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

No. F.DE.15 (1213)/PSB/2023/ 1222-1226 **Dated: 07/02/23**

Order

WHEREAS, **SAM International School (School ID- 1821218), Sector 12, Dwarka , New Delhi- 110075** (hereinafter referred to as "**the School**"), run by the **Lucky Education 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, the manager of every recognized school is required to file a full statement of fees every year for the ensuing academic session under section 17(3) of the DSEAR, 1973 with the Directorate. Such a statement is required to indicate the 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 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 recognized 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 recognized 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 authorized by the Director in this behalf and also by officers authorized by the Comptroller and Auditor-General of India'.

Thus, the Director (Education) has the authority to examine the full statement of fees filled under section 17(3) of the DSEA, 1973 and returns and documents submitted under section 18(5) of DSEA, 1973 read with rule 180 (1) of DSER, 1973.

AND WHEREAS, besides the above, the Director (Education) is also required to examine and evaluate the fee increase proposal submitted by the private unaided recognized schools which have been allotted land by the DDA/ other land-owning agencies with the condition in their allotment to seek prior approval from Director (Education) before any increase in fee.

AND WHEREAS, 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 fees 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 that in the case of private unaided schools situated on the land allotted by DDA/other land-owning agencies at concessional rates:

"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/ other land-owning agencies.

AND WHEREAS, accordingly, the DoE vide Order No. F.DE-15(40)/PSB/2019/4440-4412 dated 08.06.2022, directed all the private unaided recognized schools, running on the land allotted by DDA/other land-owning agencies at 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 academic session 2022-23.

AND WHEREAS, in pursuance to Order dated 08.06.2022 of the DoE, the School submitted its proposal for increase of fee for the academic session 2022-23. Accordingly, this Order dispenses the proposal for increase of fee submitted by school for the academic session 2022-23.

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.

AND WHEREAS, in the process of examination of fee increase proposal filed by the aforesaid School for the academic session 2022-23, necessary records and explanations were also called from the school through email. Further, the school was also provided an opportunity of being heard on 15th December 2022 to present its justifications/ clarifications on fee increase proposal including audited financial statements and based on the discussion, school was further asked to submit necessary documents and clarification on various issues noted. During that hearing, the compliance of order no. F.DE.15(208)/PSB/2022/3451-3455 dated 10.09.2021 issued for the academic session 2019-20 was also discussed and the school submission were taken on record.

AND WHEREAS, on receipt of clarification as well as documents uploaded on the web portal for fee increase, and subsequent documents submitted by the school as a result of the personal hearing were evaluated by the team of Chartered Accountants. After evaluation of fee proposal of the school and its subsequent clarifications and submissions, following key suggestions for improvement were noted:

A. Financial Suggestion for Improvements

1. Direction no. 2 included in the Public Notice dated 04.05.1997, "*it is the responsibility of the society who has established the school to raise such funds from their own sources or donations from the other associations because the immovable property of the School becomes the sole property of the society*".

Additionally, Hon'ble High Court of Delhi in its judgement dated 30.10.1998 in the case of Delhi Abibhavak Mahasangh concluded that "*The tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society.*" Also, clause (vii) (c) 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 the financial fee structure.*"

Rule 177 of DSER, 1973 states "*Income derived by an unaided recognized school by way of fees shall be utilized 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 utilized 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 recognized 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 aforesaid 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.*

Accordingly, based on the aforementioned rule, public notice and High Court judgement, the cost relating to land and construction of the school building has to be met by the society, being the property of the society and school funds i.e., fee collected from students shall not to be utilised for the same.

Clause (vii) (c) 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 the financial fee structure.*"

(a) The school incurred INR 5,99,67,147 for additions made to the building and repayment of loan taken for upgradation of building from the FY 2014-15 to FY 2018-19 and the same was directed to recover from the society vide Directorate's Order no. F.DE.15(208)/PSB/2022/3451-3455 dated 10.09.2021 for the academic session 2019-20. However, the School has not complied with the above direction and the aforesaid amount is pending for recovery.

