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

No. F.DE.15(689)/PSB/2022/ 4055-4059 **Dated:** 03/06/22

ORDER

WHEREAS, **OPG World School, Sector 19B, Dwarka, New Delhi - 110075 (School Id: 1821274)** (hereinafter referred to as "**the School**"), run by the Chandra Education and Welfare Society (hereinafter referred to as "**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 DSEA, 1973 to the DoE. Such full statement of fee is required to indicate estimated income of the School to be derived from the fees and estimated operational expenses to be incurred during the ensuing year towards salaries and allowances payable to employees etc in terms of Rule 177(1) of the DSER, 1973.

AND WHEREAS, as per Section 18(5) 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 objectives 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 recognized 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 the Writ Petition No. 4109/2013 in the matter of Justice for All vs. 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 private unaided recognized Schools to whom land has been allotted by the DDA/ land owning agencies.

AND WHEREAS, accordingly, the DoE vide order No. F.DE.15 (40)/PSB/2019/2698-2707 dated 27.03.2019, directed to all the private unaided recognized Schools, running on the land allotted by the 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 2019-20. Accordingly, this Order dispenses the proposal for enhancement of fee submitted by the School for the academic session **2019-20**.

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 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 2019-20, necessary records and explanations were also called from the School through email. Further, the School was also provided an opportunity to be heard on 03.12.2019 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(414) PSB/2018/30042-30047 dated 30.11.2018 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 observations noted are as under:

A. Financial Observations

1. Clause 2 of Public notice dated 04.05.1997states *"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.

Additionally, Rule 177 of DSER,1973 states that 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 not from the fund of the school. Further, Rule 177 states that the school is not allowed to make addition to the building if it does not have savings.

Clause 14 of DoE's Order No. F.DE./15 (56) /Act /2009 / 778 dated 11.02.2009 states "*Development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, up gradation and replacement of furniture, fixtures 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 from this fund, will be kept in a separately maintained Development Fund Account.*"

Further, Clause 7.24 of Duggal committee states that *"Simultaneously, it is also to be ensured that the Schools, do not discharge any of the functions, which rightly in the domain of the Society out of the fees or other charges collected from the students; or where the parents are made to bear, even in part, the financial burden for the creation of facilities including building, on a land which had been given to the Society at concessional rates for carrying out a "philanthropic" activity. One only wonders what then the contribution of the Society that professes to run the School!"*

Review of the audited financial statements of FY 2018-19, revealed that the School has reported INR 2,42,26,131 under construction of Building CWIP. The school has utilized school funds to meet the cost of construction of the building. This capital expenditure was incurred by the school without complying with the requirements of Rule 177 of DSER, 1973.

Further, it is also observed that during FY 2018-19, the School has repaid to the Society INR 3,71,34,623 against interest free loan taken for the purpose of construction of building. This payment has been made in contravention of above-mentioned provisions.

Therefore, amount of INR 6,13,60,754 (i.e., INR 2,42,26,131 + INR 3,71,34,623) utilized by the school for construction of building is recoverable from the society being the obligation of the Society. Accordingly, this amount has been included while deriving the fund position of the school with the direction to the school to recover the said amount within 30 days from the date of the issue this order.

In addition to the above, the School has proposed certain capital expenditure out of Development fund in FY 2019-20 which is in contravention of above mentioned provisions has not been considered while calculating the fund position of the School. Details of such expenses are given below:

Particular	Amount in INR	Remarks
Building	4,00,00,000	In contravention of clause 14 of order dated 11.02.2009 and rule 177 of DSER' 1973.
Swimming Pools	15,00,000	
School Buses	56,85,700	
Upgradation of assets	55,00,000	Detail of such expenses have not been provided by the School.

2. The Hon'ble High Court of Delhi, in its Judgment dated 30.10.1998 in case of Delhi Abibhavak Mahasangh held 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"*.

   Further, Rule 177 of DSER, 1973 states "*Income derived by an unaided 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*".

