20. We have given a thoughtful consideration to the material on record in regard to this issue and as for completeness we would like to reproduce the complete content of the notice dated 11.10.2022 which forms basis for passing the impugned order:

1

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
INCOME TAX DEPARTMENT
PCIT (Central), Nagpur

| | |
|---|---|
| To:<br>SHRI SAI SHIKSHAN SANSTHA<br>2nd Floor, Midas Height, Ramdaspeth<br>Nagpur,Maharashtra<br>India | |

| PAN: | Dated: | DIN & Notice No : |
|---|---|---|
| AAGTS2650C | 11/10/2022 | ITBA/COM/F/17/2022-23/1046253610(1) |

Sir/ Madam/ M/s.

**Subject: Proceedings u/s 12AA(3) - Notice**

Kindly refer to the above.

A reference is received from the Assessing Officer, ACIT, Central Circle, 2(2), Nagpur,in the case of Shri Sai Shikshan Sanstha, Nagpur, proposing cancellation of registration u/s 12AB of the trust on account of specified violations.

2. A perusal of the said reference and records reveals that Search and seizure action u/s 132 & surveys u/s 133A of I.T. Act, 1961 were undertaken on 17.09.2021. In addition to business establishments and various residences inter-connected with the business establishments, the premises of institutions run and managed by the trust Shri Sai Shikshan Sanstha, were also searched. The trust is managed by a group of trustees which includes in particular, Mrs. Ridhee Salil Deshmukh and Shri Rishikesh Deshmukh who are particularly mentioned here for their role detailed in paragraphs that follow, to establish specified violations, for the purpose of cancellation of registration as proposed.

3.1 **In the course of the search incriminating evidences were found and seized** from the premises listed below which have a critical bearing upon the Trust under consideration as also upon the proposal of cancellation of registration as proposed by the A.O.

| S. No | Premises Searched | Warrant in the name of | Annexure No. | Page No. | Contents Summary | Implications for the Trust | REMARKS |
|---|---|---|---|---|---|---|---|
| | | | | | | | Reference can be made to paragraphs below |
| 1 | 13/2, Mahurzari, Fetri, Katol Road, Nagpur | Shri Sai Shikshan sanstha | A-1 | 23, 25 to 36, 37, 38 to 40, 42, 54, 56 to 66, 67, 68, 75 to 81 | Salary refund taken back by trust in cash | Amount not applied for the objects of the trust. Used for the personal benefits of the persons referred u/s 13 of the Act | 5 to 5.12 |
| 2 | 13/2, Mahurzari, Fetri, Katol Road, Nagpur | Shri Sai Shikshan sanstha | A-3 | 1 to 176 | Salary refund taken back by trust in cash | Amount not applied for the objects of the trust. Used for the personal benefits of the persons referred u/s 13 of the Act | 5 to 5.12 |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| 3 | 13/2, Mahurzari, Fetri, Katol Road, Nagpur | Shri Sai Shikshan sanstha | A-4 | 1 to 50, 76 | Salary refund taken back by trust in cash | Amount not applied for the objects of the trust. Used for the personal benefits of the persons referred u/s 13 of the Act | 5 to 5.12 |
| 4 | 13/2, Mahurzari, Fetri, Katol Road, Nagpur | Shri Sai Shikshan sanstha | A-5 | 1 to 63, 85, 126 | Salary refund taken back by trust in cash | Amount not applied for the objects of the trust. Used for the personal benefits of the persons referred u/s 13 of the Act | 5 to 5.12 |
| 5 | 13/2, Mahurzari, Fetri, Katol Road, Nagpur | Shri Sai Shikshan sanstha | A-3 | 177 to 185 | Brokerage paid in cash not accounted for | Amount not applied for the objects of the trust. | 7 |
| 6 | 13/2, Mahurzari, Fetri, Katol Road, Nagpur | Shri Sai Shikshan sanstha | A-5 | 115 to 125 | Brokerage paid in cash not accounted for | Amount not applied for the objects of the trust. | 7 |
| 7 | 13/2, Mahurzari, Fetri, Katol Road, Nagpur | Shri Sai Shikshan sanstha | A-4 | 51 to 74 | Prospectus fee & other fee | Amount not applied for the objects of the trust. Used for the personal benefits of the | 8 |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| | | | | | | persons referred u/s 13 of the Act | |
| 8 | 13/2, Mahurzari, Fetri, Katol Road, Nagpur | Shri Sai Shikshan sanstha | A-5 | 64-85 | Other fee | Amount not applied for the objects of the trust. Used for the personal benefits of the persons referred u/s 13 of the Act | 8 |
| 9 | 13/2, Mahurzari, Fetri, Katol Road, Nagpur | Shri Sai Shikshan sanstha | A-4 | 75 | Addl. staff | Amount not applied for the objects of the trust. Used for the personal benefits of the persons referred u/s 13 of the Act | 5.10 |

3.2 In the course of the search the statements of the following persons were recorded u/s 132(4)/131 of Income Tax Act which has direct bearing upon the Trust

| S.No | Premises Searched | Warrant in the name of | Section of the Act | Name of Deponent | Page Number and Question Nos | Brief Content | Implication for the Trust (Reference can be made to |
|---|---|---|---|---|---|---|---|

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| | | | | | | | paragraphs below |
| 1 | 13/2, Mahurzari, Fetri, Katol Road, Nagpur | Shri Sai Shikshan sanstha | 132(4) | Avinash Thakre | Page 6 Q10, Page 7Q11 | Salary refund taken back by trust in cash | 5.2 |
| 2 | 13/2, Mahurzari, Fetri, Katol Road, Nagpur | Shri Sai Shikshan sanstha | 132(4) | Mangesh Dharme | Page 4 Q 7&8 | Salary refund taken back by trust in cash | 5.3 |
| 3 | 13/2, Mahurzari, Fetri, Katol Road, Nagpur | Shri Sai Shikshan sanstha | 132(4) | Sachin Ladekar | Page 4 Q8 | Salary refund taken back by trust in cash | 5.3 |
| 4 | 13/2, Mahurzari, Fetri, Katol Road, Nagpur | Shri Sai Shikshan sanstha | 132(4) | Dhiraj thakur | Page 4 Q8&9 | Salary refund taken back by trust in cash | 5.2, 5.5, 5.6 |
| 5 | 13/2, Mahurzari, Fetri, Katol Road, Nagpur | Shri Sai Shikshan sanstha | 131(1A) | Ridhee S. Deshmukh | Page 3 Q11 | Salary refund taken back by trust in cash | 5.2, 5.3, 5.5 |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| 6 | 13/2, Mahurzari, Fetri, Katol Road, Nagpur | Shri Sai Shikshan sanstha | 132(4) | Jagdish Barange | Page 5Q17, P7Q18&19, P8Q20/21/22, P9Q23/24, P10Q25/27/28/29, P 11Q30/31 | Salary refund taken back by trust in cash | 5.5 |
| 7 | 13/2, Mahurzari, Fetri, Katol Road, Nagpur | Shri Sai Shikshan sanstha | 132(4) | Vinod Dafre | Page 6Q18/19/20, P7Q21 | Salary refund taken back by trust in cash | 5.8, 5.9 |
| 8 | 13/2, Mahurzari, Fetri, Katol Road, Nagpur | Shri Sai Shikshan sanstha | 132(4) | Vinod Dafre | Page 4 Q12/13/14 | Brokerage paid in cash not accounted for | 7 |
| 9 | 13/2, Mahurzari, Fetri, Katol Road, Nagpur | Shri Sai Shikshan sanstha | 132(4) | Vinod Dafre | Page 5Q15/16 | Prospectus fee & other fee | 8 |

3.3 Copies of the documents referred to and the statement recorded and proposed to be used against the trust can be obtained from the assessing officer who has been directed accordingly.

4.1 It is also noticed that the assessment proceedings u/s 143(3) are in progress for A.Y.2012-13, 2015-16, 2019-20 and 2021-22 in the case of the Trust Shri Sai Shikshan Sanstha. These have been **selected for scrutiny under the risk management strategy** formulated by the Board and in force for the relevant assessment years. The provisions of Section 12AB(4) clause (c) are therefore attracted to the case.

4.2 The AO has made a reference and has reported that during the course of the assessment proceedings, it is noticed that the Assessee Trust has committed specified violations as defined in the Explanation to sub-section 4 of section 12AB of the Act. These are discussed in subsequent paragraphs. Accordingly provisions of Section 12AB(4) clause (b) are attracted.

4.3 On the perusal of the records including seized material referred to herein above and the statements on oath recorded as referred to in the preceding paragraph, I have noticed that there is a prima facie case of occurrence of one or more specified violations as specified in Explanation to Section 12AB(4) of the Act. These are discussed in subsequent paragraphs. Accordingly provisions of Section 12AB(4) clause (a) are attracted.

4.4 For the reasons as above there is a prima facie case for cancellation of registration of the trust warranting the present show cause. A detailed narration of specified violations observed follows.

4.5 Furthermore, on the perusal of above seized documents and statement recorded as detailed above and as per the proposal of the assessing officer, it is prima facie evident as discussed in the paragraphs here in below that the trust has committed specified violations detailed in "Explanation to Section 12AA(4)" of the Act. The specific violations are detailed as under :-

**5.1 A Portion of Salary paid to employees of the Trust is Collected Back and Siphoned Off** : The AO has noticed, that the trust Shri Sai Shikshan Sanstha pays salaries to the staff of the trust through banking channels and then collects back from employees, significant part of their salary in cash mode, and thus the fund of the trust are siphoned off by the trust. This is prima facie evidenced by the seized documents relied upon. As a consequence the income of the trust claimed to have been utilized on meeting objects of the trust is not actually being utilized for the purpose to the extent of amount siphoned off. It is noticed that the trust is conducting its educational activities through the following entities:

1. NIT Polytechnic, Nagpur
2. Nagpur Institute of Technology (NIT) Engineering College
3. NIT Graduate School of Management (NIT-GSM).

The position of siphoning off of funds in the manner detailed above in each of the three institutions is detailed in the following paragraphs:

5.2 NIT Polytechnic, Nagpur: As submitted by the AO, the Search action was

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conducted at the NIT Polytechnic premises of the trust at Survey no. 13/2, Mahurzari (Fetri), Katol Road, Nagpur on 17.09.2021. Shri Avinash Thakre is accountant of the NIT Polytechnic. Printouts of the excel sheets from the pen drive and desktop used by Shri Avinash Thakre were taken. The printouts and loose papers were seized and inventoried as 'Annexure- A *(Image of some of the pages as representative example annexed as 'A')*. Statement of Shri Avinash Thakre was recorded wherein he was asked to explain the contents of the loose papers and printouts which shows the details of salaries paid to the employees of the trust. He stated that it is the practice in NIT Polytechnic that after payment of salaries to employees, certain portion of salaries is returned by the employees to the college. The column 'Amount to be Refunded' is mentioned in Annexure-A, which gives the details of cash withdrawn from the employees bank account. Shri Avinash Thakre, further stated that the total cash withdrawn from the employees account is handed over by Shri Avinash Thakre to Shri Dhiraj Thakur who is also an accountant of Shri Sai Shikshan Sanstha. This according to him is as per the direction of the management and mainly on direction of one of the trustees, Mrs. Ridhee Salil Deshmukh.

5.3 Above said modus operandi of employees returning back significant amount of their salary received, was also confirmed by two employees viz. Shri Mangesh Dharme& Shri Sachin Ladekar in their statements. This was confronted with the accountant of the trust Shri Dhiraj Thakur who accepted the same and also stated on oath u/s 132(4) that he gets cash from Shri Avinash Thakre between Rs.8 to 10 lakhs per month and handed over the entire cash to Smt. Ridhee Salil Deshmukh. Shri Dhiraj Thakur also stated that he also gives cash to Shri Rishikesh Deshmukh on direction from Smt. Ridhee Salil Deshmukh

5.4 The transactions of the aforesaid 'salary amount refund back' of the NIT Polytechnic Nagpur, for F.Y. 2014-15 to July 2021 are as under:

| Sr. No. | FY | AY | Amount paid as per Profit & Loss Account(Rs.) | Amount refunded back by employees (Rs.) |
|---|---|---|---|---|
| 1 | 2014-15 | 2015-16 | 3,47,77,790 | 1,65,34,870 |
| 2 | 2015-16 | 2016-17 | 4,12,28,052 | 1,98,47,027 |
| 3 | 2016-17 | 2017-18 | 4,47,19,376 | 2,07,63,947 |

| | | | | |
|---|---|---|---|---|
| 4 | 2017-18 | 2018-19 | 5,08,72,968 | 2,57,46,695 |
| 5 | 2018-19 | 2019-20 | 4,42,69,647 | 1,91,31,519 |
| 6 | 2019-20 | 2020-21 | 3,85,02,169 | 1,46,10,554 |
| 7 | 2020-21 | 2021-22 | 3,91,33,246 | 1,53,04,559 |
| 8 | 2021-22 (till July 2021) | 2022-23 | 4,09,74,998 | 54,11,008 (from 01.04.2021 till July 2021) |
| | TOTAL | | 33,44,78,246 | 13,24,80,279 |

5.5 As submitted by the AO, similar system was also employed at Nagpur Institute of Technology (NIT) Engineering College. As discussed above, Shri Dhiraj Thakur who is entrusted with the task of collection of the cash from the accountants of the three institutes and handing over the collected cash to Mrs. Ridhee Salil Deshmukh, has categorically admitted in his statement recorded on oath that an accountant of NIT Engineering College, Shri Jagdish Barange hands over the cash of around Rs. 10 to 12 lakhs per month. Statement of Shri Jagdish Ramkrishna Barange was recorded on oath u/s 132(4) of the Income Tax Act, 1961 on 17.09.2021. He admitted that all the employees have to pay a certain part of their salaries back to the institute in cash and that cash is collected informally and is not accounted for in the books of accounts. He categorically admitted that generally every month approximately Rs. 10 to 12 lakhs is collected back from the employees out of their salary and that he hands over the entire cash to Shri Dhiraj Thakur. Later, statements of Shri Jagdish Barange and Shri Dhiraj Thakur conclusively established the collection of cash, from the salary paid to employees. Shri Jagdish Barange and Shri Dhiraj Thakur, in their statement on oath have also confirmed that the practice is continuing at least since 2008.

5.6 Further, bearer cheques signed by employees were found, for which Shri Jagdish Barange admitted that undated bearer cheques are submitted by employees for the purpose of refunding the part of their salary to the institute. The cash is withdrawn by Shri Jagdish Barange by presenting the bearer cheques in bank and then the cash is handed over to Shri Dhiraj Thakur who in turn hands it over to Smt.Ridhee Deshmukh *(Copy of some bearer cheques is annexed as 'B').*

5.7 The details of the amount paid as per P&L account, are as under:

| Sr. No. | FY | AY | Amount paid as per Profit & Loss Account(Rs.) | Amount refunded back by employees (Rs.) |
|---|---|---|---|---|
| 1 | 2014-15 | 2015-16 | 5,68,73,420 | 1,44,00,000 |
| 2 | 2015-16 | 2016-17 | 6,12,31,521 | 1,44,00,000 |
| 3 | 2016-17 | 2017-18 | 7,11,40,774 | 1,44,00,000 |
| 4 | 2017-18 | 2018-19 | 7,27,40,864 | 1,44,00,000 |
| 5 | 2018-19 | 2019-20 | 6,97,34,454 | 1,44,00,000 |
| 6 | 2019-20 | 2020-21 | 6,59,76,580 | 1,44,00,000 |
| 7 | 2020-21 | 2021-22 | 5,64,26,164 | 1,44,00,000 |
| 8 | 2021-22 (till September 2021) | 2022-23 | 5,95,47,766 | 72,00,000 (from 1.04.2021 to September 2021) |
| | **TOTAL** | | **51,36,71,543** | **10,80,00,000** |

5.8 NIT Graduate School of Management(NIT-GSM) :Similar way of working with regard to returned back cash from employee's salary, was found at NIT Graduate School of Management (NIT-GSM). At the time of search action, the printouts were taken from the computer and pendrive of Shri Vinod Dafare who is an accountant at

NIT-GSM. The seized papers and documents have the evidences pertaining to the practice of collecting back in cash form, the significant part of salary paid to employees*(copy is annexed as 'C')*.

5.9 Shri Vinod Dafare was confronted with the loose papers found at the premises of NIT-GSM and the printouts of contents of his pen drive. His statement on oath was recorded u/s 132(4) of the Income Tax Act 1961 on 18/09/2021. He was asked to explain the contents on the pages. He described in details the modus operandi of the disbursement of salary to the employees. He stated that the College pays extra amount other than fixed salary to employees through banking channel and the employee returns the extra amount to college in cash.

5.10 Seized documents also shows that the salaries were paid to employees termed as 'additional staff' by NIT-GSM of the trust. It was also mentioned that the entire salary is shown in column 'amount to be refund'. One such person Sukeshani Patil named as additional staff has stated on oath that she does not work for NIT-GSM and is unaware of any salary paid to her. Hence, it is apparently clear that the trust is inflating its expenses in the name of additional staff. CEO of Shri Sai Shikshan Sanstha, Shri Rajesh Waigoankar also stated on oath u/s 132(4) that the salary payment to various persons is bogus.

5.11 The transactions of the aforesaid issue of 'salary amount refund back' for F.Y. 2014-15 to July 2021 is as under:

| Sr. No. | FY | AY | Amount paid as per Profit & Loss Account(Rs.) | Amount refunded back by employees (Rs.) |
|---|---|---|---|---|
| 1 | 2014-15 | 2015-16 | 1,00,78,482 | 31,04,114 |
| 2 | 2015-16 | 2016-17 | 1,35,94,447 | 49,30,529 |
| 3 | 2016-17 | 2017-18 | 1,69,44,822 | 93,41,223 |
| 4 | 2017-18 | 2018-19 | 1,68,32,498 | 99,60,064 |
| 5 | 2018-19 | 2019-20 | 1,48,97,935 | 82,02,317 |

| | | | | |
|---|---|---|---|---|
| 6 | 2019-20 | 2020-21 | 1,17,38,535 | 61,00,223 |
| 7 | 2020-21 | 2021-22 | 1,12,50,823 | 68,97,772 |
| 8 | 2021-22 (till July 2021) | 2022-23 | 1,28,81,043 | 28,60,525 |
| | **TOTAL** | | **9,69,67,762** | **5,13,96,767** |

5.12 In view of the above discussion it is clear that the assessee trust has siphoned off an amount of Rs. 29,67,46,946/- by taking it back, in cash by inflating salary expenditure, without entering these salary refunds in regular books of accounts. The same is not applied for the objects of the trust.

6.1 It also prima facie follows from above discussion and arguments that the **amounts received back as cash by the trust are handed over to the management** and in particular to Smt Ridhi Deshmukh thereby establishing personal benefit of persons specified in Section 13(3) of the Act warranting cancellation of the registration.

7.1 **Issue of payment of brokerage in cash**:As stated by the AO as per the statement of Shri Vinod Dafare, who is the accountant of NIT-GSM, the brokerage was paid by trust to different persons/brokers for procuring student's admissions to the colleges run by Shri Sai Shikshan Sanstha.

7.2 As per the pages 63 to 74 of seized documents Annexure A-4 (Copy enclosed as annexure D), these pages contain details of brokerage paid for F.Y. 2017-18, 2018-19, 2019-20 and 2020-21. And as per the pages 115 to 125 of seized documents Annexure A-5 (Copy enclosed as annexure E) These pages contain details of brokerage paid for F.Y. 2014-15, 2015-16 and 2016-17. These pages are the evidence, which contain details such as name of the students, amount of brokerage paid, category of the student, broker name.

7.3 These seized documents (Annexure D and E) containing the details of brokers and brokerage were confronted with Shri Vinod Dafare. In his statement recorded u/s 132(4) of the Income Tax Act 1961 on 18/09/2021, he has stated that college has hired brokers to seek student's admission to the college. He further stated that the commission is given to the brokers as per the number of student's admissions influenced by the brokers and that the general rate of a student admission is Rs 9,000/- to Rs 10,000/- per admission. He further stated that the amount of the brokerage is paid in cash form and that the funds are provided by Shri Dhiraj Thakur who is the accountant of Shri Sai Shikshan Sanstha.

7.4 The issue of brokerage amount paid in cash form, by Shri Sai Shikshan Sanstha to brokers who procure admissions of students was confronted with Mrs. Ridhee Salil Deshmukh also, who is one of the trustees of Shri Sai Shikshan Sanstha. Her statement was recorded on oath u/s 131(1A) of the Income Tax act 1961 on 08/12/2021. She stated that she is aware of the fact that brokerage is indeed provided to brokers who secure students admissions for courses run by the three colleges of trust Shri Sai Shikshan Sanstha

7.5 Total brokerage paid in cash during the F.Y. 2014-15 to 2020-21 is Rs. 1,60,37,500/-. Financial year-wise breakup of brokerage amount paid is as follows-

| Sr No | FY | Amount |
|---|---|---|
| 1 | 2014-15 | 16,90,000 |
| 2 | 2015-16 | 23,32,500 |
| 3 | 2016-17 | 32,65,000 |
| 4 | 2017-18 | 23,40,000 |
| 5 | 2018-19 | 23,80,000 |
| 6 | 2019-20 | 21,45,000 |
| 7 | 2020-21 | 18,85,000 |

This expenditure is against the stated objects of the trust and is therefore a specified violation in terms of Section 12AB(4)Explanation.

8.1 **Issue of other fees collected but not recorded in the books of accounts:** As reported by the AO, during the course of the Search action, documents seized have evidence that prospectus fees and other fees were collected but were not recorded in the books of accounts of Shri Sai Shikshan Sanstha. The evidences found were in the form of excel sheets containing details of prospectus fees and other fees collected. *(Copy is annexed as 'F').*

8.2 This was confronted with Shri Vinod Dafare who is the accountant of NIT-GSM. In his statement recorded u/s 132(4) of the Income Tax Act 1961 on 18/09/2021, he has stated that prospectus fee and other fees were collected by the college during FY 2018 -19 to FY 2020-21, but were not recorded in the books of accounts of the college/Shri Sai Shikshan Sanstha. Total fee collected but not recorded for NIT-GSM is Rs.37,41,600/-.

8.3 FY wise details of prospectus fees collected and other fees collected by NIT-GSM are as follows:

| Sr No | FY | Prospectus fees collected (in Rs) | Other fees collected (in Rs) |
|---|---|---|---|
| 1 | 2014-15 | 87,000 | 8,56,500 |
| 2 | 2015-16 | 87,000 | 8,54,500 |
| 3 | 2016-17 | 87,500 | 5,82000 |
| 4 | 2017-18 | - | 3,56,600 |
| 5 | 2018-19 | 59,500 | 3,57,000 |
| 6 | 2019-20 | 60,500 | 3,63,000 |
| 7 | 2020-21 | 62,000 | 3,72,000 |
| | Total | 443500 | 3741600 |

8.4 It follows that this portion of fee collected is income of the trust not accounted for and therefore not spent on objects of the trust and consequently there is prima facie attraction of specified violations provided in Explaantion to Section 12AB(4) of the Act. This again calls for cancellation of registration of the trust.

9.1 **Transfer of unaccounted money from companies to Shri Sai Shikshan Sanstha:** Further, as submitted by the AO, substantial amounts of money have been transferred from companies namely Reliable Finance Corporation Pvt Ltd, VA Realcon Pvt Ltd, Utsav Securities Pvt Ltd, Sital Leasing and Finance Ltd, Avail Financial Services Ltd and Destination Texofab Pvt Ltd to Shri Sai Shikshan Sanstha. Surveys u/s 133A of the Act were also conducted in the business premises of above mentioned companies and statements on oath were recorded of concerned persons of the companies. The details of the funds transferred from the aforesaid 6 companies to Shri Sai Shikshan Sanstha are as follows: (Amount in Rs)

Funds received by Shri Sai Shikshan Sanstha from VA Realcon Pvt Ltd

| Sr.No. | Date | Amount (in Rs) | Financial Year |
|---|---|---|---|
| 1 | 24/04/2019 | 25,00,000 | 2019-20 |
| 2 | 09/03/2021 | 15,00,000 | 2020-21 |

Funds received by Shri Sai Shikshan Sanstha from Reliable Finance Corporation Pvt Ltd

| | | | |
|---|---|---|---|
| 1 | 13/05/2019 | 30,00,000 | 2019-20 |
| 2 | 13/11/2020 | 43,00,000 | 2020-21 |
| 3 | 17/11/2020 | 20,00,000 | 2020-21 |
| 4 | 19/11/2020 | 17,00,000 | 2020-21 |

| | | | |
|---|---|---|---|
| 5 | 20/11/2020 | 20,00,000 | 2020-21 |
| 6 | 15/02/2021 | 34,90,856 | 2020-21 |
| 7 | 17/02/2021 | 50,00,000 | 2020-21 |
| 8 | 10/03/2021 | 35,00,000 | 2020-21 |
| 9 | 11/03/2021 | 25,00,000 | 2020-21 |

Funds received by Shri Sai Shikshan Sanstha from Utsav Securities Pvt Ltd

| | | | |
|---|---|---|---|
| 1 | 09/03/2018 | 50,00,000 | 2017-18 |
| 2 | 16/03/2018 | 20,00,000 | 2017-18 |
| 3 | 12/02/2021 | 6,54,252 | 2020-21 |
| 4 | 12/02/2021 | 2,27,960 | 2020-21 |

Funds received by Shri Sai Shikshan Sanstha from Sital Leasing and Finance Ltd

| | | | |
|---|---|---|---|
| 1 | 19/09/2020 | 9,20,466 | 2020-21 |
| 2 | 22/09/2020 | 3,22,973 | 2020-21 |
| 3 | 15/02/2021 | 2,51,275 | 2020-21 |

Funds received by Shri Sai Shikshan Sanstha from Avail Financial Services Ltd

| | | | |
|---|---|---|---|
| 1 | 12/02/2021 | 3,75,191 | 2020-21 |

Funds received by Shri Sai Shikshan Sanstha from Destination Texofab Pvt Ltd

| | | | |
|---|---|---|---|
| 1 | 27/08/2018 | 25,00,000 | 2018-19 |
| 2 | 27/08/2018 | 25,00,000 | 2018-19 |

9.2 As stated by the AO, the unaccounted money has been transferred in the Shri Sai Shikshan Sanstha through these companies.

9.3 Shri Surendra Jain alongwith his brother Shri Virendra Jain of New Delhi controls these companies and they are the owners of these companies.

9.4 As submitted by the AO, Sri Surendra Jain in his statement, stated that he came to know about Shri Sai Shikshan Sanstha, Nagpur through Sri Sudhir Baheti, CA & Auditor of the Trust, who told him that he will provide the required amount through cheque in any of the companies controlled by them and they will transfer back the said amount to bank account of Shri Sai Shikshan Sanstha. Further, Shri Surendra Jain has stated that they provided donations from CSR funds of M/s Sital Leasing and Finance Ltd & M/s Avail Financial Services Ltd, and loan & advances from VA Realcon Pvt Ltd, Reliable Finance Corporation Pvt Ltd, & Utsav Securities Pvt Ltd.

9.5 During the course of Search action in this case, statement of Shri Sudhir Baheti was also recorded u/s 131(1A) of the Income Tax Act 1961 on 17/09/2021. He was shown the statement of Shri Surendra Jain which was recorded on 17/09/2021. Shri Sudhir Baheti categorically denied having provided any cheque to any company controlled by Shri Surendra Jain. Further Shri Sudhir Baheti stated that the funds received by Shri Sai Shikshan Sanstha from Delhi based companies controlled by Shri Surendra Jain were in the form of loans and advances. He plainly denied the claim of Shri Surendra Jain that some of the funds received by Shri Sai Shikshan Sanstha from Delhi based companies controlled by Shri Surendra Jain were in the form of donations.

9.6 Further during the course of post search enquiries, statement of Shri Sachin Nimodia who looks after consolidation of books of accounts of Shri Sai Shikshan Sanstha was recorded on 11/11/2021 and on 30/11/2021 u/s 131(1A) of the Income

Tax Act 1961. He stated that the funds received from Delhi based companies controlled by Shri Surendra Jain were in the form of Development funds, CSR funds and loans.

9.7 The statement of Shri Nimodia contradicts with what Shri Surendra Jain stated in his statement. Shri Surendra Jain had stated that the funds transferred to Shri Sai Shikshan Sanstha from Avail Financial Services Ltd and Sital Leasing and Finance Ltd were in the form of donations from CSR funds and from other companies namely Reliable Finance Corporation Pvt Ltd, Utsav Securities Pvt Ltd and VA Realcon Pvt Ltd were in the form of loans and advances.

9.8 The AO had submitted that, there are the contradictions in the explanation provided by different individuals associated with the Delhi based companies and Nagpur based Shri Sai Shikshan Sanstha. Further AO pointed out that there is no rationale for funds arranged by Shri Baheti to have been transferred to Delhi and subsequently to Shri Sai Shikshan Sanstha rather than the funds being transferred by Shri Baheti himself directly to Shri Sai Shikshan Sanstha. Further the funds are layered by Delhi based companies before they are ultimately transferred to Shri Sai Shikshan Sanstha. Morever there are contradictions in the explanation provided by Shri Surendra Jain, Shri Sudhir Baheti and Shri Sachin Nimodia regarding the nature of funds transferred by Delhi based companies to Shri Sai Shikshan Sanstha.

9.9 The tabulation of quantum of all the aforesaid issues discussed, in the case of Shri Sai Shikshan Sanstha is as follows (amount in Rs) :

| | salary refund collected by trust | brokerage paid in cash | miscellaneous & prospectus fees collected in cash | funds received from Delhi based companies | Total |
|---|---|---|---|---|---|
| F.Y.2014-15 | 3,40,38,984 | 16,90,000 | 9,43,500 | | 3,66,72,484 |
| F.Y.2015-16 | 3,91,77,556 | 23,32,500 | 9,41,500 | | 4,24,51,556 |
| F.Y.2016-17 | 4,45,05,170 | 32,65,000 | 6,69,500 | | 4,84,39,670 |

| | | | | | |
|---|---|---|---|---|---|
| F.Y.2017-18 | 5,01,06,759 | 23,40,000 | 3,56,600 | 70,00,000 | 5,98,03,359 |
| F.Y.2018-19 | 4,17,33,836 | 23,80,000 | 4,16,500 | 50,00,000 | 4,95,30,336 |
| F.Y.2019-20 | 3,51,10,777 | 21,45,000 | 4,23,500 | 55,00,000 | 4,31,79,277 |
| F.Y.2020-21 | 3,66,02,331 | 18,85,000 | 4,34,000 | 2,87,42,973 | 6,76,64,304 |
| F.Y.2021-22 (partial) | 1,54,71,533 | | | | 1,54,71,533 |
| Total | 29,67,46,946 | 1,60,37,500 | 41,85,100 | 4,62,42,973 | 36,32,12,519 |

10.1 Further, it is submitted by the AO that information in the case of Shri Sai Shikshan Sanstha for the A.Y. 2012-13 was received from the Investigation Wing, Kolkata. The Kolkata wing informed that Shri Manoharlal Nangalia provides the **accommodation entries using his paper/shell companies and his dummy directors**.

10.2 It is seen that during F.Y. 2011-12(A.Y.2012-13), the assessee trust had received Rs. 5,94,00,000- form paper/shell company Kinetic Vyapar Pvt. Ltd. operated by Shri Manoharlal Nangalia (who has earlier accepted under oath the fact of providing accommodation entries in the form of share capital, Bogus Bills etc. to different beneficiary groups) through Zodiac Dealcom Pvt. Ltd. a paper/shell company of entry operator Shri Manoharlal Nangalia and this company i.e. Zodiac Dealcom Pvt. Ltd is purchased by Shri Anil Deshmukh family, the trustees of the Shri Sai Shikshan Sanstha. As reported, for the above F.Y. 2011-12, it is also seen that the assessee trust had received amount to the tune of Rs.1,45,00,000/- from Anuvijay Mercantiles Pvt. Ltd.

10.3 The case of Shri Sai Shikshan Sanstha, for A.Y. 2012-13 was reopened u/s 147 and order u/s 143(3) r.w.s. 147 was passed by the Assessing Officer on

29.11.2019 without conducting necessary enquiries to verify the genuineness of the transactions made with Zodaic Dealcom Pvt. Ltd. and Anuvijay Mercantiles Pvt. Ltd. and the creditworthiness of the creditors. Hence, considering the assessment order dated 29.11.2019 is erroneous in so far as it is prejudicial to the interest of the revenue, the Pr. CIT(C), Nagpur vide order u/s 263 dated 31.03.2022 has set aside the order of AO for framing fresh assessment giving specific directions.

10.4 In view of the above it shows that the transaction of the assessee trust is engaged with the paper/shell companies which provides the accommodation entries and whatever the income gained and expenses incurred are not applied to the object of trust.

11.1 As discussed herein above, it is seen that the assessee has prima facie made specified violations as mentioned in explanation to section 12AB(4) of the Actand has also committed violation as per Section 13 of the Act details of which are summarized as under:-

1. The assessee trust has siphoned off an amount of Rs. 29,67,46,946/- in cash, by inflating salary expenditure, without entering these salary refunds in regular books of accounts, and same is not applied for the objects of the trust. As the said amount is taken back by the trusees of the trust, therefore it shows that the saidamount has been utilized for the personal benefit of the persons mentioned in sub- section 3 of section 13 of the Act and not for the object of the trust.
2. The expenses incurred as a brokerage towards procuring the admission of the students by the assessee trust to the tune of Rs. 1,60,37,500/- in cash is out of books. It follows that the income derived by the trust is not applied on the object of trust.
3. The assessee trust has not entered in the books of accounts, the miscellaneous and prospectus fees collected to the tune of Rs. 37,41,600/- in cash, and thus not applied for the object of the trust, in specified violations as mentioned in explanation (a), of section 12AB(4) of the Act. As this amount is not recorded so it is remained with the trustees of the trust, therefore it shows that the said amount has been utilized for the personal benefit of the persons mentioned in sub- section 3 of section 13 of the Act and not for the object of the trust
4. The assessee trust has routed unaccounted money to the tune of Rs. 4,62,42,973/- through Delhi based six companies through layering which is clear cut specified violation as the transaction are with paper/shell companies

and these activity carried out by the trust is not being carried out in accordance with object of trust.

5. The assessee trust has shown Rs. 5,94,00,000/- as loan from Shell company M/s Kinetic Vyapar Pvt. Ltd. through shell company M/s. Zodiac Dealcom Pvt. ltd. layering 150 companies. This is specified violation.

11.2 In view of the facts and circumstances of the case, it is seen that the assessee trust is engaged in activities which are not in accordance with the objects of the Trust, and it is also a violations of section as per 12AB(4) and section 13 of the Act.

11.3 You are therefore requested to explain as to why the registration granted provisionally u/s 12A of the I.T.Act. dated 31.05.2021 to the Trust Shri Sai Shikshan Sanstha (AAGST2650C) And also the registration granted to the trust prior to the coming in to the statute the provisions of Sections 12AB of the Act vide Finance Act 2022 should not be cancelled. You may appear in person or through your authorized representative or file a written reply on or before 10:30 am on 21.10.2022 in the office of the undersigned. It may be noted that no-compliance to this notice will imply that you have nothing to say in this regard and decision will be taken based on the facts and material available on record.

INCOME TAX DEPARTMENT

APARNA M AGGARWAL
PCIT (Central), Nagpur

Copy to:

Copy To: Assessing Officer for information and with directions to make available to the Trust any and all seized material as well as statements on oath relied upon in this show cause if so requested

APARNA M AGGARWAL
PCIT (Central), Nagpur

22. Now, as we appreciate the aforesaid notice dated 11.10.2022 along with impugned order dated 16.06.2023 we find that it was only notice dated 11.10.2022 which forms fulcrum of allegations, discussions and