



GOVERNMENT OF INDIA
MINISTRY OF FINANCE
INCOME TAX DEPARTMENT
OFFICE OF THE INCOME TAX OFFICER
WARD 10(3),HYDERABAD

Received on
21/11/18
AMM

To, SILVER OAK REALTY 5-4-187/3&4 II FLOOR 5-4-187/3&4 II FLOOR ,SOHAM MANSION M G ROAD RANIGUNJ 500003,Telangana India	
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PAN: ACXFS3783R	AY: 2016-17	Dated: 31/10/2018	Notice No : ITBA/AST/F/142(1)/2018-19/1013416125(1)
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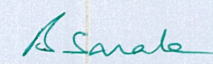
Notice under Sub Section (1) of Section 142 of the Income Tax Act, 1961

Sir/ Madam/ M/s,

In connection with the assessment for the assessment year **2016-17** you are required to:

- Furnish or cause to be furnished on or before **08/11/2018** at **11:15 AM** the accounts and documents specified overleaf.
- Furnish and verified in the prescribed manner under Rule 14 of I.T. Rules 1962 the information called for as per annexure and on the points or matters specified therein on or before **08/11/2018** at **11:15 AM**.
- The above mentioned evidence/information is to be furnished online electronically in 'E-Proceeding' facility through your account in 'e-filing' website of Income Tax Department.
- Para(s) (a) to (c) are applicable if you have an account in e-filing website of Income Tax Department. Till such an account is created by you, assessment proceedings shall be carried out either through your e-mail account or manually (if e-mail is not available).
- In cases where order has to be passed under section 153A/153C of the Income Tax Act, 1961 read with section 143(3), assessment proceedings would be conducted manually.

Yours faithfully,


SARALA BASAVARAJU
WARD 10(3),HYDERABAD



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To,
SILVER OAK REALTY
5-4-187/3&4 II FLOOR 5-4-187/3&4 II FLOOR
,SOHAM MANSION M G ROAD
RANIGUNJ 500003 ,Telangana
India

PAN: ACXFS3783R	AY: 2016-17	Notice No: ITBA/AST/F/143(3)(SCN)/20 18-19/1013416039(1)	Dated: 31/10/2018	Hearing Date and Time: 08/11/2018 11:14 AM
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SHOW CAUSE NOTICE

1. The assessee, M/s.Silver Oak Realty is a partnership firm with two partners namely,1. M/s. Modi Properties & investment Pvt Ltd having 95% share and 2.Smt.Ajeeta Gaurang Modi having 5% share.

During the Financial Year 2015-16,on 31-03-2016, the assessee has entered into an agreement of sale of agricultural land to one of its partner, M/s.Modi Properties & Investment Pvt Ltd for a consideration of Rs.1,20,00,000/- that has been adjusted towards the capital account of the partner with book entries. The assessee has considered the sale of land as business income and credited the sale consideration to the Trading account as the land was held as stock-in-trade. As per the submissions made by the assessee, the land admeasuring 16.5 Guntas was purchased in the financial year 2005-06 for a consideration of Rs.8,16,100/- that was added to the Inventories-III in the balance sheet of the assessee.

2. On perusal of the Agreement of Sale dated 31-03-2016, it is noticed that the land sold as per the schedule of the property is Agricultural Land and as such no development nor work-in-progress was made by the assessee from the date of acquisition of the property till the date of sale. As per the submissions made by the assessee vide its reply dated 29-10-2018, the land comprising of 16.5 guntas is a small strip of agricultural land earmarked for residential purposes which was purchased with a view to acquire adjoining areas of land in the event of sale at a future date. In view of the above, there is no intention of the assessee to develop this particular land and held the same as an asset/investment to acquire some more lands in future. The assessee has not applied for any permission nor taken any approvals for conversion of the said land for non-agricultural purposes and the sold the land as it is what existed at the time of purchase.

3. In view of the above, that mere entries in the books of accounts as stock in trade is not conclusive for deciding the nature of transaction and its impact under Act. The true nature of the transaction depends upon the total facts and circumstances of the case. Hence the land of 16.5 guntas held by the assessee is a capital asset as per section 2(14) of the Income Tax Act.

4. Further, as per the Partnership Act, a partnership firm is not a separate legal entity distinct from its members. It is merely a collective name given to the individuals composing it. The partnership law does not recognize a partnership firm as a legal entity, but only a collective or compendious name for

all the partners and the partnership has no separate legal existence. According to section 15, the partnership property should be held and used exclusively for the purposes of the firm. While all partners have a common interest in the property, during the subsistence of the partnership no partner has a proprietary interest in the assets of the firm. Each partner has a right to his share in the profits of the firm until the firm subsists.

5. The assessee firm during the previous year 2015-16, has transferred/sold the land to its partner, M/s.Modi Properties & Investment Pvt Ltd during the subsistence/continuation of the partnership. While during the subsistence of a partnership, the value of interest of each partner cannot be isolated. Once the share of interest is allotted, it becomes the individual property of the partner. When the asset of the firm is transferred to a partner during the subsistence/continuation of partnership firm, the shared interest of all the partners is replaced by the exclusive interest of the partner for consideration. To that extent, there is an extinguishment of interest of the other partner of the firm. When the asset is a partnership asset, a partner cannot claim or exercise any specific share or right over such asset to the extent of his share in the business of partnership as his right during the subsistence of the partnership is only to get his share of profits. But on transfer of the asset by the firm to the partner, such partner becomes entitled to exercise all the rights as an absolute owner. The extinguishment of the "common interest" of the partners of the firm and creation of "absolute ownership" to one of its partner is nothing but a "transfer of property" as per section 2(47) of the I.T.Act,1961.

6. Therefore, the transaction entered into by the assessee with its partner M/s.Modi Properties and Investment Pvt Ltd is a deemed transfer as per section 2(47) of the I.T.Act and attracts capital gains tax. In view of the above, it is requested to show-cause why the sale consideration of Rs.1,20,00,000/- should not be assessed under the head income from Capital Gains and taxes levied accordingly. You are requested to furnish your objections if any on or before 08-11-2018 failing which it shall be deemed that you have no objection for the proposed addition/completion of assessment for the AY 2016-17.



SARALA BASAVARAJU
WARD 10(3),HYDERABAD

(In case the document is digitally signed please
refer Digital Signature at the bottom of the page)