GOVERNMENT OF INDIA
MINISTRY OF FINANCE
INCOME TAX DEPARTMENT
National e-Assessment Centre
Delhi

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Ajay Sir Cpy

To, M.C.MODI EDUCATIONAL TRUST 5-4-187/3 AND 4 SOHAM MANSION ,M.G ROAD SECUNDERABAD SECUNDERABAD 500003 ,Telangana India	

PAN:	Assessment Year:	Date:	DIN:
AAATM5488Q	2018-19	26/03/2021	ITBA/AST/F/143(3)(SCN)/2020-21/1031773622(1)

Show cause Notice as to why assessment should not be completed as per Draft Assessment Order

Ms/ Mr/ M/s,

1. We appreciate the anxiety and uncertainty that is facing all of us in the times of Covid-19. This communication is to assist you in ending one uncertainty, which is pending e-Assessment in your case for the Assessment Year **2018-19**.

2. A draft assessment order proposing to modify your returned income and/or sum payable is reproduced as under:-

It is requested to final show-cause on the following finally proposed addition. Please submit your reply with all supporting documentary evidences on or before the given date.

The Return of Income was filedby the assessee on 31/10/2018 showing total income at Rs.0/- for the A.Y. 2018-19. The case was selected under cass and the reason for the selection was Large amount deemed to have been applied to charitable or religious purposes. During the assessment proceedings, the assessee was served notice u/s 143(2) of the Act dated 22/09/2019 and several notices u/s 142(1) of the Act dated 24/12/2020, 28/01/2020 and 15/01/2021. Show-cause noticeswere also issued to the assessee on02/02/2021 & 16/02/2021, in response to which the assessee has given the submissions on 03/02/2021, 08/02/2021 and 20/02/2021.

2. After going through the submissions made by the assessee during the course of assessment proceedings, the following additions are proposed as the contentions of the assessee are not acceptable :

3. **Addition u/s.69C of the Act on account of unexplained expenditure :-**

3.1 During the course of assessment proceedings, it was noticed that the assessee had not uploaded the certificate of Registration u/s.12AA in its submission. The assessee was therefore requested vide show cause notice dated 02/02/2021 in view of section 63 & section 76 of the Indian evidence Act 1872, to submit the certified copy of Registration u/s.12AAof the Act, and was also requested to upload the certified copy of form12A. The assessee, in its submission, has repeatedly stated that the original document is lost/misplaced. The assessee further submitted the facts regarding request made for issue of duplicate copy of registration letter to the Commissioner of Income-tax (Exemption), Hyderabad. As there is no such provision, therefore the assessee had applied for registration u/s 12AA afresh. The same was rejected vide order u/s 12AA(1)(b)(ii) vide F. No.CIT(E)/Hyd/68(02)/12A/2017-18 dated 27/08/2018. Aggrieved by the same, the assessee has filed appeal before the Appellate Tribunal, Hyderabad on 30/07/2019, which is still pending with the ITAT. The Assessee has also failed to obtain the same under the RTI Act.

3.2 In the submission, the assessee has requested to consider the income of the trust by classifying u/s 14 and to allow the benefit of deduction under chapter VIA. In this regard, it is to state that the department has not challenged the trust deed but the burden to prove that the said trust is eligible to be assessed as trust registered u/s 12AA of the IT Act is on the assessee. In view of the above, the contention of the assessee to consider the income as classified u/s 14 of the Act, is not acceptable, as the option of the treatment as AOP is available with the department.

3.3 As the certified copy of registration u/s. 12AA is required during the course of faceless assessment proceedings, it is the burden of the assessee to produce the same. In the case of the assessee, the matter is under consideration with the tribunal. It is therefore presumed that the trust deed which has been stated by the assessee to have been submitted is in fact the 'Certified True copy' only, as the same is certified by Asstt. Commissioner, Endowment Department, Twin Cities, Hyderabad. On perusal of the submissions made by the assessee, the certified copy of registration certificate could not be found in any of the submissions.

3.4 In view of the facts as stated above, the assessee was requested to show cause on the following point :

"(i) In absence of the must requisite certified copy of Registration

Certificate of Trust and certified copy of 12AA the entire claim of amount applied towards Capital expenditure of Rs.1,55,46,620/- and the revenue expenditure of Rs.12,01,812/- should not be disallowed and add back to the total income in the year under consideration to the extent of revenue receipts of Rs.69,64,722/- in absence of copy of certified documentary evidence as well as in view of the CIT (Exemption) Hyderabad rejection letter also requested to show cause why the M C Modi education trust is not treated as AOP and assessed accordingly.

(ii) Thus the difference of capital expenditure of Rs. 9783710/- (Rs.1,55,46,620 – Rs.69,64,722) is more than the income / revenue receipt, the part which is in excess of revenue receipts become such expenditure as defined by section 69C of the income tax Act why the same should not be add back to the total income under the head income from other sources."

3.5 In response to the aforesaid show-cause notice, the assessee has submitted its contentions vide submission dated 20/02/2021,and requested to drop the proposed addition for various reasons mentioned in its submission.

3.6 The submissions of the assessee in response to the show-cause notice has been duly considered. However, the contentions of the assessee is not found acceptable. In absence of certified copy of Registration Certificate of Trust and certified copy of 12AA, the assessee is treated as an AOP and the income of the assessee is assessed accordingly. It is revealed from Schedule-AI of the Return of Income that the assessee has shown total receipts to the tune of Rs.69,64,722/-. Since the assessee is assessed as an AOP, the total income of the assessee is taken at Rs.69,64,722/-. Further, the difference of capital expenditure in excess of net income amounting to Rs. 97,83,710/- (1,55,46,620-57,62,910) become such expenditure as defined by section 69C of the income tax Act. The sameisadded back to the total income treating the same as unexplained expenditure.

3.7. Penalty proceeding u/s 271AAC will be initiated separately.

[Addition Rs.97,83,710/-]

It is also proposed to levy tax u/s 115BBE of the I.T. Act on the above addition of Rs.97,83,710/-.Further, penalty proceedings are also proposed to be initiated u/s 271AAC of the I T Act.

4. Subject to the above remarks, the total income of the assessee is revised as under, treating the assessee as AOP :

	Total income	Rs.69,64,722/-
Less :	Revenue Expenditure	Rs. 12,01,812/-
	Net Income (taxable at normal rates)	**Rs. 57,62,910/-**
Add:	Unexplained Capital Expenditure in excess to the net income (1,55,46,620-57,62,910) and taxed u/s.69C of the Act	Rs.97,83,710/-
	Total Assessed income	**Rs.1,55,46,620/-**

Assessed U/s.143(3) of the Income tax Act,1961. Calculate tax and give credit of prepaid taxes, after due verification. Charge interest as per the I.T. Act, wherever applicable. Issue Demand Notice & Challan accordingly. Issue penalty notice u/s 271AAC of the Act.

You are hereby given an opportunity to show cause why the assessment should not be completed as per the draft assessment order.

3. Kindly submit your response through your registered e-filing account at www.incometaxindiaefiling.gov.in by 23:59 hours of 31/03/2021, whereby you may either:-

a. accept the proposed modification; or
b. file your written reply objecting to the proposed modification; or
c if required,you may request for personal hearing so as to make oral submissions or present your case after filing of written reply. On approval of the request, personal hearing shall be conducted exclusively through video conference.

4. In case no response is received by the given time and date, the assessment shall be finalized as per the draft assessment order.

Yours faithfully,
Additional / Joint / Deputy / Assistant Commissioner of Income Tax/
Income-tax Officer,
National e-Assessment Centre,
Delhi

Signature Not Verified
Digitally signed by Chandan Kumar Srivastav
Date: 2021.03.26 10:50:27 IST