o/c

M C Modi Educational Trust

5-4-187/3&4, II floor, MG Road,
Secunderabad – 500 003.
Phone: +91-40-66335551

To,
The Income Tax Officer
Ward 1(2),
Hyderabad

Dear Sir,

Sub: Request to not to treat assessee in default u/s 220
Ref: Demand Notice DIN: ITBA/AST/S/156/2021-22/1041759663(1)
Assessment Order u/s 143(3) r.w.s 263 r.w.s 144B of the Income Tax Act, 1961
Assessment Order DIN: ITBA/AST/S/143(3)/2021-22/1041759586(1)
Assessee Name: M.C.Modi Educational Trust; Assessee PAN: AAATM5488Q

With reference to the subject and the Assessment Order and notice of demand referred above, we request your good-self to kindly not to treat assessee as assessee in default based on the facts explained as under:

Assessee filed its return of income for Assessment Year (AY) 2016-17 on 21.09.2016 **declaring total income of Rs. 29,51,794/- representing the amount offered to tax u/s 11(3)**. The amount was accumulated u/s 11(2) in Financial Year (FY) 2009-10 and as the same could not be utilized within the period of 5 years, it was offered to tax u/s 11(3) in the return of income for AY 2016-17.

The case was selected for scrutiny and the assessment was completed u/s 143(3) by the Income Tax Officer (Exemption) Ward 1(2), Hyderabad ("ITO") vide order dated 18.12.2018 wherein the ITO denied the benefit u/s 11 and brought to tax the amount of Rs. 49,49,724/- (surplus as per income and expenditure account) without giving any benefit u/s 11 on account of application of income and accumulation of income.

Thereafter Commissioner of Income Tax (Exemptions) ["CIT(E)"] passed an order u/s 263 directing the AO to examine the issue of taxability of Rs. 29,51,794/-. Against the order of CIT(E), assessee filed an appeal before the Hon'ble Income Tax Appellate Tribunal on the ground that since the AO had not given the benefit of section 11, the provision of section 11(3) will also not be applicable. **During the pendency of appeal,**

For M/s. MC MODI EDUCATION TRUST
Trustee

RECEIVED
O/o Addl CIT (Exemptions) Hyd
Date 12/05/2022

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<u>assessee consulted a Chartered Accountant with regard to the issue involved in appeal and after reconsidering the issue the assessee withdrew the appeal filed against the order of CITE. The hon'ble ITAT vide its order dated 08.03.2022 has permitted to withdraw the appeal</u>.

Thereafter in the assessment proceedings in pursuance of order of CIT(E), it was submitted that assessment may be completed by making the addition and accordingly the an assessment order u/s 143(3) r.w.s 263 has been passed by the Officer in National Faceless Assessment Centre, Delhi ("Assessing Officer"/"AO") determining total income of Rs. 79,01,518/-. The total income assessed comprises of addition made in the assessment order passed u/s 143(3) amounting to Rs. 49,49,724/- and the income offered in return of income amounting to Rs. 29,51,794/-. In consequence of the assessment order passed u/s 143(3) r.w.s 263 a notice of demand is also issued for an amount of Rs. 18,27,745/-. In this regard we wish to submit as under:

Firstly the tax on amount of Rs. 29,51,794/- has already been paid at the time of filing return of income which is evident from the return of income. Further with regard to the remaining amount of Rs. 49,49,724/- we submit that this addition is arising from the assessment order passed u/s 143(3) against which an appeal is filed before the Commissioner of Income Tax (Appeals) [CIT(A)], and the same is pending for disposal. During the pendency of appeal, we had filed an application for stay of demand and in accordance with the CBDT instruction in relation to the stay of demand, an amount of Rs. 2,13,000/- (20% of the demand as per the order against which appeal is filed) was paid. (Copy of application for stay of demand along-with the copy of challan paid is attached for your kind reference).

As per the office memorandum dated 29.02.2016 in F.No. 404/72/93-ITCC read with office memorandum dated 31.07.2017 in F.No. 404/72/93-ITCC issued by the Central Board of Direct Taxes (CBDT) in relation to the stay of demand while the appeal is pending at first stage, the assessing officer shall grant stay of demand till disposal of first appeal upon payment of 20% of the disputed demand.

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In this case since 20% of the demand raised in the order which is subject matter of appeal has been paid and the assessee has strong case on merits, it is humbly requested before your good-self to kindly grant stay of balance demand and by exercising the power u/s 220(6) please do not treat assessee as assessee in default till the disposal of appeal.

Copies of the following documents are enclosed with this letter:

1. ITR V and Computation of total income evidencing that amount of Rs. 29,51,714/- is offered to tax and the tax liability on same is already paid.
2. Copy of assessment order passed u/s 143(3). & Order u/s 143(3) r.w.s 263.
3. Copy of form 35 evidencing the appeal filed against order referred at Sl. No. 2
4. Copy of application dated 22.01.2019 for stay of demand along-with challan dated 19.01.2019 evidencing the payment of tax.

Please let us know in case of any further information/ document is required in this matter.

Thanking You

For M.C.Modi Educational Trust

For M/s. MC MODI EDUCATION TRUST

Trustee

Soham Modi
Trustee

Date: 11.05.2022
Place: Hyderabad