Further, on review of the documents submitted by the school, it has been noted that the school has continued repayment of loan and interest taken for upgradation of building for the FY 2019-20 to

FY 2021-22 without complying with the requirement of Rule 177 of DSER,1973. The details of school funds utilised by the school for repayment of loan and interest thereon has been provided below:

Particulars	Principal	Interest	Loan Processing Charges	Loan Penalty	Total
FY 2019-20	31,43,000	16,47,336	9,96,049	27,316	58,13,701
FY 2020-21	43,50,000	18,55,601	31,600	5,680	62,42,881
FY 2021-22	85,00,000	13,06,584	17,000	-2,048	98,21,536
Total	**1,59,93,000**	**48,09,521**	**10,44,649**	**30,948**	**2,18,78,118**

Moreover, on review of the audited financial statements for the FY 2019-20, it has been noted that the school has incurred INR 1,54,91,645 towards the construction of school building, which is again the contravention of Rule 177 of DSER,1973.

(b) The school incurred INR 80,89,787 for repayment of loan for purchase of buses for the FY 2016-17 to FY 2018-19 and the same was directed to recover from the society vide Directorate's Order no. F.DE.15(208)/PSB/2022/3451-3455 dated 10.09.2021 for the academic session 2019-20. However, the School has not complied with the above direction and the aforesaid amount is pending for recovery.

Further, on review of audited financial statements for the FY 2019-20 to FY 2021-22, the school has continued the repayment of loan with interest taken on purchase of buses without complying with the requirement of Rule 177 of DSER,1973. The details of school funds utilised by the school for repayment of loan and interest thereon has been provided below:

S. No	Financial Years	Principal	Interest	Total
1	Till FY 2018-19 vide order no. F.DE.15(208)/PSB/2022/3451-3455 dated 10.09.2021			80,89,787
2	2019-20	18,02,330	4,76,854	22,79,184
3	2020-21	19,57,026	3,18,546	22,75,572
4	2021-22	21,32,852	1,46,332	22,79,184
Total		**58,92,208**	**9,41,732**	**1,49,23,727**

Therefore, the amount utilised by the school towards additions to the building, repayment of loan taken for upgradation of building and repayment of loan for purchase of buses amounting to INR 11,22,60,637 (INR 5,99,67,147 + INR 2,18,78,118 + INR 1,49,23,727) in incurred in contravention of clause 2 of public notice dated 04.05.1997 and Rule 177 of DSER,1973 is hereby again considered as fund available with the school to meet expenditure towards investment for staff gratuity and leave encashment or to pay salary arrears outstanding on implementation of the recommendations of 7th CPC with the direction to the school to recover the same from the society within 30 days from the date of issue of this order. Further, the school is also directed to make adjustment in general reserve with respect to interest on loan.

Non-compliance with this directive would be taken seriously, and the department would take appropriate action against the school under Section 24(4) of the DSEA, 1973 without giving any further opportunity to the school.

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, 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 income generated from the investment made from this fund, will be kept in a separately maintained Development Fund Account."

Para 99 of Guidance Note-21 Accounting by Schools 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."

Further, Para 102 of the Guidance Note-21 also states "In respect of funds, schools should disclose the following in the schedules/notes to accounts:

i. In respect of each major fund, opening balance, additions during the period, deductions/utilization during the period and balance at the end;
ii. Assets, such as investments, and liabilities belonging to each fund separately;
iii. Restrictions, if any, on the utilization of each fund balance;
iv. Restrictions, if any, on the utilisation of specific assets."
v. Also, as per para 67(ii) of the Guidance Note-21 "The financial statements should disclose, inter alia, the historical cost of fixed assets."

Taking the cognisance from the above para, the school needs to create the 'Development Fund Utilisation Account' as deferred income to the extent of cost of assets purchased out of development fund and then this deferred income should be amortised in the proportion of the depreciation charged to income and expenditure account. If the school follows the accounting treatment specified by para 99 of the guidance note, the depreciation reserve fund would be mere an accounting head and school is not required to invest equivalent for that. However, on review of the audited financial statements of FY 2021-22, it has been noted that the school is not following para 99 of the GN 21 cited above as the school has created the deferred income account upon purchase of assets out of the development fund but has not transferred the required amount (i.e. amount equivalent to the depreciation charged on those assets) from deferred income account to the credit of income and expenditure account.

Further, on review of the audited financial statements for the FY 2021-22 revealed that the school has maintained separate bank account for development fee collection, but it is not equivalent to the development fund balance reported in the audited financial statements at the year-end which is in contravention of aforesaid clause 14 of order dated 11.02.2009. Thus, bank balance of development fund amounting to INR 31,73,545 as on 31.03.2022 has been considered while calculating the fund position of the school along with the directions to the school maintain the development fund bank balance equivalent to development fund balance.

