

आयकर विभाग

INCOME-TAX DEPARTMENT

Date: 19.3.85

8.749

जिला/District

1. कर निर्धारण वर्ष
Year of Assessment 1982.83

2. निर्धारित का नाम (पूरा पता सहित)
Name of Assessee (with complete address) Sri Mohankumar Modi
P/g Satish Chandra Modi, Secunderabad.

3. स्थिति
Status Individual

4. क्या निवासी परन्तु साधारणतः निवासी नहीं
कनिवासी
Resident
Whether Resident but not ordinarily resident
Non-resident

A.S.M.

5. लेखा-विधि
Method of accounting

6. लेखा अवधि (जब स्रोत के लिए इसे अलग दिखाएं)
Accounting period (to be shown separately
for source of income) 31.3.82

7. किस भाग और उप-भाग के तहत कर निर्धारण किया गया
Section and Sub-section under which the
assessment is made. 143(3)

कर निर्धारण आदेश ASSESSMENT ORDER

The assessee filed a return admitting an income of Rs. 52,294. In response to notice u/s 143(2) assessee's A.M. appeared and heard. Income is computed as under.

P.T.O

*क्या व्यक्ति, व्यक्तिगत हिन्दू परिवार, कंपनी, स्थानीय प्राधिकार, पंचायत समिति या कर्मचारी संघ, व्यक्तियों की संघ संस्थाओं का विकास।

*Whether individual Hindu undivided family, company, local authority, registered or unregistered firm, association of persons body of individuals.

Income from other sources:

Amount from 1/3 Usha Kiran complex: As determined in the case of Smt. Kumar Modi the share of income from Usha Kiran complex has taken at Rs. 5392

50% share in Satishchandra Manilal Modi Family Trust's income is taken provisionally
Interest

Less: 800

Total income

Rs. 5392
Rs. 2600
Rs. 500
Rs. 500
Rs. 5392

Tax there on:

	IT	sc	Total
	14375	1438	15813
Less: TDS	-	598	598
	14375	840	15215
Less: Adv.	9030	840	9870
Tax Paid	5345	-	5345
Less: 140(A)	4672	-	4672
Tax Paid	673	-	673
Add: Int. u/s 139(F)			106
			779
Add: Int. u/s 215			539
Net Payable			<u>0.1318</u>

(S. M. Anjapayulu)
Income Tax Officer, Central
Hyderabad.

Penalty notices u/s 271(1)(a) & 273(2)(a) ~~intimated~~ issued separately.

For

IN THE OFFICE OF THE **APPELLATE**
DEPUTY ASSISTANT COMMISSIONER
OF INCOME TAX. Range **G-RANGE**

C.L. VARDHAN,
Dy. Commissioner (Appeals)
C-Range, Hyderabad.

Date of Order : **28-2-1989**
Income-tax Appeal No. **ITA.No.Cent.III/18/85-86**
Instituted on the **26-4-1985**

From the order of the Income-tax Office of **Income-tax Officer, Central Circle-III, Hyderabad.**

1. Year of assessment **1982-83**
2. Name of the Appellant **Master Soham Modi,**
Pr. in M/s. Satishchandra Modi,
R.P. Road, Secunderabad.
3. Income assessed
4. Tax demanded

Income-tax	Rs. 53,350/-
Super-tax	Rs. 15,813/-

5. Section under which assessment was made **143(3)**

Date of hearing **27-2-1979**
Present for Appellant **Anil Kumar Vithiani, C.A.**

APPELLATE ORDER AND GROUND OF DECISION

In this appeal by the appellant the only issue raised is that the Income-tax Officer erred in not allowing deduction of 1/6th for repairs from rental income of Usha Kiran Complex in which he is having 11% share as co-owner whereas in the case of other co-owners the income as declared by the appellant at Rs. 3,293/- has been accepted for this year and subsequent assessment years. In this way his 11% share at Rs. 5,392/- is unlawfully determined.

Against the reason given by the Income-tax Officer who has assessed his 11% share in the property under the head Other sources. The appellant pleads that as person who builds a super structure upon the land taken on lease remains, the owner of the structure, and such owner of the super structure is to be taxed in respect of the Annual value of such building as the owner thereof under sec.22 of the Act.

ITA.No.Cent.III/18/85-86 dt. 28-2-1983.

Smt. Tarulata Modi who got the building on lease from Shri. P.M.Modi (Individual) and latter on by an agreement dated 1-12-1980 admitted 8 other persons besides herself for putting up structure in the said land and wherein her share is 1/6 in her case also her share from this property is assessed at Rs. 3,293/- in 1982-83 and 1983-84 assessment which was declared after considering 1/6th for repairs.

