

Date : 23-08-2021

From:

Nilgiri Estates,
5-4-187/3 & 4, 2nd Floor,
Soham Mansion,
M.G. Road, Ranigunj,
Secunderabad – 500 003.

ToL

Assessing Officer,
National Faceless Assessment Center,
New Delhi.

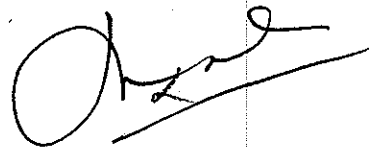
Respected Sir / Madam,

Sub: Reply to Penalty Notice u/s.270A – Asst. Year 2017-18 – PAN AAHFN0766F – Reg.

Ref: Show Cause Notice for penalty u/s.270A dated 17-08-2021
(DIN: ITBA/PNL/F/270A/2021-22/1034914883(1)).

In reply to the above referred Show Cause Notice for penalty, the following is submitted for your kind consideration:

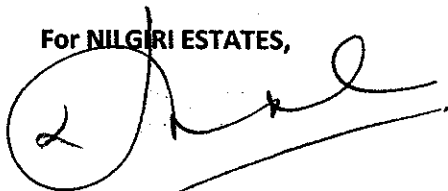
1. The assessee is a Partnership firm engaged in the business of Real Estate Developers.
2. The Firm filed its ROI for Asst. year 2017-18 on 26-10-2017 declaring total income of R.86,72,140/-.
3. The case was selected for complete scrutiny under CASS.
4. The assessment is completed vide Order u/s.143(3) dated 25-12-2019.
5. While completing the assessment an amount of Rs.1,14,235/- is disallowed u/s.40(a)(i) of Income tax Act, 1961.
6. The Assessing Officer has identified certain payments towards advertisement amounting to Rs.3,80,783/- being the payment made on a single day exceeding Rs.30,000/-. On this, the Assessing Officer has taken a view that TDS @ 2% on such payments u/s.194C is required to be done. Due to non-deduction of TDS as viewed by the Assessing Officer, disallowance of Rs.1,14,235/- is computed @ 30% of Rs.3,80,783/- and added to the income returned.
7. In the course of assessment proceedings and in responses to the Show Cause Notice issued, inter-alia, to disallow the expenditure as stated above, the genuine and bonafied reason as to why no TDS has been made has been explained.
8. However, the Assessing Officer has not appreciated the explanation submitted and has formed an opinion that the assessee has not given any valid reply for not making the disallowance.



9. The Assessing Officer have initiated penalty proceedings u/s.270(9)(a) separately as mentioned in the Assessment Order u/s.143(3).
10. It may be noted that the penalty is initiated u/s.270A(9)(a).
11. The section 270A(9) provides for the cases of misreporting of income referred to in sub section (8) section 270(A). Section 270A(9)(a) lays down one of the cases of misreporting as "misrepresentation or suppression of fact".
12. As stated above the additions of Rs.1,14,235/- is on account of disallowance of expenditure u/s.40(a)(i) on the view taken by the Assessing Officer that the TDS should have been done on certain portion of advertisement.
13. The above view of the Assessing Officer and disallowance of expenditure u/s.40(a)(i) can not be said to be either misrepresentation or suppression of facts.
14. The disallowance suffered is due to fiction of law and not on account of misrepresentation or suppression of facts. All the facts that are called for during the course of assessment proceedings have been submitted fully and correctly. The disallowance of expenditure made cannot therefore tantamount to misrepresentation or suppression of facts within the meaning of provision of section 270A9(a).
15. Keeping in view the above facts and circumstances of the case it is pleased to drop the penalty proceeding initiated u/s.270A(9)(a) of the IT Act.

Yours faithfully,

For NILGIRI ESTATES,



(SOHAM MODI).

PARTNER.