Moreover, the school incurred INR 20,18,892 for purchase of car (Innova) in FY 2016-17 and the same was directed to recover from the society vide Directorate's Order no. F.DE.15(208)/PSB/2022/3451-3455 dated 10.09.2021 for the academic session 2019-20. However, the School has not complied with the above direction and the aforesaid amount is pending for recovery.

Hence, the school is once again directed to recover INR 20,18,892 from the society for purchase of car to meet expenditure towards investment for staff gratuity and leave encashment or to pay salary arrears outstanding on implementation of the recommendations of 7th CPC within 30 days from the date of issue of this order.

Non-compliance with this directive would be taken seriously, and the department would take appropriate action against the school under Section 24(4) of the DSEA, 1973 without giving any further opportunity to the school.

3. The school incurred expenditure amounting to INR 1,09,49,000 for housekeeping services taken from M/s P K travels in FY 2017-18 and FY 2018-19 and the same was directed to recover from the society vide Directorate's Order no. F.DE.15(208)/PSB/2022/3451-3455 dated 10.09.2021 issued for the academic session 2019-20 on the basis of following points:

- Housekeeping expenses have increased by 97% from FY 2017-18 to FY 2018-19.
- It was also noted that M/s P K Travels did not levy GST in any of the invoices raised by it and GSTIN was also not mentioned on the invoices. Also, the name of the vendor suggests that it is a travel agency. Further, the financial limit of GST registration was INR 20,00,000 until FY 2018-19, M/s P K Travels has raised invoices (in the name of school) more than this financial limit both during FY 2017-18 and FY 2018-19.
- Contracts/ agreements with M/s P K Travels and other supporting documents such as attendance sheet/trip sheets of staff/vehicles deployed by M/s P K Travels in relation to any of the above- mentioned expenses were not submitted by the school.

However, the School has not complied with the above direction and the aforesaid amount is pending for recovery.

The school has submitted agreement and GST No. of M/s P K Travels during the personal hearing. However, while verifying the GST No. on www.gst.gov.in, it has been observed that the services in which M/s P K Travels is dealing are in the nature of transportation services of passengers and the service taken by the school are cleaning and maintenance of school premises. Further, the agreement submitted by the school is not on the stamp paper and duly notarized by the authority. Hence, the genuineness of the expenses incurred by the school cannot be verified.

Further, on review of the audited financial statements for the FY 2019-20 to FY 2021-22, the school continued incurring expenditure of housekeeping from M/s P K travels amounting to INR 2,15,54,889 (FY 2019-20 – INR 75,28,653, FY 2020-21 – INR 44,41,237 and FY 2021-22 – INR 95,84,999). Considering aforesaid circumstances, sourcing housekeeping services from M/s P K travels does not seems appropriate/genuine.

Hence, the school is once again directed to recover INR 3,25,03,889 (INR 1,09,49,000 + INR 2,15,54,889) from the society and apply the receipt to meet expenditure towards investment for staff gratuity and leave encashment or to pay salary arrears outstanding on implementation of the recommendations of 7th CPC within 30 days from the date of issue of this order.

Non-compliance with this directive would be taken seriously, and the department would take appropriate action against the school under Section 24(4) of the DSEA, 1973 without giving any further opportunity to the school.

4. Para 57 of Accounting Standard 15 (AS-15) 'Employee Benefits' issued by the Institute of Chartered Accountants of India states that "*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 recognized in the financial statements do not differ materially from the amounts that would be determined at the balance sheet date.*" Further, Para 7.14 defines the Plan Assets as:

   (a) *Assets held by a long-term employee benefit fund; and*
   (b) *Qualifying insurance policies.*

   And Para 60 of Guidance Note-21 'Accounting by Schools' (2005) issued by the Institute of Chartered Accountants of India states *"A defined benefit scheme is a scheme under which amounts to be paid as retirement benefits are determined usually by reference to employee's earnings and/or years of service"*.

   On review of the audited financial statements for the FY 2021-22, it has been noted that the school has made provision for gratuity amounting to INR 37,04,789 and leave encashment amounting to INR 91,106 which is equivalent to the actuarial liability determined by the actuary, report dated 27.06.2022. During personal hearing, the school further explained that it has not invested any amount in Plan Asset towards provisions for gratuity as well as leave encashment as on 31.03.2022 which is a non-compliance of the provisions of AS- 15.

