

## **Audit and Auditors**

**Audit–Rule 69(1) & Section 81:** Sub-section (1) of MCS Act 1960 provides for audit of Cooperative societies. It lays down that the society shall cause its accounts to be audited at least once in each financial year and also cause it to be completed within a period of four months from the close of financial year to which such accounts relate by auditor or auditing firm from a panel prepared by the Registrar and approved by the State Government.

**Appointment by society:** The society shall appoint such auditor in its General body meeting as provided in sub-section (2A) of the section 75 and lay such audit report before the annual general body meeting. The audit report of apex society shall also be laid before both Houses of the State Legislature in such a manner as may be prescribed.

**Appointment by Registrar:** This sub-section further provides that, the Registrar is satisfied that the society has failed to intimate and file the return as provided by sub-section (2A) of section 75 and sub-section (1B) of the section 79, by order for the reasons to be recorded in writing, cause to be audited accounts of any such societies, by an auditor from the panel of auditors approved by the State Government.

**Limit for audit of societies:** The sub-section (1) of the Section 81, further provides that the auditor shall not be appointed by the society for more than three consecutive years. The auditor shall not accept audit of more than 20 societies, excluding societies having paid up share capital of less than rupees one lakh, in a financial year.

**Account to be prepared:** It is also further provided that, the committee of the society is required to prepare and get accounts audited within four months of the closure of the financial year.

**Types of audit included in audit:** Explanation under sub rule 1 of the rule 69, include the audit as annual audit, test audit, cost or performance audit, special audit and re-audit. Thus it means that the provisions for audit of cooperative societies are applicable to all these types of audit.

**Qualifications of the auditor:** Qualifications of auditors, who are empanelled and shall audit the accounts of the cooperative societies, is explained under explanation (a) to (d) of the section (1) of the section 81. Working knowledge of Marathi language, fair knowledge of functioning of society and experience of audit of cooperative societies (except partnership firm of chartered accountants), as may be prescribed is essential qualification apart from educational qualification for this.

**Remuneration of the auditor:** Clause (f) of Sub-section (1) of Section 81 defines that the remuneration of the auditor shall be borne by the society and it shall be at such rate as may be prescribed.

**Remuneration of the Auditor:** As the Registrar and the Society have to appoint auditor, and the work is also done by various auditors, including Government auditors as well as professional auditors, it is necessary to prescribe some criteria for payment of remuneration to the auditor by the Society, so that there is uniformity in the scales of remuneration. Rule 74 provides such criteria for remuneration as under:

- Remuneration of the auditor or auditing firm that has conducted audit of a society shall be borne by the society and shall be at such rates as may be notified

by the State Government from time to time depending upon the class of societies and their financial parameters. Accordingly, the State Government has notified the rates of remuneration in its notification no. from sahkara, panan v vastrodyog vibhag, sagruyo-2012/mumns/ pra.kra. 36/ 14-s dated 29/10/2014.

- When an auditor or auditing firm is appointed by the Registrar on his own, remuneration of auditor or auditing firm shall be at rates as per sub-rule-1, i.e. notified by the State Government.
- If the Registrar, orders re-audit of a society after recording reasons thereof, he shall specify remuneration payable to such auditors as per sub-rule 1.
- When re-audit is requisitioned by the society or any member of society, the remuneration of auditor or auditing firm shall be as per sub-rule1. When such re-audit is requisitioned by the society or any member of the society, the remuneration of auditor or auditing firm shall be deposited by such society or member, as the case may be, with the Registrar prior to commencement of such audit;

It further provides that, if it is found in the re-audit :-

- that the appointed auditor has not conducted audit as per the auditing standards and
- as per norms as notified from time to time and
- if it is proved that he was negligent in performing audit of the society and
- he has not detected fraud, mis-utilisation of funds, inadequate provisioning, resulting into loss or profit to the society, then audit fees shall be recoverable as per sub-section (1) of 156 of the Act, from the said auditor who had conducted the audit and the same shall be refundable to the society or member demanding the reaudit, as the case may be.

The said auditor shall also be subject to action under sub clause (viii) of clause (g) of sub rule (1) of rule 69. This proviso is not applicable to the Government Auditors.

- When cost or performance audit of any society is ordered by the State Government as per provision of sub section (2A) of section 81, the remuneration of auditor or auditing firm shall be notified by the State Government and amount shall be deposited by the society with Registrar prior to the commencement of such audit by him;
- For the audit of the society which is under liquidation or the society on which official assignee is appointed, under provisions of the Act, the remuneration of auditor or auditing firm appointed to conduct audit of such society shall be specified by the Registrar.

**Rate of audit fees:** Rule 74 provides for rate of audit fees. The State Government has prescribed rates of remuneration of auditors in Annexure A enclosed with resolution no.SGY/2012/MMS-17/P.K.36/14S dated 29/10/2014. Conditions as mentioned in the annexure A shall be followed by the auditor while accepting the remuneration.

### **Audit report:**

**Contents of the audit report:** Clause (e) of the Sub-section (1) of Section 81 provides that contents of the audit report shall include;

- All particular of the defects or the irregularities observed in audit and in case of

financial irregularities and misappropriation or embezzlement of funds or fraud, the auditor or the auditing firm shall *investigate* and report the *modus operandi*, the entrustment and amount involved.

- accounting irregularities and their implication on the financial statement to be indicated in detail in the report with the corresponding effect on the profit and loss;
- Functioning of the committee and sub-committees of the societies be checked and if any irregularities or violation are observed or reported, duly fixing the responsibilities for such irregularities or violations.

***Certification and Opinion of the auditor:*** Sub Rule (3) of the Rule 69 further provides regarding audit report that:-

- The auditor shall submit audit memorandum in respect of Cooperative Banks in form “N-1” and for other than banks in form “N-2”.
- The memorandum shall be with regards to the accounts, balance sheet and profit and loss accounts or statement of Income and expenditure examined by him as on the date and for the period up to which the accounts have been audited, and shall state ‘whether in his opinion and to the best of his information, and according to the explanation given to him, accounting policies adopted by the society are as per accounting standards laid down by the State Government or the Institute of Chartered Accountants of India as the case may be, and the said accounts give all information required by the Act in the manner so required and give true and fair view’, -
- in case of the balance sheet, the state of society’s affairs as at the end of the financial year or any other subsequent date up to which the accounts are made up and examined by him, and
- in the case of the profit and loss account of the profit or loss for the financial year or the period covered by the audit, as the case may be.

While certifying the profit or loss of the society, Auditor shall quantify the effect of shortfall in various provisions, like Non Performing Asset, overdue interest, depreciation and any other provision relating to expenses over profit or loss and state clearly that, after considering effect of all provisions whether there is profit or loss to the society.

***Other opinions:*** The sub rule (4) of the rule 69 also required to state in audit memorandum regarding-

- whether the auditor had obtained all the information and explanations which to the best of his knowledge and belief were necessary for the purpose of his audit;
- whether in his opinion proper books of accounts, as required by the act, the rules and the byelaws of the society have been kept by the society so far as it appears from the examination of these books;
- Whether the balance sheet and profit and loss account examined by him are in agreement with books of account and returns of the society and give true and fair view of state of affairs.
- Whether the accounting standards adopted by the society are consistent with, those laid down by the State Government or the Institute of Chartered Accountants of India, as the case may be, and has no adverse effect on the accounts and financial status of the society.
- Sub rule (5) of Rule 69 states that if the auditor found that matters referred to in Sub rule (4) are answered in negative or with a qualification, the audit memorandum shall specify the reasons for the answer.

**Schedules to be annexed:** Sub rule (6) of Rule 69 states that, the audit memorandum shall contain schedules with full particulars of:-

- all transactions which appear to be contrary to the provisions of the act, the rule or the bylaws of the society;
- all sums which ought to have been but have not been brought into account by the society;
- any material impropriety or irregularity in the expenditure or in the realisation of moneys due to the society.
- any money or property belonging to the society which appear to the auditor to be bad or doubtful debt; and
- any other matters specified by the Registrar in this behalf.

The Registrar has specified the forms of these schedules. The said schedules are required to accompany the audit memorandum and form part of the audit memorandum.

The Registrar has also specified schedules for Government Assistance for share capital, loans and grant in aid.

**Summary of audit report and objectionable nature of audit report :** Sub rule (7) of the Rule 69 provides that the summary of audit memorandum as prepared by the auditor shall be read out in a general meeting. The audit memorandum, together with its accompaniments, shall be open to inspection by any member of the society.

**Objectionable part of audit report:** The Registrar may, however, direct that any portion of the audit memorandum which appears to him to be of objectionable nature or not justified by facts shall be expunged and the portion so expunged shall not form part of the audit memorandum.

**Forms of audit report:** For purpose of audit, the auditor requires certain statements to be prepared and information to be furnished regarding the operation of the society. Sub rule (8) empowers the Registrar “from time to time {to} specify the form or forms in which the statement of accounts and information shall be prepared for audit by the society.”

**Audit classification:** As per Sub rule (9) of Rule 69, the auditor is required to award audit classification in Form N-1 or N-2, as the case may be, on completion of his statutory audit.

The detailed explanation regarding audit classification is required to be given in Part B of audit report. The auditor is also required to mention audit classification for last 3 consecutive years in Part B of his audit report. In case of change in audit classification as compared to the previous year, auditor shall justify the change in classification in Part B of his audit report under the heading “Audit Classification”. The Classification shall be in accordance with the instruction issued by the Registrar time to time.

### **Types and Scope of audit**

**Scope of Statutory audit:** Sub-section (2) of Section 81 defines the scope of audit, it States that, the audit be carried out as per **Auditing Standards** notified by the State Government from time to time and shall also include examination or verification of the following items :-

- overdues of debts, if any,
- the verification of cash balance and securities, valuation of assets and liabilities of the society;

- loans and advances and debts made by the society on the basis of security have been properly secured and the terms on which such loans and advances are made or debts are incurred are not prejudicial to the interest of society and its members,
- transactions of the society which are represented merely by book entries which are not prejudicial to the interest of the society
- loans and advances shown as deposits,
- personal expenses have been charged to the profit and loss account,
- any expenditure incurred in furtherance of objects of the society,
- Proper utilisation of the financial assistance granted by Government or Government undertaking or financial institutes, for the purpose for which such assistance is granted,
- carrying out its objects and obligations towards members, and

**Flying squad:** Sub section (3) (b) of Section 81, empowers Registrar to depute flying squad if he has reason to believe that there exists an element of fraud, misapplication of funds, manipulation of the accounts and account of the society are likely to be tampered, with, thereby causing loss to the society, or societies for examination of books, records, accounts, and such other papers and for verification of cash balance. The report of the flying squad shall be treated as sufficient evidence for further action, if any.

**Test audit:** Sub section (3) (c) of Section 81, provides that if it is brought to the notice of the Registrar, that the audit report submitted by the auditor **does not disclose the true and correct picture of the accounts**, the Registrar or the authorised person may carry out or cause to be carried out a test audit of accounts of such society. The test audit shall include the examination of such items as may be prescribed and specified by the Registrar in such order.

**Re-audit.** -Sub-section (6) of Section 81 empowers the Registrar to order re-audit on an application by a society or otherwise, that it is necessary or expedient to re-audit the accounts of a society. The sub-section further clarifies that all provisions of the Act applicable to audit, shall also apply to re-audit ordered by the Registrar. This means that, the auditor auditing re-audit have all powers, and rights that are exercised by the statutory auditor; he has also to perform all duties assigned by the Act, for the purpose of statutory auditor, which includes submission of audit report, specific report and special reports as provided in the Act.

**Re-audit.** - Section 81(6) of the Maharashtra Co-operative Societies Act provides that, “if it appears to the Registrar, on an **application by society or otherwise**, it is necessary or expedient to re-audit, Registrar may by order provide for such re-audit.” Re-audit would also be ordered if certain facts of which the auditor was unaware at the time of his audit have subsequently come to light, which materially affect the correctness of the accounts. If re-audits are ordered at the requests of the societies or their members or outsiders, the cost of such re-audits will have to be borne by them as per Rule 74. Where re-audit is being ordered on the resolutions passed by the general meeting of the society, before ordering re-audit, reasons for re-audit should be ascertained and examined in detail and it should be considered as to whether it is necessary to order re-audit. Mere resolution of the society should not be considered as sufficient reason for ordering re-audit. Since all the provisions applicable to the original audit are also applicable to re-audit ordered by the Registrar under Section 81(6), the auditor appointed to carry out the re-audit will have all the powers of the Registrar under Section 81.

**Test audit under section 81(3)(c)** :- Section 81 (3) (c) provides, “ If it is brought to the notice of the Registrar that, the audit report submitted by the auditor does not disclose the true and correct picture of the account, the Registrar or the authorized person may carry out or cause to be carried out a test audit of the accounts of such society. The test audit shall include the examination of such items as may be prescribed and specified by the Registrar in his order.”

**Special audit** :- The Act prescribes for Special audit under Section 81(7) for the Co-operative bank, which, if requested by the Reserve Bank of India shall be conducted and report thereof shall be submitted to the Reserve Bank of India and the Registrar. Thus, it clearly means the Special audit is applicable only on the request of Reserve Bank of India.

**Cost Audit** :- The Cost audit of certain types of societies shall be directed by the State Government under section 81 (2A) of the Act. The section reads as follows: “ Where in the opinion of the State Government, it is necessary in the interest of society to do so in relation to any society or class of societies for ensuring management thereof in accordance with sound business principles or prudent commercial practices, the state Government may, by order, direct that such society or class of societies shall prepare and maintain its accounts in the form determined by the State Government, from time to time and that cost audit or performance audit or both, of such society or class of societies, as may be specified in the order, shall be conducted.”

This section also provides for performance audit. Sub rule (2B) of Section 81 provides that, “the cost audit ordered by the State Government should be carried out by the Cost Accountant, who is a member of the Institute of Cost and Management Accountants of India constituted under section 3 of the Cost and Management Accountants Act, 1959. The Sub-section further provides that the society shall cause such audit as per orders issued by the Government.

### **Powers, rights, duties and Responsibilities of the Auditor:**

**Power to impound the books and documents:** Under sub section (5A) of the Section 81, the auditor, after satisfying himself, is required to report that the books of accounts or other documents contain any incriminatory evidence against past or present officer or employee of the society, and require to be impounded. The previous permission of the Registrar before impounding is necessary and the auditor has to give a receipt for the books or documents, which he has impounded. Auditor has to follow the procedure laid down in rule 68 read with section 80 of the Act.

**Power to access records and property:** Sub-section (3) (a) of Section 81 lays down that the auditor appointed by society shall have access to all book, accounts, documents, papers, securities, cash and other properties belonging to or in the custody of, the society. Under clause (g) of Section 146, any officer, any officer or member of a society who is in possession of information, books and records, fails to furnish such information or produce books and papers, or give assistance to a person appointed or authorised by the state Government or the Registrar under section 81, commits an offence and is punishable with a fine, which may extend to rupees five thousand .

**Power to summon:** The Sub-section (3) (a) empowers the auditor, for the purpose of audit, with the right at all times to have access to all the books, accounts, documents, papers, securities, cash and property belonging to, or in the custody of the society, and to summon any person in possession or responsible for the custody of account books, records, cash security and other property of the society, to produce them at the headquarters of the society or any branch thereof.

**Power to produce record and information:** The sub-section (4) provides that, every person who is, or has at any time been, an officer or employee of the society, and every member, and past member of the society, shall furnish such information in regard to the transaction and working of the society as the Registrar, or the person authorised by him, may require.

Under sub-section (4) of Section 81, the auditor has been given powers to call for information from present and past members of the society, its officers and employees.

Under clause (1) of Section 146, any officer, agent or servant of a society who fails to comply with the requirements of this sub-section commits an offence and is punishable with a fine, which may extend to Rs. One Thousand. The auditor has thus power to put questions and elicit information about the transactions of the society from any present or past member, officer or employee of the society.

**Power to investigate:** Under clause (e) of the sub-section (1) of the section 81, the auditor shall have to include defects or irregularities observed in audit and in case of financial irregularities and misappropriation or embezzlement of funds or fraud, the auditor or auditing firm shall investigate and report modus operandi, the entrustment and amount involved.

**Right to receive notice of AGBM:** The auditor appointed for the audit of society has the right to receive all notices and every communication relating to the annual general body meeting of the society and to attend such meetings and to be heard thereat, in respect of any part of the business with which he is concerned as auditor as per sub-section (5) of the Section 81 of the Act.

**Auditor - public servant:** Under Section 161, the Registrar, his assistants exercising his powers, an official assignee under sub section (2) of section 21A, auditors appointed under Section 81, persons authorized to conduct inquiry under Section 83 or inspection under Section 84 or 89A, administrators appointed under Section 78, 78A, or clause (iii) of sub section (1) of the section 110A, authorised officer under section 88, Cooperative Court under section 91A, or the Cooperative appellate Court under section 149 or any person empowered under section 156, and liquidator appointed under Section 103, are all deemed to be public servants with the meaning of Section 21 of the Indian Penal Code. Disobedience of their authority such as failure to attend when summoned failure to produce books, or records or to furnish information and explanation called for etc., will be offences under the Indian Penal Code.

### **Duties and responsibilities**

**Submission of audit report:** Under sub section 5B and Rule 69 (3), (4) and (5), the auditor has to submit his audit report within a period of one month from its completion, and, in any case, before issuance of notice of the annual general body meeting, to the society and Registrar in such form as may be specified by the Registrar, on the accounts examined by him and on the balance sheet and profit and loss account as on the date and for the period up to which the accounts have been audited.

***Certification of bad debts:*** Under rule 49, all bad debts and losses are required to be certified by the auditor as irrecoverable before they can be written off against the bad debts fund. ***Submission of specific report:*** Clause (ii) of the section (5B) of section 81 casts specific duty on the auditor, that where the auditor has come to a conclusion in his audit report that a particular person is guilty of any offence relating to the accounts or any other offences, he shall file a specific report to the Registrar within a period of fifteen days from the date of submission of his audit report. The auditor concerned shall, after obtaining written permission of the Registrar, file a First Information Report of the offence. The auditor, who fails to file First Information Report, shall be liable for disqualification and his name shall be liable to be removed from the panel of auditors and he shall also be liable to any other action as the Registrar may think fit. The clause further provides that if the auditor fails to lodge First Information Report, the Registrar shall cause a First Information Report to be filed by a person authorised by him.

***Submission of Special report:*** Second proviso under clause (ii) of the section (5B) of section 81 further provides that, on conclusion of his audit, if the auditor finds that there are apparent instances of financial irregularities resulting into losses to the society caused by any member of committee or officers of the society or by any other person, then he shall prepare a Special Report and submit the same to the Registrar alongwith his audit report. Failure to file such Special Report would amount to negligence in the duties of the auditor and he shall be liable for disqualification for appointment as an auditor or any other action, as the Registrar may think fit.

## **Procedure for appointment and removal of the Auditor**

### ***Preparation and maintenance of panel of auditors:***

- Forth proviso of sub section 1a) of the section 81 provides that, the Registrar shall maintain a panel of auditors and auditing firms as approved by the state Government or an authority authorised by it. Sub section (b) provides that the manner of preparation, declaration and maintenance of the panel of auditors and auditing firms by the Registrar may be prescribed.
- The procedure of preparing panel is prescribed in clause (f) of the sub rule (1) of Rule 69 as under:
  - The Registrar shall call applications before the specified date as declared in the notice for empanelment from eligible auditors and auditing firms by a public notice to be displayed on the official website of the State Government and in any other mode, if required. Such notice shall also be published on the notice board of the office of the Registrar and District Deputy Registrar.
  - Every applicant shall submit only one application to the office of the concerned District Deputy Registrar, where he ordinarily resides.
  - Applications received shall be scrutinized by the Committee presided over by the District Deputy Registrar consisting of the District Special auditor of the District, representative of the Chartered Accountants of the District, representative of the Certified Auditors of the District as members and the Assistant Registrar (Administration) of the District shall function as Member Secretary of the committee.
  - After scrutiny, the District Deputy Registrar shall submit list of eligible applicants to the Registrar alongwith their application and documents. The Registrar may scrutinize the application recommended by the District



Committee.

- Any aggrieved applicant may approach the Grievance Redressal Committee headed by the Divisional Joint Registrar, Division Joint Registrar (Audit), as member and Divisional Deputy Registrar of the Division function as Member Secretary of the said Committee, and the decision of the Committee shall be final.
- The Registrar shall cause to display an approved list of auditors and auditing firms panel on the official website of the Government.
- The Registrar shall classify the societies and auditors for the purpose of audit in the manner given in Table “A” to “C” under the rule 69. As per this table Maharashtra State Cooperative Bank, Maharashtra State Cooperative Marketing Federation, Maharashtra State Cooperative Cotton Grover’s Federation and Maharashtra Rajya Dudh Sangh (Mahananda) shall be audited only by a Chartered Account firm or a chartered accountant or Joint Registrar categorized in “A” class. Auditors categorized in ‘B’ class and ‘C’ class are not eligible to audit societies categorized under Table A. Under Table B, societies mentioned at Sr.No.1 Urban Cooperative Banks having deposits, and at Sr.No.2, Urban cooperative Credit Society and Rural non-agricultural credit society having deposits 10 crores and above shall be audited by only Chartered Accountant and Special Auditor Class II categorized in ‘B’ Class. Auditors categorized in ‘A’ Class and ‘B’ class are also eligible to audit societies categorized under table ‘C’.

***Criteria for removal of the name from panel:*** Clause (g) of Sub rule 1 of Rule 69 prescribes the criteria for removal of the name of auditor or auditing firm from the panel as follows:

- Non submission of audit report as specified in sub section (5B) of the section 81, to the society and the Registrar within the period of one month from the date of completion and, in any case, before the issuance of notice of the general body meeting;
- Non disclosure of the true and correct picture of accounts as specified in clause (c) of Sub-section (3) of Section 81;
- After giving consent for audit by the auditor or auditing firm and after issuance of order of appointment of auditor or auditing firm, audit is not completed within stipulated period as specified in sub-section (1) of the section 81;
- Non-submission of specific report stating that a particular person is guilty of any offence relating to the accounts or any other offences within a period of fifteen days from the date of submission of audit report to the society and the Registrar;
- Failure to file special report to the Registrar if any;
- Failure to file the First Information Report, if required thereof;
- Non-submission of scrutiny of audit rectification report within six months to the society;
- If during the test audit or re-audit of the society, it is found that the auditor or auditing firm is responsible for any commissions and omissions;
- If the auditor is borrower of the society and has conducted the audit of the same society without disclosing the said fact to the society;
- If the auditor or his family member is employee or ex-employee of the

- concerned cooperative society;
- If the auditor is an auditor or a partner of an auditing firm which is also conducting internal or concurrent audit of the concerned cooperative society;
- If the auditor or his family member, as specified under explanation (I) of sub-section (2) of Section 75 of the Act, is a committee member of the concerned cooperative society.
- If the auditor has conducted audit, without appointment order issued by the society with the prior approval of general body or the Registrar, if any, as the case may be;
- If the auditor is family member of an employee of the department of Cooperation.

**Care to be taken by the society regarding appointment of auditor:** Society appointing the auditor or auditing firm is required to take care of following points, prior to the Annual General Body Meeting in which auditor will be appointed:

- 1) The auditor or auditing firm must be from the panel maintained by Registrar and approved by the State Government.
- 2) The auditor or auditing firm so appointed has not accepted statutory audits of more than 20 societies having paid up capital more than Rs. 1 lakh, in that financial year.
- 3) The Class of auditor or auditing firm to be appointed is eligible to audit that class of society as per Rule 69.
- 4) Auditor's consent to accept the audit must be obtained within time limit.
- 5) The appointment letter to auditor shall specify the period of audit, audit scope as per the Act, probable date of commencement of audit and submission of audit report, remuneration for audit and other legal provisions to be complied by him. The appointment letter shall accompany the resolution of Annual General Body Meeting for appointment of auditor.

#### **Other Matters related to audit:**

**Payment of T.A. and D.A.-** Section 160 (B) provides for, Payment of Traveling Allowance and Daily allowance to Managing Committee or Board members of Co-operative societies, for attending meeting of its committee, or for performing any other functions as such members, at a rate higher than the maximum rate prescribed in this behalf and different maximum rates may be prescribed for different societies and class of societies or for different purposes. Rule 107 A prescribes various rates for Travelling allowance and daily allowance.

**Security to be furnished by officers and employees handling cash, etc.-**Every officer and employee of a society, who is required to handle cash, securities or property belonging to the society, is to furnish security as prescribed under **Rule 107-B** of the Maharashtra Co-operative Societies Rules, 1961.

**Cash balance on hand. -Rule 107-C** of the Maharashtra Co-operative Societies Rules, 1961, lays down the limits of a cash balance to be handled or kept on hand by the office bearers of the Co-operative Societies.

**Payment to be made by cheque:** Rule 107D provides that all payments by or on behalf of a society or class of societies shall be made only by means of crossed cheques drawn on a bank subject to provisions of the Income tax Act, 1961.

**Valuation of Shares:** The valuation of shares is required while refunding the share capital to the member after ceasing of his membership as per rule 23 of the Maharashtra Cooperative Societies Rules 1961 only if the society has limited liability for shares. For the unlimited liability of shares the societies are required to

refund the actual amount received by them.

In case of limited liability, the society shall refund the amount as it is arrived at by a valuation based on the financial position of the society as shown in the last audited balance sheet preceding the cessation of membership. The rule also provides further that, the amount so refunded should not exceed the face value of share, though the valuation is more than the face value as per byelaws. In case of value less than the face value, the amount refunded should be the lesser value, as it comes from valuation.

The value required to be refunded, should be as per last audited balance sheet The rule 23 provides the manner of valuation of share. Divide the net worth of the society by the number of shares to arrive at the valuation of shares. Net worth is also defined in the explanation under the rule “*Net worth means paid-up share capital plus free reserves( Reserve fund, unutilized building fund, dividend equalization fund, carried forward balance net profit, any other fund which is not marked specifically for any liability) minus accumulated loss.*”

The accounting standard provide for valuation of shares, as the *net realisable value of the assets divided by the number of shares of paid up capital*. The net realisable value should be determined as under by the auditor for the cooperative societies.

Sr. No.	Particulars	Amount
<b>A</b>	<b>Own Funds</b>	
1	Paid up share capital	
2	Statutory Reserve	
3	Building Fund	
4	Other Free Capital Reserves (created from appropriation of Net Profits)	
5	Profit of the current year	
6	Total (column 1 to 5)	
7	Minus Accumulated losses (if any)	
8	Net realizable value of Assets	
9	No of paid up shares	
10	Value per share (column 8 divided by column 9)	
11	Face value of per share	
12	Excess / decrease of value per share	

**Reserves and Provisions- Statutory reserve fund-** Under section 66 of the Maharashtra Co-operative societies Act, all co-operative societies are required to carry one fourth of their net profits to the statutory reserve fund. The Registrar has however, been empowered under the section to permit societies to contribute a lesser amount to the Reserve Fund, but not less than one tenth of the net profits. Under Section 66 of the Act, the reserve fund of the society may be used in its business or invested outside the business of the society subject to the Provisions of Section 70 of the Act. However, under Rule 54 of the Maharashtra Co-operative Societies Rules, reserve fund is required to be invested separately.

**Bonus Equalization Fund** - Rule 52 of Maharashtra Co-operative societies Rules provides for the creation of the Bonus Equalization Fund. Sub-rule (1) permit societies to create out of their profits a Bonus Equalization Fund for payment of

bonus to members and non-members, other than paid employees.

**Dividend Equalization Fund** – Sub-rule (2) of the rule 52 provides for the creation of the Dividend Equalization Fund out of the net profits made by the society. The sub-rule lays down that contribution in any one year shall not exceed two percent of the net profits and contribution to this fund shall cease when the amount of the fund amounts to *nine percent of the paid-up share capital* of the society.

**Legal provisions regarding creation and maintenance of certain funds- Funds created by charging to profit and loss account:** It has also to be noted that section 65 (2) of the Act does not make any distinction between funds contribution to which are to be charged to profits and other funds which are to be created by way of appropriations of the net profits except statutory reserve fund and bonus equalization fund, charity fund under section 69. Auditors, however, should object to creation of funds and reserves, which have not been specifically permitted under the provisions of the Act, Rules and the byelaws of the society. Contributions to the following funds are required to be charged to the profits for the year before arriving at the figure of net profits: -

- Co-operative education and training fund [Rule 49 A (ix)]
- provision for election fund for payment of election expenses; [Rule 49 A (x)]
- Bad Debts Fund and provision required writing off bad debts. [Rule 49 A (xi)]
- Investment Fluctuation Fund. [Rule 49 a (xiii)] [Rule 49 A (2)] and rule 51
- Share capital Redemption Fund. [Rule 49 A (xii)] and [rule 51(ii)]
- Purchase rebate payable to members and non-member customers of consumers societies (Patronage bonus) [Section 65(2)].
- Sinking Fund or guarantee Fund. [Rule 49 A (2)] and [Rule 51 (i)]

Under provisions of Rule 49 A, contributions to the following funds are required to be made before arriving at the net profits as state above.

- (1) Contribution, if any, to be made to any sinking fund or guarantee fund constituted under the provisions of the Act, Rules or byelaws of the society for ensuring due fulfillment of guarantee given by Government in respect of any loan raised by the society.
- (2) Provision considered necessary for depreciation in the value of any security, bonds or shares held by the society as part of its investments.
- (3) Any provision required to be made for the redemption of share capital contributed by Government or by a federal society.

**Funds created by appropriation of net profits:** Rule 50 (1) of the Maharashtra Cooperative Societies Rules 1961, provides that a society may appropriate its profit for education of members, any co-operative or charitable purpose including relief to poor, education, medical relief and advancement of any other general public utility up to 20% of the net profits. Rule 50 (2) provides for appropriation of net profit for creation of following funds;

- Development fund
- Dividend Equalization Fund; and
- Any other fund created under bye-laws

Apart from the above provision, the various sections that provide the appropriation of funds after arriving at net profit are 1) charity funds under section 69, and 2) reserve fund under section 66 of the Act.

**Charity Fund** – Section 69 of the Maharashtra Co-operative Act permits a society to create and maintain a charity fund out of its profits by crediting to this fund an

amount *not exceeding 20 per cent of its net profits* for the year.

**Adherence to Accounting Policies :-** Societies have to adopt the accounting policies which must be consistent with Accounting Standards issued by State Government or The Institute of Chartered Accountants of India (ICAI). The society has to prepare and publish the adopted accounting standards with changes thereon in the notes given with financial statements. The accounting policies adopted by the society which are consistently followed by the society. Changes made in the accounting policies which have no material effect on financial statements need not be reported by the auditor. However, the changes in the policies which have material effect on the financial statements, need to be reported by the auditor.

### **Rectification of defects disclosed in audit**

**Rectification of defects disclosed in audit-Section 82.** -On receipt of the audit memorandum from the auditor, the management of the society is required to take steps to rectify the defects reported by the auditor and implement the suggestions made by him. Section 82 requires every society to explain to the Registrar, within three months from the date of receipt of the audit memo, the defects or irregularities pointed out by the auditor and report to the Registrar, and to the annual general body meeting, the action taken by it to remedy the defects and rectify the irregularities. The section further empowers the Registrar to direct the society and its officers to take specific action to remedy the defects within the specified time. Such order is to be issued after consulting the federal society to which the society is affiliated, and the federal society has to reply on it within 45 days, otherwise the Registrar has liberty to proceed further. If, the committee of the society fails to submit the audit rectification report to the Registrar and the annual general body meeting, all the members of the committee shall be deemed to have committed an offence under section 146(l-1) and accordingly shall be liable for penalty with fine which may extend to five thousand rupees, as provided in section 147(l-1)

The section further provides scrutiny of the audit rectification report by the Registrar or the person authorised by him, and report accordingly and inform the society about such report within six months from the date of receipt thereof.

It also provides that it shall be the responsibility of the auditor concerned to offer his remarks on the rectification report to offer his remarks on the rectification report of the society, item wise, till entire rectification report is made by the society, and submit his report to the Registrar.

**Submission of audit rectification report by the society. Rule 73-**The Registrar has issued instructions that every society shall submit its audit rectification report in the form prescribed in rule 73 i.e., in “O” form, within three months from the date of receipt of the audit memo by it, through the auditor who has carried out the audit. The auditor has to forward the audit memo to the Registrar or other registering authority having jurisdiction.

After considering the remarks of the auditor and the explanation of the society, the Register would issue directions under section 82 requiring the society to take specific action.

Sub-section (4) of section 87 lays down that where the society fails to remedy the defects disclosed in the course of or as a result of Audit under Section 81 or fails to rectify the defects as directed by the Registrar, the Registrar may himself take steps to have the defects rectified and recover the costs from the officer or officers of the

society who, in his opinion, have failed to rectify the defects.

Rule 73 lays down that the rectification report to be submitted by the society in compliance of the orders issued by the Register shall be in form "O" accompanying the rules. The Rule further requires the society to continue to submit such reports to the Registrar and to the auditor until all the defects and irregularities are rectified to the satisfaction of the Registrar.

### **Inspection**

**Inspection:** Section 84 provides for the inspection of books of an indebted society on the application of a creditor of the society, after satisfaction of the Registrar that the debt is a sum then due, and that he had demanded payment thereof and has not received satisfaction within reasonable time. Such an application has to be accompanied with necessary deposit. The Registrar communicates the result of inspection to the applicant. The Registrar can exercise these powers at his own discretion as per sub section 4 of the section, wherein Government has substantial interest by way of financial assistance, by way of share capital or otherwise.

Under sub-section (1) of Section 87, the Registrar has to bring to the notice of society defects disclosed in inquiry under section 83 or inspection under section 84. He has also been empowered to take necessary action to remedy the defects within a specified time and on the failure of the society, he may take necessary action himself and recover the cost from the defaulting officers of the society.

**Registrar's powers to inspect working of society: Section 89 (A):** The Registrar is competent to inspect, or cause to be inspected, the working of any society to ensure the following matters;

- 1) The provisions of the Act, rule and bye-laws of the society are being properly followed by the society;
- 2) The records and books of accounts are kept in proper forms;
- 3) Overall view is taken to ensure that the business of the society is being run on sound business principles and professional and efficient management.
- 4) The society is following the cooperative principles and the directives or direction given by the State Government in accordance with the provisions of this Act and the rules made there under:
- 5) The returns as provided by section 79 are submitted to the Registrar regularly and properly.

Subsection 2 empowers the Registrar to access all records and books of account of the society, and summon any officer or employee who has the custody of the records or books of accounts of the society to produce them before him for the purpose of inspection under this section.