   Further, Rule 176 states *"Income derived from collections for specific purposes shall be spent only for such purpose"*

   The review of the audited financial statements of FY 2018-19, revealed that the School purchased two buses for INR 56,51,200 by taking loans of INR 47,98,000 from Corporation Bank. The remaining amount of INR 8,53,200 was paid out of the School funds as a down payment. During the FY 2018-19, the School has paid INR 2,10,080 (as per receipt and payment account) towards repayment of loan.

This capital expenditure on buses was incurred without complying with the requirements prescribed in Rule 177 of DSER, 1973. The school has utilized its funds for purchase of buses and then submitted the proposal for fee increase which translates to constituting capital expenditure as component of the fee structure of the school.

Accordingly, the amount spent by the school for purchase of buses totalling to INR 10,63,280 (INR 8,53,200 + INR 2,10,080) is hereby added to the fund position of the school considering the same as funds are available with 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.

Further, the School has proposed INR 3,78,400for payment of interest on loan for vehicle in the budgeted expenditure of FY 2019-20 in contravention of above-mentioned provision. Therefore, this amount has been excluded from the budgeted expenditure of the School.

3. Clause 8 of Order No. DE 15/ Act/ Duggal.Com /203 /99 /23033-23980 dated 15.12.1999 states *"no amount whatsoever shall be transferred from the recognised unaided school fund of a school to the society or the trust or any other institution."*

The Directorate in its order no. F.DE.15(414) PSB/2018/30042-47 dated 30.11.2018 issued for academic session 2017-18, It was noted that INR 2,98,51,331 was recoverable from the society as on 31.03.2015 which was adjusted by the school in FY 2015-16 against transfer of building and other assets from the society to the school. The value of fixed assets transferred from the society to school includes building amounting to INR14,26,95,976 which signifies that the school has made indirect payment to the society for construction/ acquisition of building to the extent of advance recoverable from the society i.e., INR 2,98,51,331 in contravention of clause 2 of public notice dated May 04, 1997.

The reply given by the school has taken on record. The school in its reply submitted that the amount recoverable from the society as on 31.03.2015 has been recovered in the form of building. The society has transferred building worth of INR 14,26,95,976 to the school in the FY 2015-16. Against which after adjusting the amount recoverable from the society, the balance has been shown as unsecured loan payable to society in the financial statements for FY 2015-16. The contention of the school is not valid because, the above adjustment against the building is in contravention of Clause 2 of the public notice dated May 04,1997. Hence the school is once again directed to recover the amount of INR 2,98,51,331 form the society.

The school is further directed to treat value of building transferred amounting to INR14,26,95,976 as capital contribution received society and not to make any further payment to the society in future. Accordingly, the school is required to pass the rectification in books and accounts and report the same in its audited financial statements of the subsequent year.

4. 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:

a. Assets held by a long-term employee benefit fund; and
b. 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."*

From the review of the record submitted by the school it has observed that the actuarial valuation reports of actuary has indicated total liability towards gratuity amounting to INR 55,52,460 as on 31.03.2019 and the school has created equivalent provision and reported the same in its audited financial statements of FY 2018-19.

The Directorate in its order no. F.DE.15(414) PSB/2018/30042-47 dated 30.11.2018, the school was directed to make earmarked investments against provision for gratuity and leave encashment with LIC (or any other agency) within 30 days of the receipt of the said order. However, it has been noted that the school has earmarked equivalent amount of fixed deposits with bank towards retirement benefits as on 31.03.2019, which does not qualify as 'Plan Asset as per Accounting Standard 15. Therefore, the School is again directed to make equivalent investments against retirement benefits in 'Plan Assets' in accordance with AS-15. Accordingly, the provision of INR 6,10,003 made by the school during FY 2019-20 against gratuity and leave encashment has not been considered as part of the expenditure of the school.

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.DE./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."*

Earmarked levies collected from students are a form of restricted funds, which, according to Guidance Note 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 information provided by the school were taken on record, it has been noted that the school charges earmarked levies in the form of Transport Fees, Smart Class Fees, Lab Charges and Earmarked Levies from students. However, the school has not maintained separate fund accounts for the above-mentioned earmarked levy and the school has been generating surplus from earmarked levy, which has been utilised for meeting other expenses of the school or generated loss which is met out of the other income of the school. The Directorate's in its order no. F.DE.15(414) PSB/2018/30042-47 dated 30.11.2018 issued to the school post evaluation of fee increase proposal of FY 2017-18, wherein the school was directed to maintain separate fund account depicting clearly the amount collected, amount utilised and balance amount for each earmarked levy collected from student but the school has not yet complied with above direction. The details of surplus/ deficit from earmarked levies of last three financial years is given below:

(Figures in INR)

Particulars	Transportation Charges	Smart Class	Lab Charges	Earmarked Levies
For the year 2015-16				
Fee Collected during the year (A)	97,40,595	51,57,155	-	-
Expenses during the year (B)	73,73,736	-	22,796	
Difference for the year (A-B)	**23,66,859**	**51,57,155**	**(22,796)**	-
For the year 2016-17				
Fee Collected during the year (A)	1,00,03,428	55,68,210	18,924	-
Expenses during the year (B)	87,23,359	-	5,50,245	-
Difference for the year (A-B)	**12,80,069**	**55,68,210**	**(5,31,321)**	-
For the year 2017-18				
Fee Collected during the year (A)	1,07,70,220	65,53,880	2,43,600	36,04,200
Expenses during the year (B)	1,03,24,610	60,32,459	33,201	-
Difference for the year (A-B)	**4,45,610**	**5,21,421**	**2,10,399**	**36,04,200**
Total	**40,92,538**	**1,12,46,786**	**(3,43,718)**	**36,04,200**

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.

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.

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. Therefore, the school is directed to determine its fee structure in accordance with provisions of DSEAR, 1973.

2. Clause 14 of this Directorate's Order No. F.DE./15 (56)/ Act/2009/778 dated 11.02.2009 states "*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, fixtures 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 the income generated from the investment made out of this fund, will be kept in a separately maintained Development fund Account.*"

Further, as per para 99 of Guidance Note on Accounting by Schools (2005) 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.*

On review of the audited financial statements for FY 2016-17 to FY 2018-19, it has been noted that the upon utilisation of development fund, the school has not transferred to the credit of income and expenditure account an amount in proportion to the depreciation charged to revenue account which is not in accordance with the provision of Para 99. Therefore, school is directed to make necessary adjustments in development utilisation and general reserve in accordance with para 99 of Guidance Note issued by the ICAI.

Para 67 of the Guidance Note on Accounting by Schools issued by the Institute of Chartered Accountants of India states, "*the financial statements should disclose, inter alia, the historical cost of fixed assets*".

On review of the audited financial statements, it has been noticed that the fixed assets purchased out of general fund are shown at written down value and the fixed assets purchased out of development fund are shown at gross block which is not consistent with the Guidance Note, Thus, the school is hereby directed to comply with the requirements of Guidance Note issued by ICAI.

3. 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 had not prepared Fixed Asset register (FAR) in proper format and captured the asset name, date of purchase and the amount in the FAR. The school had 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 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.

4. Clause 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 11.02.2009 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.*"

On review of the financial statements, it has been noted that the school has been collecting caution money from the students. But only principal amount is being refunded to the students at the time of his/ her leaving from the school which is not in accordance with the clause 18 of the order dated 11.2.2009 and clause 3 of the Public Noted dated 04.05.1997. The school is hereby directed to comply with the above-mentioned provisions with respect to caution money collected from the student. Further, the amount refundable of INR 11,70,313 as on 31.03.2019 as reported in the audited Financial Statements has been considered while deriving the fund position of the school.

5. The school is not complying with the DOE 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. Since the school is not complying with the aforesaid order therefore, concerned DDE District is directed to look in the matter. The admission allowed under EWS category during the FY 2016-17, FY 2017-18 and FY 2018-19 is as under:

Particulars	**2016-17**	**2017-18**	**2018-19**
Total no. of students in school	945	1194	1404
Total EWS students	82	119	154
% of EWS students to total no. of students	**9%**	**10%**	**11%**

6. 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.

7. 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 Jul 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:*

i. All the statements that comprise the financial statements, including the related notes, have been prepared; and

ii. *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 31.07.2019. 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 2019-2020 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.

8. Form 2 of Right of Children to Free and Compulsory Education Act 2009, the schools are required to maintain the liquidity in the form of investment for 3 months' salary and this amount should be invested in joint name of Dy. Director (Education) and Manager of the school.

The School has created salary provision in its audited financial statements. However, no amount has been deposited in accordance with the above-mentioned provision.

Therefore, salary reserve of INR 46,00,000 budgeted in FY 2019-20 has been excluded while calculating the fund position of the School and it is directed to the School to create corresponding amount of salary reserve in the form of fixed deposit in the joint name of Dy. Director (Education) and manager of school.

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 2019-20 amounting to INR **23,01,73,221** out of which cash outflow in the year 2019-20 is estimated to be INR **16,14,92,792**. This results in net surplus amounting to INR **6,86,80,429**. The details are as follows:

Particulars	**Amount**
Cash and Bank balances as on 31.03.19 as per Audited Financial Statements of FY 2018-19	- 4,03,40,865
Investments as on 31.03.19 as per Audited Financial Statements of FY 2018-19	5,67,89,842
Liquid Fund as on 31.03.2019	**1,64,48,977**
Add: Amount recoverable from society against the Building WIP (refer financial observation no.1)	2,42,26,131
Add: Amount recoverable from society against the payment made to the Society for construction of building (refer financial observation no.1)	3,71,34,623

Particulars	Amount
Add: Recovery towards repayment of loan for purchase of buses (refer financial observation no.2)	10,63,280
Add: Amount recoverable from society as per previous order (refer financial observation no.3)	2,98,51,331
Add: Fees for FY 2018-19 as per Audited Financial Statements (on the assumption that the amount received in FY 2018-19 will at least accrue in FY 2019-20)	13,18,41,174
Add: Other income for FY 2018-19 as per Audited Financial Statements (on the assumption that the amount received in FY 2018-19 will at least accrue in FY 2019-20)	49,98,686
Total Available Funds for FY 2019-20	**24,55,64,202**
Less: FDR with joint name of DDE and Manager of the OPG World School as on 31.03.2019	2,00,000
Less: FDR with joint name of Secretary CBSE and Manager of the OPG World School as on 31.03.2019	1,00,000
Less: Development Balance as on 31.03.2019	1,39,20,668
Less: Caution money as on 31.03.2019	11,70,313
Less: Depreciation reserve fund (refer note no.1)	
Less: Staff retirement benefits- Gratuity (Investments with LIC) (refer financial observation no.3)	
Net Available Funds for FY 2019-20	**23,01,73,221**
Less: Budgeted expenses for the Financial Year 2019-20 after making adjustment (Refer Note no.2)	**14,30,45,792**
Less: Arrears of salary of 7th CPC as submitted by the School (refer note no.3)	**1,84,47,000**
Estimated Surplus	**6,86,80,429**

Note 1: As per the Duggal Committee report, there are four categories of fees that can be charged by a private unaided 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 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.
- Development fee will be used for purchase, upgradation and replacement of furniture, fixtures, and equipment.
- Development fee will be treated as capital receipts.
- 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, the depreciation reserve fund of INR 4557625 as reported by the School in the audited financial statements for the FY 2018-19 has not been considered while deriving the fund position of the School.

