

Date: 27-12-2019

From
M.C. Modi Educational Trust,
5-4-187/3 and 4, Soham Mansion,
M.G. Road, Secunderabad,
Secunderabad -500 003, Telangana.

To
Income Tax Officer,
Exemption ward 1(2) HYD,
Aaykar Bhawan,
Basheerbagh,
Hyderabad – 500 004

Sir/Madam,

Sub: Reply to notice u/s 274 r.w.s 270A dated 03/12/2019 – Reg

For Asst. Year 2017-18, notice u/s 274 r.w.s 270A dated 03/12/2019 is issued. In reply, the following is submitted for your kind consideration:

1. For Asst. Year 2017-18 assessment is completed u/s 143(3) vide Order dated 03/12/2019 assessing the income of Rs. 87,45,272/-.
2. The Trust is a Public Charitable Trust established under a Trust Deed date 15-11-1955. Subsequently a Supplementary Trust Deed dated 01-04-2016 is executed. The Trust was registered u/s.11/12 of Income Tax Act. Unfortunately, the Original Trust Deed dated 15-11-1955 and the registration letter has been lost. For regularization a fresh application for registration got filed u/s. 12 AA of the Income Tax Act. The application got rejected mainly on the technical ground that Trust could not produced the Original Trust deed dated 15-11-1955 for verification.
3. The Trust e-filed its ITR on 08-07-2017 admitting income of Rs. 30,84,657/-. The ITR is filed in Form No ITR -7 considering the Trust as registered Trust u/s. 11/12 of IT Act.
4. The ITR is filed on 08/07/2017 based on the registration u/s 12 obtained vide no V/19/67 68 dated 01/06/1968. As said above, the files/records got lost/ misplaced. For regularization a fresh application for registration got filed.
5. In the Asst. Order u/s 143(3), a reference to Order u/s 12AA dated 27/08/2018 of CIT(E) has been mentioned for not treating the trust as registered trust. Since the Order is dated 27/08/2018 and is in connection with the application of registration filed by us on 26/02/2018, the same has to be effective for Asst. Year 2018-19 and not for Asst. Year 2017-18.

RECEIVED

O/o Addl CIT (Exemptions) Hyd
Date 30/12/2019

6. The issue with regard to the registration of Trust u/s.12AA is pending before the Hon'ble ITAT of Hyderabad and its judgment will have a bearing on the assessment of the appellant as a Registered Trust or as an AOP.
7. Further , since while completing the assessment submission made by the Trust to consider the Trust as registered for the purpose of assessment and not as an AOP is not accepted , the assessment is completed not under the provision of section 11/12 of IT Act but under the normal provision of IT Act under different 'Heads of Income' as provided in section 14 of IT Act.
8. An addition of Rs. 1,68,435/- towards rental income. The Rental Income as per Books and as per receipts in Bank account statement is compared and arrived at the conclusion that excess rental income of Rs 1,68,435/- is received. In this course of assessment proceeding the copies of the rental agreements were submitted and it was submitted that rental income as per books of accounts and as per rental agreement has been correct. Further,such rental income also got reconciled with Form 26AS.
9. The addition of Rs. 1,68,435/- under the head 'Income from House Property' is considered as 'Misreporting of rental income for the purpose of initiation of penalty proceeding u/s 270(A).
10. It is respectfully submitted that we have fully reconciled the rental income with our audited books of accounts, rental agreements with the tenants and also with Form no 26AS. This explanation is a bonafide explanation but not accepted. It is therefore pleaded that there is no misreporting of any income and request you not to levy the penalty as proposed.
11. Further, the trust filed its return of income considering itself as registered trust u/s 12 and as there was no order rejecting the registration of the trust existing on the date of filing ITR on 08/07/2017. Keeping in view of this fact, the trust has claimed deduction for income applied for Charitable purposes for donations given of Rs. 25,65,000/- to various trusts. Since while completing the assessment the deductions for such donations given is considered u/s 80G of IT act and allowed deduction of only Rs. 6,25,000/-. Thus it has been viewed that there is excess claim of Donations to the extent of Rs. 13,16,510/- and considered as misreporting of Donation for the purpose of initiation of proceedings u/s 270A.
12. It is respectfully submitted that we have explained the fact and circumstances under which ITR is filed and also why such donations are considered as application of income u/s 11. Thus, it is pleaded that there is no misreporting of excess claim of Donations and request you not to levy the penalty as proposed.
13. It may be noted that an appeal has been filed on 26/12/2019 before the first appellate Authority CIT(A) – 9/HYD. The acknowledgement is enclosed herewith.

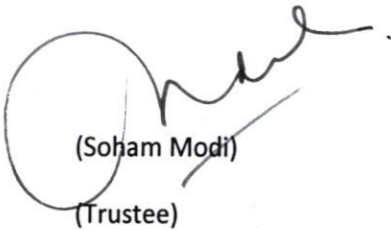


14. It is further pleaded that in the course of assessment proceeding the explanations submitted are bonafide and we have disclosed all the material facts to substantiate the explanation offered and it is requested not to levy the penalty as proposed.

15. The penalty may kindly be kept in abeyance till the disposal of the First Appeal.

Yours faithfully,

For M.C. Modi Educational Trust



(Soham Modi)
(Trustee)