27,672	1,15,37,414

Further, as per the Duggal Committee report, there are only four categories of fee that can be charged by a school. The first category of fee comprises of "registration fee and all One Time Charges" which is levied at the time of admission such as Admission and Caution Money. The second category of fee comprise of "Tuition Fee" which is to be fixed to cover the standard cost of the establishment and also to cover expenditure of revenue nature for the improvement of curricular facilities like Library, Laboratories, etc., and Science and Computer fee up to class X and examination fee. The third category of the fee should consist of "Annual Charges" to cover all expenditure not included in the second category and the fourth category should consist of all "Earmarked Levies" for the services rendered by the school and to be recovered only from the 'User' students. These charges are Transport Fee, Swimming Pool Charges, Horse Riding, Tennis, Midday Meals etc.

Based on the aforesaid provisions, earmarked are to be collected only from the user students availing the services. And if the services are extended to all the students of the school, a separate charge should not be levied by the school as it would get covered either form the Tuition Fee or from Annual Charges. And the act of the school of charging unwarranted fee or any other amount/fee under head other than the prescribed head of fee and accumulation of surplus fund thereof tantamount to profiteering and commercialization of education as well as charging of capitation fee in other form. Further, the school is also directed to determine its fee structure in accordance with provisions of DSEAR, 1973.

Therefore, the school is hereby directed to maintain a separate fund account depicting clearly the amount collected, amount utilised and balance amount for each earmarked levy collected from the students. Unintentional surplus/deficit, if any, generated from earmark levies has to be utilized or adjusted against earmark fee to be collected from the users in the subsequent year. Further, the school should evaluate costs incurred against each earmarked levy and propose the revised fee structure of earmarked levies in a subsequent proposal for the enhancement of fee, ensuring that the proposed levies are calculated on 'no profit and loss' basis. In the absence of relevant information, no financial impact has been given in the calculation of fund position of the school with respect to these earmarked levies.

2. The Fixed Asset Register should capture the details of the asset name, date of purchase and the amount serial number, location, invoice number, supplier, identification number, depreciation, etc. to facilitate identification of asset and documenting complete details of assets at one place.

However, the school has not been preparing Fixed Asset register (FAR) in proper format and captured the asset name, date of purchase and the amount in the FAR. The school has not included complete details in the FAR such as serial number, location, invoice number, supplier,

identification number, depreciation, etc. to facilitate identification of asset and documenting the complete details of assets at one place.

Therefore, the school is directed to prepare the FAR with relevant details mentioned above and the same shall be verified at the time of examination of fee proposal for next financial year. The above being a procedural finding, no financial impact is warranted for deriving the fund position of the school.

3. Direction no. 3 of the public notice dated 04.05.1997 published in the Times of India states "*No security/ deposit/ caution money be taken from the students at the time of admission and if at all it is considered necessary, it should be taken once and at the nominal rate of INR 500 per student in any case, and it should be returned to the students at the time of leaving the school along with the interest at the bank rate.*"

Further, Clause 18 of Order no F.DE/15(56)/Act/2009/778 dated 11 Feb 2009 states "*No caution money/security deposit of more than five hundred rupees per student shall be charged. The caution money, thus collected shall be kept deposited in a scheduled bank in the name of the concerned school and shall be returned to the student at the time of his/her leaving the school along with the bank interest thereon irrespective of whether or not he/she requests for refund.*"

During the personal hearing the school has clarified that it has stooped collection of caution money from the FY 2018-19. Further, it has mentioned that it is in process of refunding the caution money to the existing students. The school further explained that school only refunding the principal amount collected from the students, not along with the interest earned from the investment of caution money. Accordingly, the caution money which is still reflected as refundable of INR 3,57,500 as on 31.03.208 has been included while deriving the fund position of the school.

4. Clause 103 on Related Party Disclosure, contained in Guidance Note 21 on 'Accounting by Schools', issued by the ICAI, there is a requirement that keeping in the view the involvement of public funds, schools are required to disclose the transactions made in respect of related parties.