Note 2: All the budgeted expenditure has been considered in fund position except the following:

Particular	Amount in INR	Remarks
Salary provision	46,00,000	Refer other observation no.8
Gratuity and leave encashment	6,10,003	Refer financial observation no.4
Interest on Loan	3,78,400	Refer financial observation no.2
Capital expenditure	5,26,85,700	Refer financial observation no.1

Note 3: The Directorate vide order No. DE.15 (318)/PDB/2016/18117, dated 25.08.2017, the Managing Committee of all the private unaided recognized Schools were directed to implement the Central Civil Revised Pay Rules 2016 in respect of the regular employees of the corresponding status in their Schools with effect from 01.01.2016 as adopted by the Government of NCT of Delhi vide its circulars No. 30-3(17)/(12)/VII Pay Comm./Coord./2016/110006-11016 dated 19.08.2016 and No. 30-3(17)/(12)/VII Pay Comm./Coord./2016/12659-12689 dated 14.10.2016. Further, vide order No. F.DE.15/ (318)/PSB/2019/11925-30 dated 09.10.2019, the managing committee of all

Private Unaided Schools once again directed to implement the recommendation of 7th CPC with effect 01.01.2016 within 15 days from the date of issue of aforesaid order.

Further, section 10 of DSEA states "*the scales of pay and allowances, medical facilities, mention, gratuity, provident fund and other prescribed benefits of the employees of recognized private school shall not be less than those of the employees of the corresponding status in school run by the appropriate authority*". Therefore, employees of all the private unaided recognized Schools are entitled to get the revised pay commission. This legal position has been settled by the Hon'ble High Court long back at the in the matter of WPC 160/2017; titled as Lata Rana Versus DAV Public School & Ors vide order dated 06.09.2018 for implementation of sixth pay commission recommendations.

As per submission made by the School in proposal for enhancement of fee for FY 2019-20, the School has budgeted INR 1,84,47,000 towards arrear of 7th CPC has been considered while deriving the fund position of the School and with the direction to the School to implement the recommendations of 7th CPC in full within 30 days from the date of issue of this order. A strict action against the School would be initiated u/s 24(3) of DSEA, 1973 for non-compliance with the direction cited above.

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 2019-20 on the existing fees structure. In this regard, Directorate of Education has already issued directions to the schools vide order dated 16.04.2010 that,

"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 that along with certain financial and other discrepancies, that the sufficient funds are available with the school to carry out its operations for the academic session 2019-20 therefore, the fee increase proposal of the school may be rejected.

AND WHEREAS, it is also noticed that the School has incurred INR 9,22,75,365 for addition to building out of the school fund, repayment of loan of buses, which is not in accordance with clause 2 of public notice dated 04.05.1997 and Rule 177 of DSER, 1973. Thus, the school is directed to recover INR 9,22,22,853 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 (Education) for consideration and who after considering all the material on the record, and after considering the provisions of sections 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 funds are available with the School for meeting its financial implication for the academic session 2019-20. Therefore, Director

(Education) has rejected the proposal submitted by the school to increase the fee for the academic session 2019-20.

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 report within 30 days from the date of this order to the D.D.E (PSB).

Accordingly, it is hereby conveyed that the proposal of fee increase for academic session 2019-20 of **OPG World School, Sector 19B, Dwarka, New Delhi - 110075 (School Id: 1821274),** 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 2019-20. In case, the School has already charged increased fee during FY 2019-20, 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 the provision of section 24(4) of DSEA, 1973 and DSER, 1973.

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

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

To
The Manager/ HoS
OPG World School,
School Id: 1821274,
Sector 19B, Dwarka,
New Delhi - 110075,

No. F.DE.15(689)/PSB/2022/ 4055-4059 Dated: 03/06/22

Copy to:

1. P.S. to Secretary (Education), Directorate of Education, GNCT of Delhi.
2. P.S. to Director (Education), Directorate of Education, GNCT of Delhi.
3. DDE (South 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)
Dy. Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi