

Query No. 10

Subject: Accounting for development fee under Delhi School Education Act and Rules, 1973.¹

A. Facts of the Case

1. The querist has stated that schools in Delhi, both aided as well as unaided are governed by the Delhi School Education Act, 1973 and Rules framed thereunder (DSE A&R). Various notifications have been issued by the Government of Delhi or the Department of Education (DoE) from time to time, under the said Act and Rules. The decisions of the Court of law are also binding principles for the schools and authorities regulating schools. The schools are generally set up by a trust or a society registered under the Societies Registration Act. Most of the land allotted to schools in Delhi is by the land owning agencies, like, Delhi Development Authority (DDA) and Land and Development Office to such trust/society and the building is constructed by said trust or society. The schools then get recognition from DoE on fulfilment of certain conditions. Recognised schools are required to file annual returns as prescribed under Rule 180 of the DSE Rules, 1973. Right to Free and Compulsory Education Act (RTE Act) implemented w.e.f. 2010, stipulates reserving at least 25% seats at entry level for economically weaker sections/disadvantage group (EWS/DG) category of students.

2. The issue for consideration here is about accounting treatment for development fee collected by unaided recognised private school in terms of DoE's Order dated 15/12/1999, dated 11/02/2009 and dated 16/04/2016 read together with the Judgement of Apex Court in the case of Modern School (2004).

3. The querist has further stated that DSE A&R, 1973 besides prescribing rules for general management and administration of schools, has also laid down rules for collection of fee and its accounting. The scheme of management of schools as prescribed under Rule 59 lays down procedure for collection and spending of receipts. Some of the relevant sections and rules of DSE A&R, 1973 governing fee, receipt and expenditure are as under:

- (i) Section 17(3) deals with collection of fee and the restrictions thereof for an unaided recognised school.
- (ii) Section 18 lays down the manner in which the receipts should be accounted for.
- (iii) Section 18(4)(b) read with Rule 176 specify that any collection for specific purpose will have to be spent for specific purpose only.
- (iv) The Directorate of Education (DoE) has the power to regulate fee of unaided recognised school under section 17(3).
- (v) Rules 172 to 179 regulate as to how school's funds should be maintained.

The Guidance Note on Accounting by Schools, issued by the Institute of Chartered Accountants of India is also relevant.

4. The DSE Act & Rules were enacted and notified in 1973 and clarifications/directions have been issued by various Notifications/Circulars/ Orders of DoE. Supreme Court and Delhi High Court have also from time to time given directions on the basis of and in relation to DSE A&R, 1973 and notifications issued thereunder. One of the important judgement is that of Supreme Court in the matter of Modern School vs. Union of India (2004). DoE's Order dated 15/12/1999 is also important in context of said judgement.

¹ Opinion finalised by the Committee on 17.3.2017.

Copies of relevant sections and rules referred to above and Supreme Court judgement and notifications have been provided by the querist for the perusal of the Committee.

5. The matter needing Expert Advisory Committee's opinion has been detailed by the querist as below:

- (1) Rule 175 refers to manner in which the accounts of an unaided recognised school are to be maintained. It prescribes that accounts should exhibit all income accruing by way of fee, fines, income from building, rent, interest, *development fee*, collections for specific purposes, endowments, gifts, donations etc.
- (2) The fee fixation by schools has been a matter of dispute between parents of students and schools since 1996. The matter was escalated to legal battles and was thus taken up to Delhi High Court (HC) and Supreme Court on various occasions.
- (3) (a) In view of representations from parents and on the recommendation of Delhi HC, DoE appointed a committee (known as Duggal Committee) chaired by a Retd. High Court Judge, viz., Justice Smt. Santosh Duggal. Based on recommendations of the said committee, DoE issued a Notification dated 15/12/1999 laying down policy regulations etc., for schools to adhere to. Paragraph 7 of the said Notification lays down the nature of development fee and its ceiling at 10% of tuition fee (subsequently enhanced to 15%). Also, it laid out the manner in which the tuition fee should be fixed. Development fee has been defined in the Act & Rules for an aided school only (Rule 151) whereas this was allowed as a legitimate charge/levy by recognised unaided schools vide Notification dated 15/12/1999 and duly upheld by Supreme Court in the case of Modern School (2004). The levy is permitted with certain caveats. As the Act & Rules were introduced in 1973 and there being no significant amendment subsequent to that, one may have to rely on the notifications issued by DoE from time to time.
- (b) The Notification dated 15/12/1999 states that development fee shall be treated as capital receipt and used for purchase, up-gradation and replacement of furniture, fixtures and equipment. In effect, it became an earmarked collection for specific purpose only.
- (c) Further, the condition imposed for collection of development fee is to have a depreciation reserve fund equal to depreciation charged on assets. Development fee and depreciation reserve have been termed as 'Funds' to be matched up with equivalent security. Whether depreciation on furniture, fixtures and equipment and/or on all assets is a component of Income & Expenditure Account or of Development Fund Account is not clear as the Order dated 15/12/1999 and Apex Court's order in the case of Modern School (2004) are silent on this part.
- (d) Similar directions were repeated in DoE's Notification dated 11/02/2009.
- (e) The Supreme Court (Justice SH Kapadia) in its judgement in Modern School (2004) case in paragraph 17 has held that under section 17(3) read with section 18(3) & (4), the Directorate has the authority to regulate fee under section 17(3). Thus in effect, vide paragraph 25 of its judgement,

Justice SH Kapadia also held Direction No. 7 of DoE's Notification dated 15/12/1999 to be appropriate. Though there is no legislative amendment to Rule 175, the effect and accounting impact on development fee being permitted for unaided school, is to be assessed as change of accounting pattern.

- (4) Section 18(3) of DSE Act, 1973 mandates that every recognised unaided school shall maintain a 'Recognised Unaided School Fund' (RUSF) and it shall be credited with all income accruing to the school by way of fee, fines etc. Similarly, Section 18 (4) (a) and (b) mandate that collections be spent for educational purposes only and all collections for specific purposes shall be utilised for the purpose for which they were received. Reading Rule 175 of DSE Rules, 1973 is of significance as it refers to the accounts with regard to the school fund or RUSF as defined in section 18 of the DSE Act, 1973.
- (5) Very recently, as per the querist, DoE vide its Order dated 16/04/16 while requiring schools to furnish annual information under Rule 180, has reiterated their view of considering development fee as a capital receipt to be taken directly to balance sheet as a liability under 'Designated Fund' without its movement through Income and Expenditure Account. Copy of the Circular has been supplied by the querist for the perusal of the Committee.

According to the querist, collection of development fee fund has a pre-condition for its use for specific purpose only and not at the discretion of management of school to change the purpose of its utilisation. For accounting purposes, can development fee collected be credited to Income and Expenditure Account for change of its use for purpose other than the one prescribed but for educational purposes. By using the nomenclature for 'Development Fee Fund' as 'Designated Fund' and not 'Restricted Fund', is DoE not implying that development fee be first credited to revenue account and then designated as a fund? This aspect needs to be taken into consideration by the Expert Advisory Committee as there are no corresponding appropriate heads in income and expenditure account or in appropriation account in the prescribed formats under Rule 180 for accounting for development fee as such.

6. As for the nature of development fee, the querist has advised that the Expert Advisory Committee should refer to paragraph 7 of the Notification dated 15/12/1999, issued by the Department of Education which explains the fee charge and nature thereof. Since this paragraph 7 has already been held 'appropriate' by Apex Court in its judgement in the case of Modern School (2004), the querist is of the view that the Notification is a law as interpreted by Apex Court. The recent Notification dated 16/04/16 issued by the Department of Education with regard to presentation of annual accounts has also been submitted for the perusal of the Committee. In view of the above-referred notifications, the querist is of the view that the development fee is a restricted fund to be used for purchase, upgradation and replacement of furniture, fixture and equipment. Further, as for the periodicity of collection of development fee, the querist has informed that it is generally collected along with normal tuition fee as per time table set by respective school. It is either monthly or quarterly as per option exercised by the parent but with a ceiling of the cap on the amount of development fee, upto 15% of tuition fee. The development fee can be accumulated over years depending upon capital expenditure plans of the school as present law does not prescribe any time limit for spending development fee.

B. Query

7. On the basis of the facts stated above, the querist has sought the opinion of the Expert Advisory Committee on the following issues:

- (i) (a) Does reading of section 18 read with Rules 175 and 176 for accounting purposes mean that all income accruing to the school, including development fee, which is declared by DoE to be treated as capital receipt, should first be credited to RUSF A/c and thereafter appropriated to development fee fund account, especially in view of clash between section 18 read with Rule 175 and the Notification dated 15/12/1999 treating development fee as capital receipt.
- (b) Would development fee fund appear as balance sheet item, on liability side, represented by security as asset in the form of bank balance (in fixed deposit) to the extent of unspent amount and in form of written down value of assets to the extent of development fee utilised/spent? (Refer paragraph 99 of the Guidance Note on Accounting by Schools, issued by the ICAI.)
- (ii) Would accounting principles permit the charge of depreciation on furniture, fixtures and equipment to development fee fund account or be part of depreciation in income and expenditure account with corresponding credit to Depreciation Reserve Account?
- (iii) In either of the case, would the fund in the form of a security have to be maintained to meet the requirement of calling it as Depreciation Reserve *Fund* by charge of such depreciation to revenue account and treated as a cost recoverable against fee? In effect, would school be rightfully able to accumulate funds for capital expenditure from two sources, i.e., development fee collected @15% and depreciation reserve fund funded out of the surplus of respective year? Will this reserve fund be equal to the whole of depreciation charged in revenue accounts or restricted to depreciation of specified assets only?

C. Points considered by the Committee

8. The Committee notes that the basic issues raised in the query relate to accounting for development fee and presentation of development fee fund, charge of depreciation on fixed assets acquired out of development fee and treatment of depreciation reserve fund in the financial statements of a school. Accordingly, the Committee has examined only these issues and has not examined any other issue that may arise from the Facts of Case, such as, accounting in the financial statements of the trust/society running the schools, etc. At the outset, the Committee wishes to point out that the Committee has considered the issue purely from accounting perspective, viz., applying the accounting principles in the context of the requirements of the laws and regulations governing a school and has examined the issue without interpreting the requirements of Delhi School Education Act, 1973 and Rules framed thereunder (DSE A & R), various notifications issued from time to time by the Department of Education or the Government of Delhi and the Court's judgements, for determination of nature of development fee. While expressing the opinion, the Committee has relied upon the view of the querist that development fee received is of the nature of restricted fund.

9. With regard to the accounting for development fee and charging of depreciation, the Committee notes the following paragraphs from the Guidance Note on Accounting by Schools, issued by the Institute of Chartered Accountants of India:

“Restricted Funds are contributions received by the school, the use of which is restricted by the contributors.”

“99. Restricted funds that represent the contributions received whose use is restricted by the contributors, are credited to a separate fund account when the amount is received and reflected separately in the balance sheet. Such funds may be received for meeting revenue expenditure or capital expenditure. Where the fund is meant for meeting revenue expenditure, upon incurrence of such expenditure, the same is charged to the income and expenditure account (‘Restricted Funds’ column); a corresponding amount is transferred from the concerned restricted fund account to the credit of the income and expenditure account (‘Restricted Funds’ column). 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 (both the income so transferred and the depreciation should be shown in the ‘Restricted Funds’ column). The unamortised balance of deferred income would continue to form part of the restricted fund. Any excess of the balance of the concerned restricted fund account over and above the cost of the asset may have to be refunded to the donor. In case the donor does not require the same to be refunded, it is treated as income and credited to the income and expenditure account pertaining to the relevant year (‘General Fund’ column). Where the restricted fund is in respect of a non-depreciable asset, the concerned restricted fund account is transferred to the ‘General Fund’ in the balance sheet when the asset is acquired.”

