



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



To, VISTA HOMES 5-4-187/3 AND 4, 2ND FLOOR, SOHAM MANSION, M.G ROAD SECUNDERABAD 500003, Telangana India	
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PAN: AAGFV2068P	Assessment Year: 2018-19	Date: 21/04/2021	DIN: ITBA/AST/F/143(3)(SCN)/20 21-22/1032590936(1)
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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:-

The assessee has filed its return of income for the A.Y.2018-19 relevant to the F.Y. 2017-18 on 04.10.2018 showing total income of Rs. 71,49,954/-. The case was selected for scrutiny through Computer Aided Scrutiny Selection (CASS).

Notice u/s.143(2) dt. 22.09.2019 was issued and served upon the assessee citing the reasons for selection of scrutiny. During the course of assessment proceedings, notices u/s.142(1) of the Act 03.12.2020 and subsequent letter were also issued and served upon the assessee asking to submit some details/clarification in respect of the assessment proceedings. In response to Notice u/s.143(2), Notices u/s.142(1) and letters, the assessee submitted explanation/clarification in support of the return of income.

During the course of assessment proceeding, the assessee submitted Audit Report, computation of income, bank statement, "Working Sheet" of "Estimation of IT and computation" of calculation of revenue from sale of flat and profit thereon etc. From the reply, it is found that the assessee follows percentage project completion method in order to recognize profit from your Construction Contract Business i.e. Real Estate Development

Business. In this annexure, It is found that total saleable area is 4,06,660 Sq. ft., Total Expected cost of project is of Rs.67,43,29,905/- and Total expected revenue from the project is Rs.78,86,39,600/-. It is further found that the assessee has made an agreement for sale of area of 3,22,380 Sq. ft. and the total sale agreement value is Rs.67,91,02,566/-. The assessee has incurred the cost of construction is of Rs.46,84,08,456/- and thus, completed the 69.46% construction of the project (as on 31-03-2018) . The assessee has recognized revenue of Rs. 47,17,23,681/- as on 31-03-2018. (69.46% of total agreement of sale value of Rs. 67,91,02,556/-).

However, it is found that though the assessee has adopted the right method of recognizing revenue i.e. percentage completion method, the calculation shown is flawed as per section 43CB r.w.s. 145(2) of the Income Tax Act, 1961 and ICDS III – Construction Contracts. Accordingly a computation of revenue recognition as per percentage completion method as on 31.03.2018 is made which is as below :

Computation of revenue recognition as per percentage completion method as on 31/03/2018

S No	Particulars	Amount (in Rs.)
A	Total saleable area (in Sq ft)	406660
B	Total estimated cost (Land + Construction) after rectification of mistake	655027905
C	Total area sold (in sq. ft.) [as mentioned in the revenue from sales of flats in the last page at column -4]	322380
D	Total sale agreement value [as mentioned in the revenue from sales of flats in the last page at column -7]	679102566
E	Cost incurred including land up to 31/03/2018	468408456
F	Percentage of completion [after considering the cost of Rs.655027905/-]	71.51 %
G	Revenue to be recognized [71.51 % of 679102566]	485626245

H	Percentages of sales Area % [C/A X 100]	79.275%
H	Cost allocation	
I	Total cost of land & construction [79.275 % of 468408456]	371331132
J	Profit (total so far till 31.03.2018)	114295113
K	Total revenue upto 31.03.2018	485626245
L	Less Revenue recognized till 31.03.2017	294019418
M	Revenue for the current period (S-T)	191606827
N	Cost (to be recognized) till 31.03.2018	371331132
O	Cost Declared till 31.03.2017	244206509
P	Cost (to be recognized) for the current period (V-W)	127124623
	GROSS Profit for the Current period	6,44,82,204/-

However, the profit for the current period has been shown at Rs. 1,85,61,276/- whereas as per above calculation it comes at Rs. 6,44,82,204/-. The assessee was requested to offer an explanation in this regard and state why the difference i.e. **Rs. 4,59,20,928/-** should not be added to the total income as reported in the Income Tax Return for the AY 2018-19.

In the reply, the assessee stated that the Estimated construction cost is Rs.67,43,29,905/- is the same. In the computation sheet, it is missed to mention the cost of club house of Rs.1,93,29,005/-. In the reply, the assessee stated that certain provisions of ICDS-III are not applicable to it as real estate developer. Further, it is also stated that even if it held that ICDS III is applicable, it does not provide for the methodology as to how the revenue and the cost is to be recognized. The assessee follows method of cost recognition is in line with the basic concept of PCOM that the revenue and cost associated with the project should be recognized as revenue and expenses respectively by reference to the stage of completion of the construction at the reporting date.

The Assessee's reply has been considered but could not be accepted for the following reasons:

The assessee though contends that certain provisions of ICDS-III are not applicable to it as real estate developer, but accepts that it recognizes its revenue as per PCOM. Therefore, the other options of accounting on such cases i.e. project completion method or any other method recognition of revenue on sale of flats has not been adopted by the assessee. It is seen that it has been following the PCOM from initial year of recognition of revenue. Assessee following the PCOM method is also clear from the fact that it has accepted that after completion of 25% of total estimated cost of the project it has started recognising revenue as per the this method- which is the crux of the ICDS-III and also Guidance Note of 2006 modified in 2012 of ICAI for Accounting for Real Estate Developers.

Therefore, the assessee's reply is not clear in terms of adoption of PCOM method as per ICDS-III. In one point it disagrees with applicability of ICDS-III and in another paragraph, it agrees with the applicability and even it boasted in point number 10 of the reply dated 15.04.2021 that it has rightly adopted the PCOM workings as per the guidelines of ICDS-III

If ICDS-III is applicable from 01.04.2016, which is true, we need to look into the methods of accounting as provided in Guidance Note to Accounting for Real Estate Developers 2006 as revised in 2012 by ICAI. Any Real Estate Developer was advised to follow the Guidance Note of ICAI if it starts recognising its revenue from financial year 2012-13 or starts its project from FY 2012-13. The PCOM has been advised to be adopted for accounting of such Real Estate Developer. The para 3.1 and 3.2 of GN of ICAI, 2012 (hereinafter called as the GN) are reproduced here:

3. Accounting for Real Estate Transactions

3.1 Real estate activities and transactions take diverse forms. While some are for sale of land (developed or undeveloped), others are for construction, development or sale of units that are not complete at the time of entering into agreements for construction, development or sale.

3.2 The typical features of most construction/development of commercial and residential units have all features of a construction contract – land development, structural engineering, architectural design and construction are all present. The natures of these activities are such

that often the date when the activity is commenced and the date when the activity is completed usually fall into different accounting periods. It is not unusual for such activities to spread over two or more accounting periods.

The Guidance Note has drawn a similarity between the Real Estate Development and Construction Contract and it has mentioned certain conditions in paragraph 5 for applicability of PCOM and those conditions are fulfilled in the case of the assessee. Even the illustrations given in page number 367 and 368 guidance Note has given illustrations on calculation of revenue recognition and cost recognition. The same are reproduced after the para. It is clear from the illustration that the calculation given in this office letter dated 12.04.2021 is rightly adopted. It also seems logical as the cost proportionate to percentage of area which is sold/agreed to be sold to the total area planned to be constructed should only be claimed as revenue is recognised for that area only. In the calculation shown by the assessee, it had been recognising revenue that has been secured by agreement of area so sold. While calculating or recognising cost, which has been already incurred, the assessee had been taking estimated cost from the difference of estimated revenue and estimated gross profit. It is thus seen that the basis of percentage completion method i.e. the actual cost incurred till 31.03.2018 has not been taken into consideration while recognising the cost.

Illustration on application of percentage completion method

Total saleable area	20,000 Sq. ft.
Estimated Project Costs(This comprises land cost of Rs. 300 Lakhs and construction costs of Rs. 300 Lakhs)	Rs. 600 lakhs
Cost incurred till end of reporting period (This includes land cost of Rs. 300 lakhs and construction cost of Rs. 60 Lakhs)	Rs. 360 Lakhs
Total Area Sold till the date of reporting period	5,000 Sq. ft.
Total Sale Consideration as per Agreements of Sale executed	Rs. 200 Lakhs
Amount realised till the end of the reporting period	Rs.50 Lakhs
Percentage of completion of work	60% of total project cost including land cost or 20% of total construction cost

At the end of the reporting period the enterprise will not be able to recognise any revenue as reasonable level of construction, which is 25% of the total construction cost, has not been achieved, though 10% of the agreement amount has been realised.

Continuing the illustration

If the work completed till end of reporting period is

(This includes land cost of Rs 300 Lakhs and

construction cost of Rs 90 lakhs)

Rs. 390 Lakhs

Percentage of completion of work would be

65% of total project cost

including land cost **or** 30% of construction cost

The enterprise would be able to recognise revenues at the end of the accounting period. The revenue recognition and profits would be as under:

Revenue recognised

(65 % of Rs 200 lakhs as per Agreement of Sale)

Rs. 130 Lakhs

Proportionate cost (5000 sft./20,000 sft.) X 390

Rs. 97.50 Lakhs

Income from the project

Rs. 32.50 Lakhs

Work in progress to be carried forward

Rs. 292.50 Lakhs

As the assessee is adopting percentage completion method, it is required to follow the proper way to recognise revenue as well as cost. Res judicata is not applicable to Income Tax Act, 1961 and therefore, the assessee plea that no such adverse inference was drawn in earlier assessment year does not hold good.

The calculation as done by the assessee is flawed is described with an example below:

As per present financials and proportionate projection of revenue

If you consider the Expected cost of Rs. 67,43,29,905/- (after accepting Club House charges)

1. Total progressive GP till 31.03.2018 be recognised as per your calculation is Rs. 6,83,74,186/- (Rs. 47,17,23,681 – Rs. 40,33,49,495)
2. Total progressive GP till 31.03.2018 as per PCOM method is Rs. 10,03,92,549/- (Rs. 47,17,23,681 – Rs. 37,13,31,132)
3. Total Expected Revenue from the project of 406660 Sq Ft of area is Rs. 78,86,39,600/-

- (Rs. 1939.31/ sqft)
4. Whereas, total expected revenue from 322380 Sq Ft of area is Rs. 67,91,02,566/- (Rs. 2106.53/ sq ft)
 5. So if total revenue is also revised as per expected revenue from already sold area of 322380 then it would be 406660 X Rs. 2106.53 = Rs. 85,66,41,490/-
 6. Then the Expected Gross Profit would be Rs.18,23,11,585/- (85,66,41,490 – 67,43,29,905)

Therefore, percentage of Progressive GP to total revised GP as per your calculation is (a)/(f) % = 37.50 %, whereas progressive cost booked by you till 31.03.2018 is 69.46 % of total estimated cost.

As per the PCOM calculation it would be (b)/(f) % = 55% which exactly 79.275% of 69.46% i.e. Gross profit is in line with the cost that should be recognised as per PCOM. Whereas as per your calculation it is well below the expected Gross Profit which should have been recognised as per accrual basis. Had the total revenue been revised as per the present rate at which the area has already been sold, you would have been calculating the same value.

Considering the above discussion, it is therefore necessary for you to follow the correct manner of calculation as per Percentage Completion Method which is cost to be recognised for only the percentage total area sold to the total project construction area.

The calculation of PCOM for recognising revenue is revised below:

Computation of revenue recognition as per percentage completion method as on 31/03/2018

S No	Particulars	Amount (in Rs.)
A	Total saleable area (in Sq ft)	406660
B	Land cost + Sanction cost	50307905
C	Estimated construction and development cost	624022000
D	Total estimated cost (Land + Construction)*	674329905
E	Total area sold (in sq. ft.)	322380 (including investors)
F	Total sale agreement value**	679102566

G	Amount collected	679102566
H	Cost incurred including land up to 31/03/2018	468408456
	Land cost	50307905
	Construction cost	418100551
I	Total estimated cost as per (D)	674329905
J	Total actual cost incurred as per (H)	468408456
K	Percentage of completion (J/I) %	69.46
L	Revenue to be recognized (F x K)	471723681
M	Percentages of sales %	79.275
N	Cost allocation	
	Land cost (H/AxE)	39881627
O	Construction cost (H/A x E)	331449505
P	Total cost of land & construction (E/A x J)	371331132
Q	Profit (total so far till 31.03.2018)	100392549
R	Closing WIP [H - P)	97077324
S	Total revenue upto 31.03.2018	471723681
T	Less Revenue recognized till 31.03.2017	294019418

U	Revenue for the current period (S-T)	177704263
V	Cost (to be recognized) till 31.03.2018	371331132
W	Cost Declared till 31.03.2017	244206509
X	Cost (to be recognized) for the current period (V-W)	127124623
	Gross Profit for the Current period	5,05,79,640/-

However, the Gross profit for the current period has been shown at Rs. 1,85,61,276/- whereas as per above calculation it comes at Rs. 5,05,79,640/-. Therefore, amount of **Rs. 3,20,18,364/-** is added to the total income of the assessee as per the discussion made above.

I am satisfied that the assessee has under-reported income which is in consequence of misreporting thereof. and therefore, penalty proceeding u/s- 270A of the I T Act,1961 for under-reported income which is in consequence of misreporting thereof of the income is being initiated separately .

[addition-

Rs.3,20,18,364/-]

Considering the above facts and circumstances, total income of the assessee is determined as under:

Total Income as per return	:	Rs.71,49,954/-
Add: Income from business (As discussed)	:	Rs.3,20,18,364/-
Total assessed income	:	Rs. 3,91,68,318/-

Assessed u/s 143(3) read with section 144B of the Income Tax Act1961 on a total income of **Rs. 3,91,68,318/-**. Credit has been given to pre-paid taxes. Interest has been charged as per law. Penalty notice u/s 270A is issued.

Computation of tax liability on the assessed income is made in a separate sheet enclosed as

an annexure to this order. Issued copy of order, Demand Notice and penalty notice u/s 270A to the assessee.

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 23/04/2021, 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

