At point no. 4 of notice dated 31.10.2020, it has been show-caused that why additions of Rs. 9,41,789/- shall be made to the total income on account of variance of Gross Profit as compared to the Gross Profit declared in previous year return being assessee have manipulated direct and indirect expenses to decrease his tax liability whereas original vouchers have not been produced for verification. In this regard, it is submitted that the said proposed addition is bad in law being perverse to the facts of the case. Our detailed submission is as under:

1. Briefly stated, the facts of the case are that the assessee derives income from contracts of construction of building etc. The total sales made during the year under consideration was shown at Rs. 25,72,71,108/-, on which gross profit of Rs. 39,46,362/- was shown giving GP rate of 1.53%, as against sales of immediately preceding year of Rs. 16,95,27,866/-, GP of Rs. 33,70,166/-, GP rate of 1.99% was shown. Whereas the gross profit rate shown by the assessee i.e. 1.53% is quite low and abnormal rate of profit earned by the assessee during the relevant period as compare to the preceding two years.
2. At the outset, it is submitted that variance in amount of Gross Profit is basically due to change in quantum of sales. Following is the comparative chart of sales, Gross Profit and GP Ratio of the company for period under consideration and two preceding years:

Assessment Year	**Sales (Rs.)**	**Gross Profit (Rs.)**	**Gross Profit Ratio (%)**
2017-18	9,22,14,597/-	16,79,456/-	1.82
2018-19	16,95,27,866/-	33,70,166/-	1.99
2019-20 (Period under consideration)	25,72,71,108/-	39,46,362/-	1.53

From the above chart, it is clearly evident that the gross profit ratio for the relevant assessment year i.e. 2019-20 is not at significant variance in comparison of gross profit rate of last two assessment years. A dip of 0.40% in the gross profit rate of the assessee is due to increase in the cost of direct material and labour cost during the year whereas corresponding revenue has not been enhanced by the clients being the prices for construction material and per day cost of labour were fixed for continuing contracts. Your goodself may kindly appreciate the fact that the cost of cement had touched its all-time high during the said period and correspondingly other material prices were also increased substantially. As such, the impugned inference of your goodself that the assessee have manipulated the purchases and other direct cost to reduce its tax liability is incorrect and shall be dropped.

3. Further, in order to substantiate genuineness of the purchases, we hereby attach copy of ledger account of purchases made during the period under consideration alongwith copy of invoices thereof for your kind perusal on page no. …………. Also, relevant details of direct expenses alongwith copy of invoices and labour attendance sheet thereof are attached herewith on page no. …………… for your kind perusal.
4. In light of the aforesaid submissions, it is submitted that no addition shall be made to the total income of the assessee on account of deeming GP ratio at average of preceding two financial years i.e. 1.90% being the impugned dip in GP ratio for period in consideration was due to prevailing circumstances and not due to any manipulation being the genuineness of each and every component of direct expenses are proved beyond any doubt. As such, it is hereby requested that the impugned proposed addition may please be dropped.
5. Further, assessee has placed reliance on the judicial pronouncement in case of **Shri Prem Chand, Vs. Income Tax Officer, ITA No.4126/Del/2010, ITAI-Delhi,** wherein it was held as under:

   > *"**the Assessing Officer made the addition merely on the ground of low gross profit rate. In our opinion, the low gross profit rate can be a reason for making an enquiry but, it cannot be the sole basis for making the addition. The trading result can be rejected only if the condition prescribed under Section 145 for the rejection of books of account or the method of accounting is fulfilled. The Assessing Officer has not recorded the finding that the books of account of the assessee are required to be rejected in terms of Section 145.** However, since we are setting aside the issue relating to cash credit, we deem it proper to set aside the order of the Assessing Officer with regard to gross profit addition also. The Assessing Officer will examine the assessee's books of account and if he finds that the books are liable to be rejected as per the provisions of Section 145, then only, he will proceed to reject the trading result and estimate the gross profit at a reasonable and fair rate."*

6. It is clearly evident from the aforesaid judicial pronouncement that the lower Gross Profit ratio can be reason for an enquiry but it cannot be the sole basis for making the addition. The matter shall must be evaluated on the barometer of genuineness of the expenses claimed and it cannot be concluded merely on the presumption that

the assessee had reported lower GP Ratio in comparison to earlier year only to reduce its tax liability with appreciating the reasons behind such fall in GP Ratio. As such, we most humbly submit that the impugned proposed addition may please be dropped being the same is perverse to the facts of the matter.