   Similar observation was also made in Directorate previous order having no. F.DE.15(208)/PSB/2022/3451-3455 dated 10.09.2021 for the academic session 2019-20. However, the school has not complied with the directions given in the such order.

   Hence, no amount towards retirement benefits has been considered while calculating the fund position of the school and the school is once again directed to comply with the direction to the school to invest the aforesaid amount in plan asset in accordance with AS-15 and submit the compliance report within 30 days from the date of issue of this order.

   In case the school fails to comply with the above directions, the school shall not be allowed further instalments and the amount so allowed to the school shall be recovered from the society/ school management along with interest while evaluating the fee increase proposal for the subsequent year.

   In view of the above, the amount of INR 3,25,000 proposed by the school towards gratuity and leave encashment in FY 2022-23 has not been considered while calculating the fund position of the school for FY 2022-23.

5. 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.*"

While evaluating the fee increase proposal for the academic session 2022-23, the following has been noted with respect the caution money:

- School has been collecting caution money from the students from FY 2019-20 to FY 2020-21. However, it has stopped collected caution money from FY 2021-22 onwards.
- School had not refunded interest on caution money along with refund of caution money.
- School had not treated un-refunded caution money as income in the next financial year after expiry of 30 days.

The school is directed to ensure compliance with the above requirements especially ensuring that caution money is refunded along with interest to the students and un-refunded caution money shall be treated as income while projecting the fee increase proposal of the subsequent year. Therefore, the amount refundable amounting to INR 11,88,886 as on 31.03.2022 as per the audited financial statements has been considered while deriving the fund position of the school.

B. Other Suggestions for Improvement

1. Clause 19 of Order No. F.DE. /15(56)/Act/2009/778 dated 11.02.2009 states "The tuition fee shall be so determined as to cover the standard cost of establishment including provisions for DA, bonus, etc., and all terminal, benefits as also the expenditure of revenue nature concerning the curricular activities."

   Clause 21 of Order No. F.DE. /15(56)/Act/2009/778 dated 11.02.2009 states "No annual charges shall be levied unless they are determined by the Managing Committee to cover all revenue expenditure, not included in the tuition fee and 'overheads' and expenses on play-grounds, sports equipment, cultural and other co-curricular activities as distinct from the curricular activities of the school."

   Clause 22 of Order No. F.DE /15(56)/ Act/2009/778 dated 1.02.2009 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."

   Clause 6 of Order No. DE 15/ Act/ Duggal.Com /203 /99 /23033-23980 dated 15.12.1999 states "Earmarked levies shall be charged from the user student only."

   Rule 176 states "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."

   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 at 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 as administered."

Also, earmarked levies collected from students are form of restricted funds, which, according to Guidance Note-21 '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 Guidance Note-21 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 and a corresponding amount is transferred from the concerned restricted fund account to the credit of the Income and Expenditure Account.

From the information provided by the school post personal hearing, it has been noted that school charges earmarked levies in the form of Transport Fee, Smart Class Fees, Computer Fees and Science Fees from the students but has not maintained fund-based accounting. The surplus/deficit generated by the school from these earmarked levies in the last three financial years are as under:

Particulars	Transportation Fees	Smart Class Fees*	Computer Lab Fees*	Science Fees*
For the year 2019-20				
Fee Collected during the year (A)	1,70,28,599	49,62,700	70,500	8,49,260
Expenses during the year (B)	1,69,07,111	9,01,600	1,10,896	
Difference for the year (A-B)	**1,21,488**	**40,61,100**	**(40,396)**	**8,49,260**
For the year 2020-21				
Fee Collected during the year (A)	-	-	**-	**-
Expenses during the year (B)	1,31,56,388	10,87,200	**-	**-
Difference for the year (A-B)	**(1,31,56,388)**	**(10,87,200)**	**-**	**-**
For the year 2021-22				
Fee Collected during the year (A)	-	-	**-	**-
Expenses during the year (B)	1,48,66,153	8,03,400	**-	**-
Difference for the year (A-B)	**(1,48,66,153)**	**(8,03,400)**	**-**	**-**
Total (Surplus)	**(2,79,01,053)**	**21,70,500**	**(40,396)**	**8,49,260**

*Smart Class Fees (Collected from all students) and Computer Lab & Science Fees (Collected from XI & XII classes only)