It is also claimed that under similar facts and circumstances in the case of CIT Vs. Kannayalal Nawani 120 ITR 892 and CIT Vs. Smt. T.P.Sidawa 133 ITR 843, it has been held that rental income was assessable as "Income from house property" under sec.22 to 27 and not as "Income from Other sources" U/s. 56 of the Act.

Having considered the above facts and circumstances of the case and the fact that in the hands of other co-owners income stands assessed under the head property and income tax from other sources, I am to hold that in the appellant's case also rental income from Usha Kiran Complex is to be assessed under the head income from property allowing the deduction of 1/6th for repairs U/s.24(1)(b) as against the Income assessed under the head 'Other sources'. In subsequent assessment year, the assessee's contention seems to have been accepted even after assessment is made U/s. 143(3) of the Act.

In the result the appeal is allowed.

-/Certified true copy/-

Copy of the order forwarded to the

1. Appellant with D.N.
2. I.T.O. with records.
3. C.I.T. A.P. Hyderabad.
4. Deputy Commissioner of Income-tax.

Sd/-
Deputy Commissioner of Income-tax,
(Appeals) C-Range, Hyderabad.

Sd/-
(C.L.VAIDHAN)
Dy. Commissioner (Appeals)
C-Range, Hyderabad.

-/True copy/-



Proceedings of the Asst. Commissioner of Incometax: Central Circle-I, Hyderabad

SHRI Y.R.RAO, I.R.S.
Asst. Commissioner of Incometax,
Central Circle-I: Hyderabad.

7

S-705/82.83

Dt. 20.4.1989

Sub: I.T. Assessment - Assessment year 1982.83 -
Mr. Shankumar Modi, P/G Sri Satishchan-
dra Modi, 5-4-187/3&4, Karbala Maidan,
Secunderabad - Modification order -
passing of -reg.

As per the decision given by the Deputy
Commissioner of Incometax (Appeals), C-Range, Hyderabad in
his order I.T.A.No.Cent.III/18/85.86 dt.28.2.1989, the
assessment order passed on 19.3.1985 for the assessment
year 1982.83 is modified as under:

Total income as per the Asst.order dt.19.3.85	Rs. 53,350
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Less: relief given by the Dy. Commi- ssioner(A), Hyderabad	Rs. 2100
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Revised total income	Rs. 51,250
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Tax as under

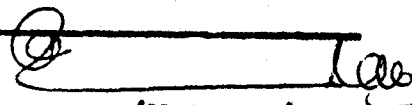
I.T.	Rs. 13325
S.C.	Rs. 1333
Tax payable	Rs. 14658
Less: T.D.S. and A.T. paid	Rs. 10468
Balance	Rs. 4190
Less: 140-A tax paid	Rs. 4672

Refundable	Rs. 482
Add. 139(8) Int.	Rs. 82
Add: 215 Int.	Rs. 287

Refundable	Rs. 113
Regular tax collected already by way of adjustment	Rs. 1318

Total refund	Rs. 1431
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Note: There is an outstanding demand of Rs. 5242 due for the asst. year 85.86. It is therefore proposed to adjust the above refund against the above demand. *See para 10 of the order.*


(Y.R. RAO)

Assistant Commissioner of Incometax
Central Circle-I, Hyderabad.

PROCEEDINGS OF THE INCOME TAX OFFICER, CENTRAL CIRCLE-I, HYDERABAD.

SHRI Y.R. NAO, IAS
Income Tax Officer.

GIR No. S-705/CC-1.

Dt. 25-4-1987.

Sub: Penalty proceedings u/s. 273(2) (A) for 1982-83 and 273(1) (b) for 1983-84 in the case of Sri Shankumar Modi, S-4-187, Kothala Malim, Secunderabad - Passing of N.O. - Reg.

Ref: CIT's (Appeals)-III, Hyderabad order I.T.N.No. 4 & 9/CC-1/CIT-III/86-87 dt. 10-2-1987.

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CONSEQUENTIAL ORDER:

Consequent to the relief allowed by the C.I.T. (Appeals) - III, Hyderabad - vide appeal Nos. cited above, the proceedings for the A.Y. 1982-83 and 1983-84 are modified as under:

1982-83:

Penalty levied u/s. 273(2) (a) as per order dt. 20-2-1987.	2,873
<u>Less:</u> Relief allowed by CIT (A) - III	<u>2,873</u>
BALANCE:	NIL

1983-84:

Penalty levied u/s. 273(1)(b) as per order dt. 20-2-1987.	967
<u>Less:</u> Relief allowed by CIT (A) - III	<u>967</u>
BALANCE:	NIL

50/-
(Y.R. NAO),
Central Circle-I,
Hyderabad.

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