



GOVERNMENT OF INDIA
MINISTRY OF FINANCE
INCOME TAX DEPARTMENT

1.	PAN	AERPK6958C
2.	Name of the assessee	RAJESH KUMAR JAYANTILAL KADAKIA
3.	Address of the assessee	5-2-223 GOKUL, 3RD FLOOR, OPP ANDHRA BANK DISTILLERY ROAD , SECUNDERABAD 500003, Telangana , India
4.	Assessment Year	2020-21
5.	Status	Individual
6.	Amount of Penalty	Rs. 260040
7.	Date of Order	27/03/2023
8.	DIN	ITBA/PNL/F/270A/2022-23/1051436439(1)

Order under section 270A of the Income Tax Act, 1961

The assessee, Sri Rajesh Kumar Jayantilal Kadakia, a non-resident individual has filed Return of Income for the F.Y.2019-20 relevant to A.Y.2020-21. The case was selected for scrutiny under CASS.

2. During the assessment proceedings, it was observed that the assessee has taken a loan of Rs.10,00,00,000/- and has claimed interest expenditure of Rs.88,90,253/-. Out of Rs.10,00,00,000/- the assessee has invested Rs.8,50,00,000/- in M/s SDNMKJ Realty Pvt. Ltd and earned interest income of Rs.89,25,000/- whereas the remaining investment of Rs.1,50,00,000/- did not earn any income. Hence, the Assessing Officer has disallowed the proportionate interest expenditure of Rs.13,33,538/-. The assessment was accordingly completed with an addition of Rs.13,33,538/- on 25-05-2022. Thus, the Assessing Officer initiated penalty proceedings u/s 270A of the Act for under reporting income of Rs.13,33,538/-. A notice u/s 274 r.w.s 270A of the I.T.Act, 1961 dated 25-05-2022 was issued vide DIN: ITBA/PNL/S/270A/2022- 23/1043165377(1) and was duly served on the assessee through his e-mail on the same day.

3. In response to said notice, the assessee submitted response on 07-06-2022 stating that, the penalty proceedings may be dropped as the Assessing Officer has estimated the income on proportionate basis and there was no willful intention to under report or misreport the income. The assessee further informed that, the entire tax liability was paid. The above reply is taken on record. The relevant portion of reply of assessee is reproduced as under:-

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AAYKAR BHAWAN, OPPOSITE LB STADIUM, BASHEER BAGH, HYDERABAD, HYDERABAD, Telangana, 500004
Email: HYDERABAD.DDIT.IT1@INCOMETAX.GOV.IN,

1. The Income returned is Rs.2,08,73,740/-.
2. The Income assessed u/s.143(3) is Rs.2,22,07,280/-.
3. Thus there has been addition of Rs.13,33,538/-.
4. The addition is for the reason that the claim of interest paid of Rs.88,90,253/- on the borrowings of Rs-10,00,00,000/- is restricted to Rs.75,56,715/-.
5. The borrowing to the extent of Rs.8,50,00,000/- has gone for investment in CCD's on which interest income of Rs. 89,25,000/- is received. The balance of borrowing of Rs 1,50,00,000/- got invested in other investments which might have not generated income directly.
6. A view is taken that there is no direct nexus of borrowings to the extent of Rs.1,50,00,000/- with income generating investment. The estimated proportionate interest there on of Rs 13,33,538/- has been disallowed and added to income returned. It may be noted that there is no failure on my part to disclose the Income from Other Sources as stated in the Assessment Order (para 10). The fact is that the income has been fully disclosed and the issue is with regard to claim of interest paid on borrowings.
7. The addition of Rs.13,33,538/- is not on account of failure to disclose the income but is due to excessive claim of deduction on the borrowing. The borrowings of Rs.10,00,00,000/- has been made at a time and therefore the

entire interest paid on such borrowings is claimed as deduction against the interest income earned.

8. Thus in effect there is an estimated disallowance of interest to the extent of Rs.13,33,538/- based on the proportionate workings.

9. The tax payable on Rs.13,33,538/- is worked out at Rs.6,01,174/-. The working are under:

As per my working I have to pay regular tax amount of Rs 5,56,646/- + Interest u/s.234D of Rs.44,528/- as per Asst. Order u/s.143(3). The workings of regular tax to be paid is as under

	As per ITR filed	As per 143(1)(a)	As per 143(3)
Total Income	2,08,73,740/-	2,08,73,740/-	2,22,07,280/-
Total Tax payable	78,60,440/-	78,60,440/-	84,17,089/-

Thus the differential tax payable is Rs 5,56,649/-(i.e is 84,17,089/- (-) Rs 78,60,440/-).

10. The said amount is paid on 16/6/20... The copy of challan is enclosed herewith **Annexure - 1**.

11. Please note that as per the Demand Notice u/s.156 the tax Demand is NIL. Since in the tax workings vide order u/s.143(3) there is an apparent mistake. I have separately filed rectification petition u/s.154. The copy of the petition is attached herewith **Annexure - 2**.

4. Further, it is pertinent to mention here that, on a careful examination of the Assessment order and reply of assessee, it is observed that it is not a case of misreporting of income as it does not fit under the provisions of sub section 9 of 270A of Income Tax Act 1961. However, the case clearly falls under underreporting of income of Rs.13,33,538/-. Further, in view of the above facts and circumstances, it is not the case of estimation of income which is out of the purview of sub section 6 of section 270A of Income Tax Act 1961 as requested by assessee. Hence the assessee's request for dropping the penalty is rejected.

5. In view of the foregoing discussion, on the basis of assessment order, material available on record and the explanation of the assessee to the show

cause notices, it can be seen that the assessee has underreported the income of Rs.13,33,538/- and is liable for penalty u/s 270A of the Act . The relevant portion of the S.270A of the Income Tax Act, 1961 is reproduced as under

“ (1) The Assessing Officer or the Commissioner (Appeals) or the Principal Commissioner or Commissioner may, during the course of any proceedings under this Act, direct that any person who has under-reported his income shall be liable to pay a penalty in addition to tax, if any, on the under-reported income.

(2) A person shall be considered to have under-reported his income, if—

(a) the income assessed is greater than the income determined in the return processed under clause (a) of sub-section (1) of section 143;

(b).....;

(c);

(d).....;

(e);

(f).....

(3) The amount of under-reported income shall be,—

(i) in a case where income has been assessed for the first time,—

(a) if return has been furnished, the difference between the amount of income assessed and the amount of income determined under clause (a) of sub-section (1) of section 143;

(b)..... ”

6. From the foregoing provisions, it is clear that the assessee is liable to pay penalty at the rate of 50% of tax payable on the under reported income of Rs.13,33,538/-. Accordingly, I levy a penalty of Rs.2,60,040/- i.e. 50% of tax of Rs.5,20,080/- on under reported income u/s 270A of the Income Tax,1961. Demand notice u/s 156 of Income tax Act 1961 is enclosed.

7. This order has been passed with the prior approval of the Additional Commissioner of Income tax as per section 274(2) of Income Tax Act, 1961.

RAGHAVA SAI KRISHNAMNAIDU KOMMULA
ADIT(INT TAXN)-1,HYD

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refer Digital Signature at the bottom of the page)



GOVERNMENT OF INDIA
MINISTRY OF FINANCE
INCOME TAX DEPARTMENT

To,
RAJESH KUMAR JAYANTILAL KADAKIA
5-2-223 GOKUL, 3RD FLOOR, OPP ANDHRA BANK
DISTILLERY ROAD
SECUNDERABAD 500003, Telangana
India

Computation Sheet

General Details			
PAN	AERPK6958C	Assessment Year	2020-21
Name	RAJESH KUMAR JAYANTILAL KADAKIA	Address	5-2-223,GOKUL, 3RD FLOOR, OPP ANDHRA BANK,DISTILLE RY ROAD, SECUNDERABA D,
Residential Status	Non-Resident	Order Passing Authority	AOINTL
DIN & Order Number	ITBA/PNL/F/270A/2022- 23/1046506097(1)	Order Date	27/03/2023
Date of Issue of Computation Sheet	27/03/2023		
Computation Details			
Penalty Section	270A	Penalty Demand (in Rs.)	2,60,040
DIN No.	2022202040412097556T		

RAGHAVA SAI KRISHNAMNAIDU KOMMULA
ADIT(INT TAXN)-1,HYD

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* DIN- Document identification No.



GOVERNMENT OF INDIA
MINISTRY OF FINANCE
INCOME TAX DEPARTMENT
ADIT(INT TAXN)-1,HYD

To,
RAJESH KUMAR JAYANTILAL KADAKIA
5-2-223 GOKUL, 3RD FLOOR,OPP ANDHRA BANK
DISTILLERY ROAD
SECUNDERABAD 500003,Telangana
India

PAN:
AERPK6958C

Date:
27/03/2023

Status:
Individual

DIN & Notice No:
ITBA/PNL/S/156/2022-23/1051432664(1)

Subject: Notice of demand under section 156 of the Income-Tax Act, 1961

1. This is to give you notice that for the assessment year **2020-21** sum of Rs. **260040**, details of which are given on the reverse, has been determined to be payable by you.
2. The amount should be paid to the Manager, authorised bank/State Bank of India within 30 days of the service of this notice. The previous approval of the Joint Commissioner of Income-tax has been obtained for allowing a period of less than 30 days for the payment of the above sum.
3. If you do not pay the amount within the period specified above, you shall be liable to pay simple interest at one per cent for every month or part of a month from the date commencing after the end of the period aforesaid in accordance with section 220(2).
4. If you do not pay the amount of the tax within the period specified above, penalty (which may be as much as the amount of tax in arrear) may be imposed upon you after giving you a reasonable opportunity of being heard in accordance with section 221 of the Income Tax Act, 1961 .
5. If you do not pay the amount within the period specified above, proceedings for the recovery thereof will be taken in accordance with sections 222 to 227, 229 and 232 of the Income-tax Act, 1961 .
6. If you intend to appeal against the penalty, you may present an appeal under **Part A of Chapter XX of the Income Tax Act, 1961**, to the **CIT (A), Hyderabad- 10** within thirty days of the receipt of this notice in Form No. 35, duly stamped and verified as laid down in that form.

RAGHAVA SAI KRISHNAMNAIDU KOMMULA
ADIT(INT TAXN)-1,HYD

Notes:

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* DiN-Document identification No.

1. If you wish to pay the amount by cheque, the cheque should be drawn in favour of the Manager, Authorised Bank/ State Bank of India/ Reserve Bank of India
2. If you intend to seek extension of time for payment of the amount or propose to make the payment by instalments, the application for such extension or, as the case may be, permission to pay by instalments, should be made to the Assessing Officer before the expiry of the period specified in paragraph 2. Any request received after the expiry of the said period will not be entertained in view of the specific provisions of section 220(3).

This document is digitally signed

Signer: RS KRISHNAN
Date: 29 March 2023 11:30
Location: HYDERABAD, India