From the above, the Committee notes that in the extant case, the development fee is a capital receipt to be used for purchase, upgradation and replacement of furniture, fixtures and equipments, which are depreciable fixed assets. Therefore, initially the development fee received would be credited to a separate fund account. Upon incurrence of the expenditure on acquisition of the asset, the relevant asset account is debited which is depreciated as per the recommendations in the Guidance Note and the fund so created would be treated as deferred income to the extent of the cost of the asset and an amount equivalent to depreciation amount is transferred to the credit of income and expenditure account in proportion to the depreciation charged every year.

10. With regard to the issue raised by the querist relating to whether income accruing to the school including development fee should be first credited to Recognised Unaided School Fund (RUSF) Account and thereafter appropriated to Development Fee Fund Account considering the requirements of section 18 read with Rule 175 of DSE A & R, the Committee notes the requirements of section 18 and the relevant rules of DSE A&R as follows:

Section 18

“18. (3) In every recognised unaided school, there shall be a fund, to be called the “Recognised Unaided School Fund”, and there shall be credited thereto income accruing to the school by way of –

- (a) fees,
 - (b) any charges and payments which may be realised by the school for other specific purposes, and
 - (c) any other contributions, endowments, gifts and the like.
- (4) (a) ...
- (b) Charges and payments realised and all other contributions, endowments and gifts received by the school shall be utilised only for the specific purpose for which they were realised or received.”

Rules

“173 (4) Every Recognised Unaided School Fund shall be kept deposited in a nationalised bank or a scheduled bank or in a post office in the name of the school, and such part of the said Fund as may be specified by the Administrator or any officer authorised by him in this behalf shall be kept in the form of Government securities and as cash in hand respectively:

Provided that in the case of an unaided minority school, the proportion of such Fund which may be kept in the form of Government securities or as cash in hand shall be determined by the managing committee of such school.

175. Accounts of the school how to be maintained – The accounts with regard to the School Fund or the Recognised Unaided School Fund, as the case may be, shall be so maintained as to exhibit, clearly the income accruing to the school by way of fees, fines, income from building rent, interest, *development fees*, collections for specific purposes, endowments, gifts, donations, contributions to Pupils’ Fund and other miscellaneous receipts, and also, in the case of aided schools, the aid received from the Administrator. (Emphasis supplied by the Committee.)

176. Collections for specific purposes to be spent for that purpose – Income derived from collections for specific purposes shall be spent only for such purpose.”

From the above, the Committee notes that in order to meet the requirements of both section 18 and the Rules, a separate account termed as Recognised Unaided School Fund Account may be maintained, wherein all receipts by the school including development fee should be first credited to such account and then from this account, it may be transferred to the respective account depending upon the nature of the receipt, for example, development fee may be first credited to RUSF Account and then transferred to ‘Restricted Fund’ and thereafter the accounting treatment as discussed in paragraph 9 above may be followed.

11. With regard to presentation of such fund, the Committee notes ‘Part II-Balance Sheet’ of Appendix III – Formats of Financial Statements of Schools to the Guidance Note on Accounting by Schools as follows:

“PART II – BALANCE SHEET

FUNDS EMPLOYED

UNRESTRICTED FUNDS

General Fund

...

RESTRICTED FUNDS

Restricted funds are funds subject to certain conditions set out by the contributors and agreed to by the School when accepting the contribution. This head includes:

- (i) Endowment funds.
- (ii) Funds related to depreciable/non-depreciable assets in respect of which assets are still to be acquired.
- (iii) Balances of deferred income, e.g., grants and donations in respect of which specific depreciable assets have been acquired.
- (iv) Funds related to specific items of revenue expenditure not yet incurred.

Each restricted fund should be reflected separately either on the face of the balance sheet or in the schedule(s) to the balance sheet.

Notes:

1. ...
2. ...
3. Designated/Restricted Funds represented by specifically earmarked bank balances/investments should be disclosed separately in respect of each fund.”

From the above, the Committee notes that the funds related to depreciable assets in respect of which the assets are still to be acquired are to be presented under the sub-head, ‘Restricted Funds’ under the head ‘Funds Employed’ in the balance Sheet. Moreover, balances of deferred income, i.e., the funds in respect of which specific depreciable assets have been acquired should also be presented in a similar way under ‘Restricted Funds’ in the balance Sheet. Further, the restricted funds represented by specifically earmarked bank balances/investments should be disclosed separately either on the face of balance sheet or in the schedules to the balance sheet.

12. With regard to creation of depreciation reserve as per the requirements of the DoE Notification, the Committee is of the view that from accounting perspective, the school, if so desires, may create a depreciation reserve equal to the depreciation charged during the year as an appropriation of profits. However, in order to term such depreciation reserve as ‘depreciation reserve fund’ the same should be represented by specifically earmarked assets. In this regard, the committee notes the definition of the term, ‘fund’ as per paragraph 6.15 of the Guidance Note on Terms Used in Financial Statements², issued by the ICAI, which is reproduced as below:

“6.15 Fund

An account usually of the nature of a *reserve* or a *provision* which is represented by specifically earmarked assets.”

13. Further, with regard to the issue raised by the querist relating to creation of depreciation reserve fund account to the extent of the depreciation charged in the income and expenditure account or restricted to depreciation of specified assets only (viz., those acquired out of the development fee), the Committee notes clauses 7 and 14 of the

² Subsequently, on issuance of the ‘Glossary of Terms used in Financial Statements’ by the Research Committee of the ICAI on July 1, 2019, the Guidance Note on Terms Used in Financial Statements was withdrawn.

Notifications of DoE dated 15th December, 1999 and dated 11th February, 2009, respectively, as follows:

“7. Development fee, not exceeding ten percent of the total annual tuition fee may be charged 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 the any income generated from the investment made out of this fund, will be kept in a separately maintained Development Fund Account.”

“14. 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 out of this fund, will be kept in a separately maintained Development Fund Account.”

From the above, the Committee notes that on a harmonious reading of the above-reproduced requirements, it appears that since the development fee can be collected only if the school is maintaining a depreciation reserve fund and the use of development fund is restricted for some specified assets, the depreciation reserve fund should be maintained equivalent to the depreciation charged in respect of the specified assets only and not the total amount of depreciation charged in the income and expenditure account.

D. Opinion

14. On the basis of the above and subject to paragraph 8 above, the Committee is of the following opinion on the issues raised in paragraph 7 above:

- (i) (a) In order to meet the requirements of both section 18 and the Rules, a separate account termed as Recognised Unaided School Fund Account may be maintained, wherein all receipts by the school including development fee should be first credited to such account and then from this account, it may be transferred to the respective account depending upon the nature of the receipt, for example, development fee may be first credited to RUSF Account and then transferred to ‘Restricted Fund’, as discussed in paragraph 10 above.
- (b) Development fee fund to the extent of unspent amount and the fund in respect of which specific depreciable assets have been acquired should be presented and disclosed as per the requirements of the Guidance Note on Accounting by Schools, as discussed in paragraph 11 above.
- (ii) Depreciation on furniture, fixtures and equipment should be provided as per the recommendations in the Guidance Note on Accounting by Schools and an amount equivalent to depreciation amount is transferred from the development fund account to the credit of income and expenditure account in proportion to the depreciation charged every year. Depreciation reserve, from accounting perspective, may be created equal to the depreciation charged during the year

as an appropriation of profits, as discussed in paragraphs 10 and 12 above.

- (iii) In order to term the depreciation reserve as 'depreciation reserve fund', the same should be represented by specifically earmarked assets, as discussed in paragraph 12 above and the same would also be in accordance with the accounting principles. As far as the issue of creation of depreciation reserve fund account to the extent of the depreciation charged in the income and expenditure account or restricted to depreciation of specified assets only (viz., those acquired out of the development fee) is concerned, the depreciation reserve fund should be maintained equivalent to the depreciation charged in respect of the specified assets only and not the total amount of depreciation charged in the income and expenditure account, as discussed in paragraph 13 above.