From review of the audited financial statements of 2018-19, it has been noted that the School has not made any disclosure relating to related party transactions in its audited financial statements. In the absence of such details, the purpose and genuineness of transactions entered into between the related parties cannot be determined. Therefore, the School is hereby directed to include such details in audited financial statements of the subsequent year.

5. Appendix II to Rule 180(1) of DSER, 1973, the school is required to submit final accounts i.e., receipts and payment account, income and expenditure account and balance sheet of the preceding year duly audited by a Chartered Accountant by 31st July.

On account of number of complaints received by the Institute of Chartered Accountants of India (ICAI) regarding signatures of Chartered Accountants (CAs) are being forged by non-CAs and corresponding findings by ICAI that financial documents/certificates attested by third person misrepresenting themselves as Chartered Accountants (CA) are misleading the Authorities and Stakeholders, ICAI, at its 379th Council Meeting, made generation of Unique Document Identification Number (UDIN) mandatory for every signature of Full time Practicing Chartered Accountants in phased manner for the following services:



- All Certificates with effect from 1 Feb 2019
- GST and Income Tax Audit with effect from 1 Apr 2019
- All Audit and Assurance Functions with effect from 1 Jul 2019

Therefore, generation of UDIN has been made mandatory for all audit and assurance functions like documents and reports certified/ issued by practicing Chartered Accountants from 1 July 2019. The UDIN System has been developed by ICAI to facilitate its members for verification and certification of the documents and for securing documents and authenticity thereof by Regulators.

Further, ICAI issued an announcement on 4 June 2019 for the attention of its Members with the requirement of mentioning UDIN while signing the Audit Reports effective from 1 Jul 2019, which stated *"With a view to bring uniformity in the manner of signing audit reports by the members of ICAI, it has been decided to require the members of ICAI to also mention the UDIN immediately after the ICAI's membership number while signing audit reports. This requirement will be in addition to other requirements relating to the auditor's signature prescribed in the relevant law or regulation and the Standards on Auditing."*

Standard on Auditing (SA) 700 (Revised) – 'Forming an Opinion and Reporting on Financial Statements' notified by the Institute of Chartered Accountants of India include formats for issuing audit opinions on the financial statements by practicing Chartered Accountants.

Also, para 47 of SA 700 states *"The auditor's report shall be dated no earlier than the date on which the auditor has obtained sufficient appropriate audit evidence on which to base the auditor's opinion on the financial statements, including evidence that:*

- All the statements that comprise the financial statements, including the related notes, have been prepared; and*
- Those with the recognized authority have asserted that they have taken responsibility for those financial statements."*

The financial statements for FY 2018-2019 submitted by the School along with Audit Report signed by Chartered Accountant did not cite UDIN, as mandated by ICAI. Further, the Chartered Accountant failed to mention the date of signing on the audit report, balance sheet and income and expenditure account. However, notes to accounts enclosed with the financial statements were signed on 25.10.2019. Further, the audit report issued by the auditor is not in accordance in the format prescribed under SA 700 since it fails to draw reference to applicable accounting standards or Generally Accepted Accounting Principles and does not give opinion on the true and fair view of state of affairs of the school, surplus/deficit during the year and cashflows during the year. Therefore, authenticity of the audit and that of the financial statements for FY 2018-2019 submitted by the School could not be verified.

While the School has not complied with the statutory requirement of submission of audited final accounts and has submitted unauthentic final accounts, these financial statements for FY 2018-2019 have been taken on record by the Directorate and the same have been considered for evaluation of the fee increase proposal of the School for the academic session 2018-2019 assuming the same as unauthentic financial statements.

The School is directed to confirm from the auditor whether UDIN was generated in respect of the audit opinion issued by the auditor on the financial statements of the School for FY 2018-2019. If it was generated, the same should be mentioned by the School in its compliance report. In case,

UDIN was not generated by the auditor, the School is directed to seek explanation from the auditor for not complying with the requirements notified by ICAI and get the said audit report and financial statements verified from the Institute of Chartered Accountants of India for its authenticity and validity.

The School is further directed to ensure that the audit opinions issued on its future final accounts by practicing Chartered Accountant comply with the requirements enunciated by their regulatory body i.e. The Institute of Chartered Accountants of India including compliance with SA 700 and generation of UDIN.

6. The school has not been complying with direction issued by the DoE in its order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04-06-2012 as well as condition specified in the land allotment letter which require to provide 25% reservation to children belonging to EWS category. Therefore, the concerned DDE District is directed to look into the matter. The admission allowed under EWS category during the FY 2016-17, FY 2017-18 and FY 2018-19 based on the information provided by the school is as under:

Particulars	FY 2016-17	FY 2017-18	FY 2018-19
Total strength	2,265	2,351	2,389
EWS	363	439	465
% EWS students to total students	16.03%	18.67%	19.46%

After detailed examination of all the material on record and considering the clarification submitted by the school, it was finally evaluated/ concluded that:

- i. The total available funds for the year 2018-19 amounting to INR 48,85,36,215 out of which cash outflow in the year 2018-19 is estimated to be INR 45,43,21,821. This results in net surplus amounting to INR 3,42,08,404. The details are as follows:

Particulars	Amount (in INR)
Cash and Bank balances as on 31.03.18 as per audited financial statements of FY 2017-18	25,16,759
Investments as on 31.03.18 as per audited financial statements of FY 2017-18	7,66,460
Liquid Fund as on 31.03.2018	32,83,219
Add: Amount recoverable from the Society for purchase of Cars (Refer financial observation No. 1)	34,42,074
Add: amount recoverable from the Society for payment towards secured and unsecured loans (Refer financial observation no.2)	4,91,45,373
Add: Asset purchased out development fund during FY 2014-15 & 2015-16 but not reported in the audited financial statements. (Refer financial observation no. 3)	3,06,38,084
Add: Recovery from the Society for payment of interest on secured loans (Refer financial observation no. 4)	2,45,99,118
Add: Recovery from Society for payment of interest on unsecured loan (Refer financial observation no. 5)	1,32,17,161
Add: Fees as per audited financial statements of FY 2018-19 (Refer note 1 below)	38,19,50,829

Particulars	Amount (in INR)
Add: Other Income as per audited financial statements of FY 2018-19 (Refer note 1 below)	22,08,968
Total Available Funds for FY 2018-19	50,84,84,826
Less: Fixed deposit in the joint name of Secretary CBSE and Manager as per the school submission	60,607
Less: Caution money refundable as on 31.03.2018	3,57,500
Less: Development fund balance as on 31.03.2018	1,99,877
Less: Depreciation Reserve Fund as on 31.03.2018 (Refer note 2 below)	-
Less: Staff Retirement benefits (Gratuity and Leave Encashment) (Refer financial observation no.6)	1,93,30,627
Net Available Funds for FY 2018-19	48,85,36,215
Less: Actual Expenditure for the FY 2018-19 as per audited financial statements (Refer note 3 below)	39,77,87,387
Less: Arrears of salary from January 2016 to March 2019 on account of implementation of 7th CPC (Refer Note 4 below)	5,65,40,424
Net Surplus	3,42,08,404

Note 1: Fee and income as per audited financial statements of FY 2018-19 has been considered except deferred income of INR 2,66,47,239 as it is notional income.

Note 2: As per the Duggal Committee report, there are four categories of fees that can be charged by a private unaided recognised school. The first category of fee comprised of "Registration fee and all one Time Charges" levied at the time of admissions such as admission and caution money. The second category of fee comprises 'Tuition Fee' which is to be fixed to cover the standard cost of the establishment and also to cover the expenditure of revenue nature for the improvement of curricular facilities like library, laboratories, science, and computer fee up to class X and examination fee. The third category of the fee should consist of 'Annual Charges' to cover all expenditure not included in the second category and the fourth category consist of all 'Earmarked Levies' for the services rendered by the school and be recovered only from the 'User' students. These charges are transport fee, swimming pool charges, Horse riding, tennis, midday meals etc. This recommendation has been considered by the Directorate while issuing order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and order No. F.DE./15(56)/Act/2009/778 dated 11.02.2009.

The purpose of each head of the fee has been defined and it is nowhere defined the usage of development fee or any other head of fee for investments against depreciation reserve fund.

Further, Clause 7 of order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and clause 14 of the order no F.DE./15(56)/Act/2009/778 dated 11.02.2009, "development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, upgradation and replacement of furniture, fixture and equipment. Development fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with and income generated from the investment made out of this fund will be kept in a separately maintained Development Fund Account". Thus, the above direction provides for:

- Not to charge development fee for more than 15% of tuition fee.

- b. Development fee will be used for purchase, upgradation and replacement of furniture, fixtures and equipment.
- c. Development fee will be treated as capital receipts.
- d. Depreciation reserve fund is to be maintained.

Thus, the creation of the depreciation reserve fund is a pre-condition for charging of development fee, as per above provisions and the decision of Hon'ble Supreme court in the case of Modern School Vs Union of India & Ors.: 2004(5) SCC 583. Even the Clause 7 of the above direction does not require to maintain any investments against depreciation reserve fund.

Also, as per para 99 of Guidance Note-21 'Accounting by School' issued by the Institute of Chartered Accountants of India states "Where the fund is meant for meeting capital expenditure, upon incurrence of the expenditure, the relevant asset account is debited which is depreciated as per the recommendations contained in this Guidance Note. Thereafter, the concerned restricted fund account is treated as deferred income, to the extent of the cost of the asset, and is transferred to the credit of the income and expenditure account in proportion to the depreciation charged every year."

Accordingly, the depreciation reserve (that is to be created equivalent to the depreciation charged in the revenue account) is mere of an accounting head for the appropriate accounting treatment of depreciation in the books of account of the school in accordance with Guidance Note -21 issued by the Institute of Chartered Accountants of India. Thus, there is no financial impact of depreciation reserve on the fund position of the school. Accordingly, it is not required to deduct from the calculation of the fund position of the school.

From the above, it is clear that the depreciation reserve fund is a notional account of a notional fund for which there is no requirement to have equivalent fund neither in a bank account nor in the form of a fixed deposit. Moreover, charging of depreciation from the Income and Expenditure account implies charging of capital expenditure on the fee structure of the school which would be in contravention of the judgment of Hon'ble SC in the matter of Modern School Vs Union of India and Others (2004). In the said judgement the Hon'ble Supreme Court has clearly stated "*capital expenditure cannot form part of financial fee structure of the school*". Accordingly, charging of depreciation from Income and Expenditure account implies that the school is including a capital component in its fee structure which is not permissible.

Note 3: All expenditure as per audited financial statements has been considered except depreciation of INR 4,05,02,788 being non-cash expense.

Note 4: During the evaluation of fee increase proposal of FY 2018-19, the School has provided details of 7th CPC arrears from Jan 2016 to Mar 2019 amounting to INR 5,65,40,424 which is still pending for payment. The school further explained that it has not implemented the recommendation of 7th CPC due paucity of funds. Further, the school has filed appeal against the fee hike order No.F.D.E.15(270)/PSB/2019/1435-1439 dated 23.03.2019 vide Civil Misc. Petition No. 25518/2019 and Writ petition (c) No.5868/2019 which is subjudice before the Hon'ble High Court. Therefore, the amount of arrears of INR 5,65,40,424 provided by the school post personal hearing has been considered in the above table. The school is hereby directed to implement the recommendation of 7th CPC in full within 30 days from the date of issue of this order.



- ii. In view of the above examination, it is evident that the school has sufficient funds to carry on the operation of the school for the academic session 2018-19 on the existing fee structure. In this regard, the directions issued by the Directorate of Education vide circular no. 1978 dated 16.04.2010 states:

“All schools must, first of all, explore and exhaust the possibility of utilising the existing funds/ reserves to meet any shortfall in payment of salary and allowances, as a consequence of increase in the salary and allowance of the employees. A part of the reserve fund which has not been utilised for years together may also be used to meet the shortfall before proposing a fee increase.”

AND WHEREAS, in the light of above evaluation which is based on the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, it was recommended by the team of Chartered Accountants along with certain financial and other observations that the sufficient funds are available with the school to carry out its operations for the academic session 2018-19. Accordingly, the fee increase proposal of the school may be rejected.

AND WHEREAS, it has also been noted that the School has incurred INR 12,10,41,810 for addition to building purchase of cars etc. as per the financial finding noted above which was not in accordance with clause 2 of public notice dated 04.05.1997 and provisions of DSEAR, 1973. The School is directed to recover INR 12,10,41,810 from the Society. The amount of above receipt along with copy of bank statement showing the receipt of above-mentioned amount should be submitted with DoE, in compliance of the same, within 30 days from the date of issuance of this order. Non-compliance of this shall be taken up as per DSEA & R, 1973.

AND WHEREAS, recommendation of the team of Chartered Accountants along with relevant materials were put before the Director of Education for consideration and who after considering all the material on the record, and after considering the provisions of section 17(3), 18(5), 24(1) of the DSEA, 1973 read with Rules 172, 173, 175 and 177 of the DSER, 1973 has found that the school has sufficient funds for meeting financial implication for the academic session 2018-19. Therefore, Director (Education) has rejected the proposal submitted by the school to increase the fee for the academic session 2018-19.

AND WHEREAS, the school is directed, henceforth to take necessary corrective steps on the financial and other observations noted during the above evaluation process and submit the compliance status within 30 days from the date of this order to the D.D.E (PSB).

Accordingly, it is hereby conveyed that the proposal for enhancement of fee for session 2018-19 of **G.D. Goenka Public School, Plot No. 3, Pocket- 7, Sector- 22, Rohini, Delhi-110085 (School Id: 1412249)**, has been rejected by the Director (Education).

Further, the management of said school is hereby directed under section 24(3) of DSEA, 1973 to comply with the following directions:

1. Not to increase any fee/charges during FY 2018-19. In case, the School has already charged increased fee during FY 2018-19, the School should make necessary adjustments from future fee/refund the amount of excess fee collected, if any, as per the convenience of the parents.



2. To ensure payment of salary is made in accordance with the provision of section 10(1) of the DSEA, 1973. Further, the scarcity of funds cannot be the reason for non-payment of salary and other benefits admissible to the teachers/ staffs in accordance with section 10(1) of the DSEA, 1973. Therefore, the Society running the School must ensure payment to teachers/ staffs accordingly.
3. To utilize the fee collected from students in accordance with the provisions of Rule 177 of the DSER, 1973 and orders and directions issued by this Directorate from time to time.

Non-compliance of this order or any direction herein shall be viewed seriously and will be dealt with in accordance with the provisions of section 24(4) of Delhi School Education Act, 1973 and Delhi School Education Rules, 1973.

This is issued with the prior approval of the Competent Authority.



(Yogesh Pal Singh)
Deputy Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi

To

The Manager/ HoS
G.D. Goenka Public School (School Id: 1412249),
Plot No. 3, Pocket- 7, Sector- 22, Rohini,
Delhi-110085.

No. F.DE.15(681)/PSB/2022/ 4100-4104

Dated: 03/06/22

Copy to:

1. P.S. to Principal Secretary (Education), Directorate of Education, GNCT of Delhi.
2. P.S. to Director (Education), Directorate of Education, GNCT of Delhi.
3. DDE (North West-B) to ensure the compliance of the above order by the school management.
4. In-charge (I.T Cell) with the request to upload on the website of this Directorate.
5. Guard file.



(Yogesh Pal Singh)
Deputy Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi