Date: 16-12-2019

From
B & C Estates,
5-4-187/3 & 4, 2nd Floor,
Soham Mansion, M.G. Road,
Secunderabad – 500 003.

To
Asst. Commissioner of Income tax,
Circle 10(1)/ Hyd.,
IT Towers, A.C. Guards,
Hyderabad.

Sir/Madam,

Sub: Reply to Show Cause Notice (SCN) dated 13-12-2019.

In connection with the I.T. Scrutiny assessment proceedings for Assessment Year 2017-18, above referred Show Cause Notice (SCN) DATED 13-12-2019 (DIN: ITBA / AST / F / 143(3)(SCN) / 2019-20 / 1022275204(1) is issued. In reply, the following is submitted for your kind consideration.

1. **With regard to estimate of sale rate per sft.:**
In the revenue recognition sheet the revenue for sft is estimated at Rs.3,000/- per sft. The Project is an ongoing project and which is under the stage of construction as on 31-3-2017. Generally, initially at the beginning of the project the rates are lower and as construction progresses and the project is successful, the rates may go up. As an business man of ordinary prudence when an estimates are made they are made on a conservative basis. The rationale behind prudence is that an entity should not recognize an asset at a value that is higher than the amount which is expected to be recovered from its sale or use. Another aspect of prudence concept is that conservative recognition of revenue transaction until you are certain of its realization and to record expenses and liabilities 'at once'. With this prudence consent the rate per sft is estimated at Rs.3000/- per sft. which was an fair estimate.

The projects are under construction stage as on 31-3-2017 and to have cushion for the cost of construction going up with the passage of time due to normal inflation and also due to rise in materials and labour cost year upon year, the estimates of cost are not revised upwards so that it gets set off against increase in sale rate. Alternatively, the sale rate and cost of construction per sft both have to be revised upwards.

Keeping in view the above facts and circumstances it is requested not to revise only the sale price estimate of Rs.3,168/- for sft. as against the estimate of Rs.3000/- per sft. The difference is less than 6% which is generally a permissible margin in prudence concept for making an estimate.

In the event the revenue is adopted as proposed in the SCN then the corresponding cost to be recognized will also have be to considered upwards on a concept of matching revenue and cost.

Further, any increase in Income in this year shall be allowed to be deducted / set-off in subsequent assessment years, otherwise it will lead to double taxation on the same income.

Further, the actual revenue will certainly will get offered to tax when the project is nearing completion and/or is completed. It is a matter of timing difference and under the PCOM method adopted by the firm consistently it will be revenue neutral over the period of construction for a project as a whole.

It is requested to pass necessary orders u/s.154 for subsequent assessment years so that the proposed revised estimates of income do not result in double taxation.

For your kind perusal we are enclosing the revenue recognition sheet for subsequent 2 Assessment Years i.e. for Assessment Year 2018-19 and 2019-20 – **Annexure -1** and **Annexure– 2.**

It may be noted that for Assessment Year 2018-19 the sale rate got revised average rate of Rs.3,200/- per sft and for Assessment year 2019-20 to average rate of Rs.3,333/- per sft. The project got completed during the assessment year 2019-20. The Gross Margins is 44% for Assessment Year 2018-19 and 47% of Assessment Year 2019-20. Thus it is once against submitted that the necessary revision of rate for sft and profit on the overall project has been correctly considered under PCOM method of revenue recognition following by the firm.

2. **With regard to estimate of profit @ 25% on cost of amenities**

The cost of various types of constructions, its area land cost and sanction cost are stated in the project estimation statement furnished to you. The same is tabulated below for quick reference.

S.No.	Type of Construction	Construction Area	Construction Rate (per sft) (Rs.)	Construction Cost
1	Construction of flats	4,79,500	1,750	83,91,25,000
2	Basement	1,74,000	800	13,92,00,000
3	Amenities (Club House)	14,000	2,500	3,50,00,000
Add:	Land Cost			4,07,86,850
	Sanction Cost			2,34,25,967
Total				107,75,37,817

In the SC it is proposed to estimate profit of 25% on the estimated construction cost of basement area @ 800 per sft. likewise, it is proposed to estimate profit of 25% on the estimated cost of construction of Club House @ 2,500/- per sft.

For your kind perusal copies of Agreement of sale/sale Deed info in respect of 10 customers as a Sample is submitted as Annexure -1.

S.No.	Flat No.	Super Built up area (Sft)	Built up area (Sft)	Common area (Sft)	Reserved Parking (Sft)	Proportionate Undivided of land (Sq. Yards)	Remarks

1	A-007	1150	897	253	100	35.60	Annexure-3
2	A-001	1400	1120	280	100	43.34	Annexure-4
3	C-707	1130	880	245	100	34-98	Annexure-5
4	D-001	1200	936	264	100	37.15	Annexure-6
5	D-107	1200	936	264	100	37.15	Annexure-7
6	D-305	1200	936	264	100	37.15	Annexure-8
7	D-501	1200	936	264	100	37.15	Annexure-9
8	D-606	1200	936	264	100	37.15	Annexure-10
9	D-607	1200	936	264	100	37.15	Annexure-11
10	D-703	1200	936	264	100	37.15	Annexure-12

We would like to draw your attention to certain clauses of the Sale Deed relevant to the issue which are reproduced below: (Extract from Sale Deed for Flat No.A 001).

Clause J of the Preamble

j. The Vendor proposes to develop the Scheduled Land by constructing about 370 flats of similar elevation, colour, scheme, etc. along with certain amenities for the common enjoyment like a club house, CC roads, street lighting, landscaped gardens, etc. The proposed flats will be constructed strictly as per the design proposed by the Vendor and the vendee shall not be entitled for making changes in elevation, external appearance, colour scheme, etc.

Clause 1

1. In pursuance to the aforesaid agreement the Vendor do hereby convey, transfer and sell the deluxe apartment bearing flat no.001 on the ground floor, in block no. 'A', having super built-up area of 1400 sft, (i.e.,1120 sft of the built-up area & 280 sft. of common areas) in building known as 'Mayflower Grand' together with:
   a) An undivided share in the Scheduled Land to the extent of 43.34 sq. yds
   b) A reserved parking space for single car in the basement floor admeasuring about 100 sft.

   Situated at part of Survey No.2/1/1, 183, 184, 190 & 191 of Mallapur Village, Uppal Mandal, Ranga Reddy District, which is in hereafter referred to as the Scheduled Apartment and more particularly described at the foot of this sale deed and in the plan annexed to this sale deed in favor of the Buyer for a total consideration of Rs.31,20,000/- (Rupees thirty one lakhs Twenty Thousand only). The Vendor hereby admits and acknowledges the receipt of the said consideration.

Clause 9(iv)

The common facilities and services (lift, corridors, passages, staircases, roads, recreational facilities, gardens, drainage, water supply, electricity and other such services) and other properties of common enjoyment in the Mayflower Grande, shall vest jointly with the owners of the various tenements/flats/parking space and shall be maintained, managed and administered collectively by the said owners of the various tenements/flats/store/parking space and/or by the said association and the Vendor shall in no manner be liable, accountable or responsible for the management, administration, maintenance or upkeep of the aforesaid building(s) or the common facilities etc., or on any other account whatsoever.

f) It may be noted from the Sale Deeds that the details description of the Flat and the area etc. are stated in Sale Deed in Schedule B-Schedule of Flat. The salient items that it states are:

* Flat No.
* super built up area (giving break up of built up area and **Common area)**
* a reserved parking space in basement
* proportionate undivided share of land

It will be evident from the Sale Deed that there is no separate consideration for each and above items and the sale consideration is for the sale of Flat together with common areas, reserved parking space in the basement and proportionate undivided share of land.

The Schedule B in the Sale Deed beyond doubt proved that what has been sold also included parking in basement and common area.

It will be pertinent to note that the sale consideration price is all inclusive rate.

Further, clause J of the Preamble of the Sale Deed clearly state that inter-alia, the Club House is common amenities for common enjoyment.

g) The Common areas generally includes area of stair case, lift area, common passages, club house, generator room, security guard room, drive ways etc.

i) It is once against reiterated that the sale consideration in the sale deed includes a composite/package/lump sum consideration for proportionate built-up area of flat + common are + reserved parking space in basement + proportionate undivided share in land. **There is no separate sale consideration for reserved parking of Club House as assumed by the learned Assessing Officer.**

j) It is requested to examine and appreciate the provisions of the Sale Deed submitted and not to proceed to make own estimate of the revenue/profit.

k) The making of own estimate of revenue/profit disregarding the fact available on record, implies that an assumption is made that there is suppression of sales revenue. Such assumption is without any correlative evidence and implied assumption will not be well founded. It is an imaginary revenue/profit devoid of the Sale Deed.

Keeping in view the above facts and documentary evidences of Sale Deeds, it is requested and pleaded to drop your proposed additions stated in SCN.

On the identical issue addition where made by the predecessor A.O. for Assessment Year 2016-17 ignoring and not examining the copies of Sale Deeds furnished during the assessment proceedings aggrieved by the assessment Order u/s.143(3), an appeal has been prepared before CIT (Appeals) 6 and is pending disposal.

It is once against requested that no such estimates of revenue as proposed in SCN is wanted, and any such addition will result into avoidable 'High Pitch Assessment'.

We hope you will find the above information in order.

Yours faithfully,
For B & C ESTATES,

PARTNER.