Date : 19-01-2021

From
MC Modi Educational Trust,
5-4-187/3 & 4, 2nd Floor,
Soham Mansion,
M.G. Road,
Secunderabad – 500 003.

To
Commissioner of Income tax (Exemption),
Andhra Pradesh, Telangana & Odisha,
2nd Floor, Ayakar bhawan,
Basheer Bagh,
Hyderabad – 500 004.

Respected Sir / Madam,

Sub: Reply to Show cause Notice u/s.263 – Own case – Asst. Year 2016-17
PAN – AAATM5488Q.

Ref: Your letter No.F No CIT(E)/HYD/263(04)/AAATM5488Q/2020-21 dated 04-01-2021.

We acknowledge the receipt of the above Show cause notice for Asst. year 2016-17. In reply, the following is submitted for your kind consideration.

1. The revision u/s.263 is proposed for Asst. Year 2016-17.

2. The assessment made by the Assessing Officer vide Order u/s.143(3) dated 18-12-2018 is stated to be erroneous, in so far as it is prejudicial to the intent of the revenue.

3. The reason stated is that the Trust has accumulated an amount of Rs.29,51,794/- u/s.11(2) in the FY 2009-10 (relevant Asst. Year 2010-11) but could not be utilized within the time provided. Thus the same need to be taxed during the Asst. year 2016-17.

4. The Return of Income for Asst. year 2016-17 is filed declaring income at 'NIL' after claiming exemption u/s.11 of the Act.

5. During the assessment proceedings the Assessing Officer has sought several information including the copy of Trust Deed and Registration letter u/s.12A of the IT Act.

6. It is submitted to the Assessing Officer that the Trust is about 60 years old and the registration got obtained vide letter no.V/19/67-68 dated 01-06-1968. The same registration letter is misplaced and not available. It is also submitted that we have requested for duplicate letter or copy from the Commissioner of Income tax (Exemptions)Hyd. A reply is received from CIT (Exemptions) that there is no provision for issue of duplicate certificate.

7. The respective letters are enclosed herewith as **Annexure 1 & 2**.

8. In the backdrop of the above fact that the Original registration certificate is lost, the Trust has applied for registration u/s.12AA afresh on 26-02-2018. This application has been rejected by the Commissioner of Income tax (Exemption) vide order dated 27-08-2018.

9. The Assessing Officer in para 6 to 10 of this order u/s.143(3) dated 18-12-2018 has in detail examined the issue whether or not the Trust can be said to be registered u/s.12A and in concluding para no.10 has stated the following:

   'As there is no registration u/s.12A and not carrying out charitable activities for which it has found, the surplus of income over expenditure is brought to tax by denying exemption u/s.11'.

10. The Assessing officer after denying exemption u/s.11 has brought to tax the entire excess of income over expenditure of Rs.49,49,724/-. The tax is computed at 30%.

11. The Assessing Officer having concluded that the Trust is an un registered Trust and not entitled to exemption u/s.11, has taxed the entire surplus of income of Rs.49,49,724/- and taxed at the maximum marginal rate of 30%.

12. The Assessing Officer has rightly not included in income of Rs.29,51,794/- being the amount accumulated u/s.11(2) in the FY 2009-10 that has remained un-utilized within the time provided.

13. In fact this amount of Rs.29,51,794/- was offered to tax by the Trust itself while computing its income under the provision of section 11(3) as applicable to a registered Trust u/s.12A.

14. Since the Assessing Officer has categorily denied the exemption u/s.11 as the Trust can not be said to be registered u/s.12A, has made the assessment accordingly.

15. As the Trust is considered not registered u/s.12A, the provisions of section 11 do not get attracted at all and the Assessing Officer has correctly applied his mind not to add R.29,51,794/- under the provision of section 11(3).

16. The additions of Rs.29,51,794/- u/s.11(3) if made by the Assessing Officer would have lead to a dichotomy here by on one hand the exemption is denied u/s.11 and on the other hand an amount is considered as income u/s.11(3).

17. The Assessing Officer has after examining the facts of the issue has reacjed to a conclusion that the Trust be denied exemption u/s.11.

18. The Assessment order u/s.143(3) passed by the Assessing Officer is not at all erroneous and is in line with the applicable provisions of the law. The Assessing Officer has not committed any error by not considering R.29,51,794/- as income under the provisions of section 11(3).

19. Respected sir, keeping in the above facts it is submitted that the 143(3) Order passed by Assessing Officer is not erroneous, in so far as it is prejudicial to the interest of the revenue. It is therefore requested to kindly drop the proposed proceedings to revise the said assessment.

Yours faithfully,

For MC MODI EDUCATIONAL TRUST,

(SOHAM MODI)

TRUSTEE.