** Proper details of income and expenses are not provided by the school in respect of Computer Fees and Science Fees

In view of the above the earmarked levies are to be collected only from the user students availing the services, and if any service/facility has been extended to all the students at the school, a separate charge cannot be levied towards these services by the school as the same would get covered either from tuition fee (expenses on curricular activities) or annual charges (expenses other than those covered under tuition fee). Accordingly, charging earmarked levies in the name of Smart Class Fees from all the students loses its character of earmarked levy. Thus, the school is directed not to charge Smart Class Fees, as earmarked fee with immediate effect and should incur the expenses relating to these from tuition fee and/or annual charges.

The school is also directed to maintain separate fund account depicting clearly the amount collected, amount utilised and balance amount for each earmarked levy collected from students. Unintentional surplus/deficit, if any, generated from earmarked levies must be utilized or adjusted against earmarked fees 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 for earm arked levies in the subsequent proposal of fee increase by ensuring that the proposed levies are calculated on no-profit no-loss basis and not to include fee collected from all students as earmarked levies.

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.

2. The Directorate vide its order No. F.DE.15/Act-I/08155/2013/5506-5518 dated 04.06.2012 directed that the school shall provide 25% reservation to children belonging to EWS category. Even as per the land allotment letter, the school is required to provide free ship to students belonging to weaker section. However, as per the information provided by the school for the FY 2019-20 to FY 2021-22, it has been noted that the school was not complying with the abovementioned DOE's Order and condition mentioned in the land allotment letter which provides for granting of free ship to the extent of 25% to the children belonging to EWS category. Therefore, DDE District may be requested to look into this matter and ensure compliance with the above requirements. The details of total students and EWS students for the FY 2019-20 to 2021-22 are tabulated below:

Particulars	**FY 2019-20**	**FY 2020-21**	**FY 2021-22**
EWS	185	209	249
Total Strength	2245	2334	2288
% Of EWS students to total strength	**8%**	**9%**	**11%**

3. According to the Directorate of Education Order No F. DE.-15/Act-I/WPC-4109/Part/13/7905-7913 dated 16.04.2016, In exercise of the powers confirmed by Clause (xviii) of Rule 50 and Rule 180 of the Delhi School Education Rules, 1973, the Director specified that the format of return and documents to be submitted by schools under Rule 180 read with Appendix-II of the Delhi School Education Rules, 1973 shall be as per format specified by the Institute of Chartered Accountant of India, established under Chartered Accountant Act 1949 (38 of 1949) in Guidance Note on Accounting by the Schools (2005).

Further, Para 58(i) of the abovementioned Guidance Note states that "A school should charge depreciation according to the written down value method at the rates recommended in Appendix I to the Guidance Note- 21."

Para 67(ii) of Guidance Note-21 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 audited Financial Statements for the FY 2019-20 to FY 2021-22, it has been noted that the depreciation on fixed assets have been provided at the rates prescribed in the Income Tax Rules, 1962. Therefore, the school is directed to provide depreciation on assets in accordance with the guidance note cited above.

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 funds available for the FY 2022-23 is INR **28,79,04,111** out of which the expected expenditures of the school would be INR **12,42,20,112** resulting in net surplus of INR **16,36,83,999** for the FY 2022-23. The detailed calculation is as under:

Particulars	**Amount (in INR)**
Cash and Bank balances as on 31.03.22 as per Audited Financial Statements	3,10,89,587
Investments as on 31.03.22 as per Audited Financial Statements **(Refer Note 1 Below)**	77,54,869
Liquid Funds as on 31.03.2022	**3,88,44,456**
Add: Amount recoverable from society on account of repayment of loan taken for upgradation of building and for purchase of buses **(Refer Financial Suggestion No. 1)**	11,22,60,637
Add: Amount recoverable from society on purchase of car **(Refer Financial Suggestion No. 2)**	20,18,892
Add: Amount recoverable from society on account of inappropriate bills **(Refer Financial Suggestion No. 3)**	3,25,03,889
Add: Fees for FY 2021-22 as per Audited Financial Statements **(Refer Note 2 & 3 Below)**	11,21,24,431
Add: Other income for FY 2021-22 as per Audited Financial Statements **(Refer Note 3 Below)**	10,72,820
Total Available Funds for FY 2022-23	**29,88,25,125**
Less: Gratuity and Leave Encashment Fund with LIC as on 31.03.2022 **(Refer Financial Suggestion No. 4)**	-
Less: Caution Money as on 31.03.2022 **(Refer Financial Suggestion No. 5)**	11,88,886
Less: FDR in the name of Manager & CBSE as on 31.03.2022 **(Refer Note 1 Below)**	1,73,460
Less: FDR in the name of Manager & DDE as on 31.03.2022 **(Refer Note 1 Below)**	5,55,947
Less: FDR in the name of Manager & DoE as on 31.03.2022 **(Refer Note 4 Below**	-
Less: Development Fund as on 31.03.2022 **(Refer Financial Suggestion No. 2)**	31,73,545
Less: FDR with JASDC **(Refer Note 1 Below)**	58,29,176
Less: Depreciation Reserve Fund **(Refer Note 5 Below)**	-
Net Available Funds for FY 2022-23 - (A)	**28,79,04,111**
Less: Budgeted expenses for the session 2022-23 **(Refer Note 6 Below)**	10,80,91,640
Less: Salary arrears of 7th CPC **(Refer Note 7 Below)**	1,61,28,472
Total Estimated Expenditure for FY 2022-23 - (B)	**12,42,20,112**
Net Surplus (A-B)	**16,36,83,999**

Note 1: The detail of fixed deposit held by the school as per the audited financial statements for the FY 2021-22 is provided below:

Particulars	**Amount (in INR)**	**Remarks**
FDR with School & DDE	5,55,947	These figures have been considered while calculating the fund position of the school
FDR - Caution Money	11,96,286	
FDR with CBSE & School	1,73,460	
FDR with JADSC	58,29,176	
Total	**77,54,869**	

Note 2: The Department vide its Order No.F.No.PS/DE/2020/55 dated 18.04.2020 and Order No.F.No.PS/DE/2020/3224-3231 dated 28.08.2020 had issued guidelines regarding the chargeability of fees during the pandemic COVID 2019. The department in both the above-mentioned orders directed to the management of all the private schools not to collect any fee except the tuition fee irrespective of the fact whether running on the private land or government land allotted by DDA/other land-owning agencies and not to increase any fee in FY 2020-21 till further direction.

The department in pursuance of the order dated 31.05.2021 in WPC 7526/2020 of Single Bench of the Hon'ble High Court of Delhi and interim order dated 07.06.2021 in LPA 184/2021 of the Division Bench of Hon'ble High Court of Delhi and to prevent the profiteering and commercialization, again directed to the management of all the petitioners private unaided recognized schools through its Order No. F. No. DE.15 (114) /PSB /2021 /2165-2174 dated 01.07.2021:

(i) *"to collect annual school fee (only all permitted heads of fees) from their students as fixed under the DSEAR,1973 for the academic year 2020-21, but by providing deduction of 15% on that amount in lieu of* ***unutilized facilities*** *by the students during the relevant period of academic year 2020-21".* And if the school has collected the fee in excess to the direction issued by the Hon'ble Court, the same shall be refunded to the parents or adjusted in the subsequent month of fee or refund to the parents.

(ii) The amount so payable by the concerned students be paid in six equal monthly instalments w.e.f. 10.06.2021.

On review of the audited financial statements for the FY 2021-22 and based on the further information provided by the school post personal hearing, it has been noted that the school has reported 100% of the tuition fees and 85% of the annual charges and development fees in its audited financial statements of FY 2021-22. Therefore, the income collected by the school during the FY 2021-22 with respect to annual charges and development fees has been grossed up to make comparative income with the FY 2022-23. The detailed calculation has been provided below:

Particulars	**Income as per AFS for FY 2021-22**	**Income Considered while deriving the fund position for the FY 2022-23**	**Remarks**
Tuition Fee	8,77,20,090	8,80,77,480	Tuition Fees has been considered as per fee reconciliation for FY 2021-22 submitted by the school.

Particulars	Income as per AFS for FY 2021-22	Income Considered while deriving the fund position for the FY 2022-23	Remarks
Annual Fee	1,05,62,536	1,07,80,000	As per fee reconciliation of FY 2021-22 submitted by the school, annual fee and development amounting to INR 91,63,000 and INR 1,12,28,362 has been collected at 85% and the same has been grossed up to 100%
Development Fee	1,13,83,878	1,32,09,838	
Total	**10,96,66,504**	**11,20,67,318**	

Note 3: All the other income as per audited financial statements for the FY 2021-22 has been considered with the assumption that the amount received in FY 2021-22 will at least accrue during FY 2022-23.

Note 4: As per clause 10 of Form-II of Right of Children to Free and Compulsory Education Act 2009, the schools are required to maintain liquidity equivalent to 3 months' salary and this amount should be invested in the joint name of Dy. Director (Education) and manager of the school. Generally, it is done in the form of FDR in any scheduled bank.

The school has made provision for 3 month's salary reserve of INR 96,68,711 as on 31.03.2022. However, equivalent fund has not earmarked as investment in the joint name of the Dy. Director and Manager of the school. Hence, the same has not been considered while calculating the fund position of the school.

Further, amount of INR 36,85,000 proposed by the school towards 3 month salary provision in FY 2022-23 has not been considered while calculating the fund position of the school for FY 2022-23.

Note 5: 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 charges 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 already 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 as reported by the school in its audited financial statements for the FY 2021-22 has not been considered while calculating the fund position of the school.

Note 6: All budgeted expenditure proposed by the school has been considered while deriving the fund position of the school except following:

Heads	Budgeted Expenditure in FY 2022-23	Amount Disallowed	Remarks
Salary Provision	36,85,000	36,85,000	Refer Note- 4 above
Gratuity	2,25,000	2,25,000	Refer Financial Suggestion No. 4
Leave Encashment	1,00,000	1,00,000	
Salary Arrears as per 7th CPC	3,74,31,000	3,74,31,000	Salary Arrears has been considered separately. Refer Note 7 Below
Transportation Expenses in respect of owned Vehicles-Insurance Expenses	7,00,000	7,00,000	Neither Income nor expense has been considered while calculating the fund position of the school on the assumption that earmarked levies are collected on no profit no loss basis
Transportation Expenses in respect of owned Vehicles-Interest on Loan	8,000	8,000	
Transportation Expenses in respect of	18,00,000	18,00,000	

Heads	Budgeted Expenditure in FY 2022-23	Amount Disallowed	Remarks
owned Vehicles-Repair and Maint.			
Transportation Expenses in respect of hired Vehicles-Transport Expenses	85,00,000	85,00,000	
Total	**5,24,49,000**	**5,24,49,000**	

Note 7: As per the submission made by the school, it has been noted that the school has implemented 7th CPC w.e.f January, 2020. The school has submitted 7th CPC salary arrears for the period January 2016 to December 2021 amounting to INR 3,74,31,000 in the budget 2022-23. However, in the Directorate order no. F.DE.15(208)/PSB/2022/3451-3455 dated 10.09.2021 for the academic session 2019-20, the school was allowed 7^{th} CPC salary arrears upto March 2019 amounting to INR 2,13,02,528 (Till FY 2017-18 – INR 83,07,528 and for FY 2018-19 – INR 1,29,95,000).

Hence, the remaining 7^{th} CPC salary arrears amounting to INR 1,61,28,472 (INR 3,74,31,000 minus INR 2,13,02,528) has been considered while calculating the fund position of the school.

ii. The school has sufficient funds to carry on its operation for the academic session 2022-23 on the existing fee 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 irregularities, that the sufficient funds are available with the school to carry out its operations for the academic session 2022-23. Accordingly, the fee increase proposal of the school may be rejected.

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 2022-23. Therefore, Director (Education) has rejected the proposal submitted by the school to increase the fee for the academic session 2022-23.

Accordingly, it is hereby conveyed that the proposal of fee increase of **SAM International School (School ID- 1821218), Sector 12, Dwarka , New Delhi- 110075,** is rejected by the Director of Education. Further, the management of said School is hereby directed under section 24(3) of DSEAR 1973 to comply with the following directions:

1. Not to increase any fee in pursuance to the proposal submitted by school on any account for the academic session 2022-23 and if the fee is already increased and charged for the academic session 2022-23, the same shall be refunded to the parents or adjusted in the fee of subsequent months.

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

Nandini

(Nandini Maharaj)
Additional Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi

To
The Manager/ HoS
SAM International School
School ID- 1821218,
Sector 12, Dwarka,
New Delhi- 110075

No. F.DE.15 (1213)/PSB/2023/ 1222-1226 Dated: 07/02/23

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 (South West B) 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.

Nandini

(Nandini Maharaj)
Additional Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi