

IN THE COURT OF THE FINANCIAL COMMISSIONER,
DELHI

Case No.215/2011

Revision section 116 of Delhi Cooperative Societies Act, 2003

In the matter of :-

**1. Delhi EPDP CGHS Ltd.
Plot No. 19, Sector-4
Dwarka, New Delhi-110078.**

...Petitioner

VERSUS

**1. Asstt. Registrar (Audit)
Office of the Registrar of Cooperative
Societies, Govt. of NCT of Delhi
Parliament Street
New Delhi.**

.... Respondent

(Represented by Sh. M
Qayamuddin, Counsel for
Petitioner)

NAINI JAYASEELAN, FINANCIAL COMMISSIONER

Order dated 07.08.2015.

1. This order shall dispose of the Revision Petition filed by the Petitioner Society under Section 116 of the Delhi Cooperative Societies Act, 2003 against the order dated 18.04.2011 vide which Asstt. Registrar (Audit) conveyed that Competent Authority imposed a fine of Rs. 1500/- for violation of Section 60 (1) of DCS Act, 2003 by not getting the audit conducted within stipulated at time.

2. Society in its revision petition has submitted the following:

(1) A show cause Notice no. F.No.AR (Audit)2009/8122 dated 10.02.2011 was issued to the Society by the Asstt. Registrar (Audit), received by the Society on 12.02.2011, stating that the Society has violated Section 60 (1) of DCS Act 2003 by not getting the audit conducted within the stipulated period.

(2) The Society vide letter no. EPDP/RCS/CR/2 dated 28.02.2011 stated that the audit has been conducted on 31.08.2010, as per Rule 38 of DCS Rules 2007 and Section 60 (1) of DCS Act, 2003 within five months after completion of the financial year. A total of 150 days or five months are provided under Rules 38 of DCS Rules-2007 and section 60 (1) of DCS Act, 2003 after completion of financial year for completion of audit.

(3) According to the provisions of DCS Act and Rules, Society has completed the audit within the stipulated period of five months and has, thus complied with the provisions of Section 60 (1) of DCS Act, 2003. During the audit process the Auditor, M/s. O. Aggarwal & Company was also requested by the Society to complete the audit within the time limit prescribed under the Act. Auditor confirmed that the last date of completion of audit is 31.08.2010 for every year and accordingly audit was planed and completed by the Auditor on 31.08.2010.

3. After admission case was fixed for hearing on 20.10.2011, 15.11.2011, 20.12.2011, 02.02.2012, 20.03.2012, 26.04.2012, 05.07.2012, 12.10.2012, 06.12.2012, 22.02.2013, 24.05.2013, 29.08.2013, 28.03.2014, 11.07.2014, 21.10.2014, 03.03.2015 but none appeared on behalf of Respondent, RCS.

4. I have heard the Counsel for petitioner and decided to proceed further on the basis of the available facts and circumstances on record. Society's contention that for the year 2009-10 the audit was concluded on 31.08.2010 and audit report was submitted by the auditor on 03.12.2010. The auditor was appointed from the panel of RCS office it is the responsibility of RCS and its auditor to conclude the audit and submit the report timely and society cannot to be held responsible for delay in submission of the audit report.

Whereas Section 60 (1) reads as under:

"A co-operative society shall get its accounts audited annually by an auditor selected from the panel prepared by the Registrar in the prescribed manner within the period of one hundred twenty days from the prescribed date for making up its account for the year."

5. In view of the above, audit of accounts for the year 2009-2010 should have been completed in all respect by 29.07.2010 but Society failed to do so. As per Rule 79 (1) of DCS Rules 2007, it is the responsibility of the Committee of the Society to select an auditor from the panel of Chartered Accountant drawn by the Registrar and inform the Registrar within fifteen days. Rule 79 (2) of DCS Rules 2007 also put the onus on the committee of the Society to ensure that the audit of the cooperative Society is complete within the stipulated period as provided under Section 60 (1) of the DCS Act. But in the present case committee of the Society failed to do so.

6. In view of the above, I do not find any merit in the revision petition therefore uphold the order of the AR(Audit) dated 18.04.2011.

7. Accordingly revision petition is disposed of.

8. Pronounced in the open Court on 07.08.2015.

(NAINI JAYASEELAN)
Financial Commissioner, Delhi