

FORM E

[See Rule 5 of the Wealth-tax Rules, 1957]

Filed on 30/10/92

FORM OF APPEAL TO THE DEPUTY COMMISSIONER (APPEALS) AND COMMISSIONER OF WEALTH-TAX (APPEALS) UNDER SECTION 23 OF THE WEALTH-TAX ACT, 1957.

Wealth-tax Range **U.S. (1957-58)**

*No of 19..... Range

Name and address of the Appellant.

**Master Shri S. Mohi
1-10-73/2/3, Begumpet,
Hyderabad**

Permanent Account Number.

5-739

Assessment year in connection with which the appeal is preferred.

1958-59

Assessing Officer/Valuation Officer passing the order appealed against.

A.C.1 (2)/790

Where valuation of any asset has been referred to the Valuation Officer, designation and address of such Valuation Officer.

N.A.

*Section and sub-section of the Wealth-tax Act, 1957, under which the Assessing Officer/Valuation Officer passed the order appealed against and the date of such order.

23(1) (b)

Where the appeal relates to any assessment, penalty/ fine, the date of service of the relevant notice of demand.

31-09-1958

In any other case, the date of service of the intimation of the order appealed against.

N.A.

Where return has been filed by the appellant for the assessment year in connection with which the appeal is preferred, whether tax due on the net wealth returned has been paid in full. (If the answer is in the affirmative, give details of the date of payment and amount paid.)

YES, Rs. 700/- 02/02/85

Section of the Wealth-tax Act, 1957, under which the appeal is preferred.

23

†Relief claimed in appeal.

Deletion of Penalty of Rs. 361/-

**Where an appeal in relation to any other assessment year is pending in the case of the appellant with any Deputy Commissioner (Appeals)/Commissioner (Appeals), give the details as to the,—

- (a) Deputy Commissioner (Appeals)/Commissioner (Appeals) with whom the appeal is pending;
- (b) assessment year in connection with which the appeal has been preferred;
- (c) Assessing Officer/Valuation Officer passing the order appealed against;
- (d) section and sub-section of the Act, under which the Assessing Officer/Valuation Officer passed the order appealed against and the date of such order.

Address to which notice may be sent to the appellant.

**M/s C. A. Jay and Company
Chartered Accountants
C/o Mehta Automobiles,
58/3, N. C. Road,
Secunderabad-500 002**

Sahel mal.
Signed
(Appellant)

STATEMENT OF FACTS : (ATTACHED)

GROUNDS OF APPEAL :

ATTACHED

Satish Modi
Signed
(Appellant)

FORM OF VERIFICATION

I, SATISH MODI, OPA Holder of Satish Modi the appellant, do hereby declare that what is stated above is true to the best of my information and belief.

Place Hyderabad --
Date 29-10-1998 --

Signature -- *Satish Modi*
Status of Appellant... Individual OPA holder of Satish Modi --

- NOTES :—**(1) The form of appeal, grounds of appeal and the form of verification appended thereto shall be signed by a person in accordance with the provisions of section 15A of the Wealth-tax Act, 1957.
- (2) The memorandum of appeal, statement of facts and the grounds of appeal must be in duplicate and should be accompanied by a copy of the order appealed against and the notice of demand in original, if any.
- (3) Delete the inappropriate words.
- (4) *The particulars will be filled in, in the office of the Deputy Commissioner (Appeals)/ Commissioner (Appeals).
- (5) †If the space provided herein is insufficient, separate enclosures may be used for the purpose.
- (6) **If appeals are pending in relation to more than one assessment year, separate particulars in respect of each assessment year may be given.

STATEMENT OF FACTS

The assessee is a minor and is one of the beneficiary in a private determined trust M/s M & M Associates. Notice u/s 17(1) dated 27-03-1989 was served on 15-06-1989 for A.Y.1980-81 to 1989-90. The assessee had already filed Return of Wealth and the notice u/s 17(1) was issued with a view to assess the beneficial interest of the assessee in M/s M & M Associates .

No Return of Wealth was filed in response to nitice u/s 17(1). However, a letter dated 26-03-1992 explaining the reasons for non-inclusion of assesee's interest in M/s M & M Associates in the total wealth as returned earlier was submitted to A.C.1(2)Hyd. A copy of the letter is enclosed herewith.

Non filing of return in response to notice u/s 17(1) was due to mis-understanding with the old auditor and was beyond assessee's control and was not intentional.

The wealth assessed on ex-parte assessment is the same wealth as assessed earlier in response to Return of Wealth filed voluntarily. There is no additional demand of tax.

GROUND OF APPEAL

1. The Assistant Commissioner has failed to appreciate that there was a reasonable cause for non-filing of return in response to notice u/s 17(1)
2. The Assistant Commissioner has failed to appreciate the fact that the wealth assessed on ex-parte assessment is the same wealth as assessed earlier as per Return of Wealth filed voluntarily.
3. Any other ground or grounds, that may be submitted at the time of hearing.

Satish mal
APPELLANT

(नियम 15 देखिए)
(See Rule 15)

आई० टी० ए० 7
I.T.S.-7

1596.
आय-कर अधिनियम, 1961 की धारा 156 के अधीन मांग की सूचना
Notice of Demand under Section 156 of the Income-Tax Act, 1961

सेवा में
To

Moti Sohan S. Modi
1.10.72/1/3
Begunpur, Shimla

18 (B) of the N.T. Act, 1957.
प्रतिष्ठित
Status Individual
जी० आई० आर० न० S-739
G.I.R. No.

आपकी सूचित किया जा रहा है कि निर्धारण वर्ष 1985-86 के लिए आपके द्वारा संदेय रूप से की राशि, जिसके ब्यौरे पीछे दिए गए हैं, अवधारित की गई है।

This is to give you notice that for the assessment year 1985-86 a sum of Rs. 362/- details of which are given on the reverse has been determined to be payable by you.

2. इस रकम की संशय इस सूचना की तारीख से 35 दिनों के अन्दर स्थित नजाना अधिकारी/उप-नजाना अधिकारी/अभिकर्ता, भारतीय स्टेट बैंक/भारतीय रिजर्व बैंक को किया जाना चाहिए। उपयुक्त राशि के संदाय के लिए 35 दिन से कम की अवधि अनुज्ञात करने के लिए सहायक आय-कर आयुक्त (निरीक्षण) का पूर्वानुमोदन प्राप्त कर लिया गया है। संदाय के प्रयोजन के लिए एक बालान संलग्न है।

The amount should be paid to the Treasury Officer/Sub-Treasury Officer/Agent, State Bank of India/Reserve Bank of India at Hyderabad within 35/30 days of the service of this notice. The previous approval of the Inspecting Assistant Commissioner of Income-tax has been obtained for allowing a period of less than 35 days for the payment of the above sum. A challan is enclosed for the purpose of payment.

3. यदि आप ऊपर विनिर्दिष्ट अवधि के अन्दर रकम का संदाय नहीं करते तो आप उपर्युक्त अवधि की समाप्ति के पश्चात् प्रारम्भ होने वाली तारीख से वार्षिक प्रतिशत प्रतिकर्ष की दर से साधारण व्याज का संदाय धारा 220(2) के अनुसार करने के दायी होंगे।

If you do not pay the amount within the period specified above, you will be liable to pay simple interest at twelve per cent per-annum from the date commencing after the end of the period aforesaid in accordance with Section 220(2).

4. यदि आय-कर की रकम का संदाय ऊपर विनिर्दिष्ट अवधि के अन्दर नहीं करते तो धारा 221 के अनुसार आपको मुनताईयुक्त अवसर दिए जाने के पश्चात्, आप पर (उतनी मात्रा जो बचाया कर की रकम के बराबर हो सकेगी) अधिरोपित की जा सकेगी।

If you do not pay the amount of the tax within the period specified above, penalty (which may be as much as the amount of tax in arrear) may be imposed upon you after giving you a reasonable opportunity of being heard in accordance with Section 221.

5. यदि आप कर की रकम का संदाय ऊपर विनिर्दिष्ट अवधि के अन्दर नहीं करते तो उसकी वसूली के लिए आय-कर अधिनियम, 1961 की धारा 222 से 229, 231 और 232 के अनुसार कार्यवाहियाँ की जाएंगी।

If you do not pay the amount within the period specified above, proceedings for the recovery thereof will be taken in accordance with Sections 222 to 229, 231 and 232 of the Income-Tax Act, 1961.

6. यह निर्धारण आय-कर अधिनियम, 1961 की धारा 143(1) के अधीन पूरा हो गया है। यदि आप इस निर्धारण के बारे में आक्षेप करते हैं तो आप निर्धारण के बारे में आक्षेप करने के लिए प्रथम सत्र में इस मांग की सूचना की तारीख की तारीख से एक मास के अन्दर मुझको आवेदन कर सकते हैं।

The assessment has been completed under Section 143(1) of the Income Tax Act, 1961. In case you object to the assessment, you may apply to me in Form No. 6-A objecting to the assessment, within one month from the date of service of this notice of demand.

7. चूंकि आप धारा 139(2) के अधीन आय की विवरणी देने में असफल रहे हैं और आपने धारा 139(4) या धारा 139(5) के अधीन विवरणी या पुनरीक्षित विवरणी नहीं दी आप धारा 142(1) के अधीन जारी की गई सूचना का अनुपालन करने में असफल रहे हैं/आप धारा 143(2) के अधीन जारी की गई सूचना का अनुपालन करने में असफल रहे हैं, इसलिए या निर्धारण आय-कर अधिनियम, 1961 की धारा 144 के अधीन किया गया है। किन्तु यदि आप धारा 139(2) के अधीन विवरणी देने से पर्याप्त हेतुक के कारण से निवारित हो गए थे या आपको धारा 142(1) या धारा 143(2) के अधीन जारी की गई सूचना प्राप्त नहीं हुई थी या आपको धारा 142(1) या धारा 143(2) के अधीन जारी की गई सूचना के निबन्धनों का अनुपालन करने के लिए युक्तियुक्त अवसर प्राप्त नहीं हुआ था या आप उनका अनुपालन करने से पर्याप्त हेतुक के कारण निवारित हो गए थे तो आप धारा 146 के अधीन इस निर्धारण को रद्द करने के लिए धीरे धीरे से निर्धारण करने के लिए कार्यवाही करने के लिए इस सूचना की तारीख की एक मास से अन्दर मुझको आवेदन कर सकते हैं।

[ह०प० उ०/P.T.O.]

The assessment has been made under Section 144 of the Income Tax Act, 1961, because you failed to make a return of income under Section 139(2) and did not make a return or a revised return under Section 139(4) or Section 139(5)/comply with a notice issued under Section 142(1)/comply with a notice issued under Section 143(2). However, if you were prevented by sufficient cause from making the return under Section 139(2) or did not receive the notice issued under Section 142(1) or Section 143(2) or did not have a reasonable opportunity to comply, or were prevented by sufficient cause from complying, with the terms of notice issued under Section 142(1) or Section 143(2), you may apply to me, within one month from the date of service of this notice under Section 146, to cancel the assessment and proceed to make a fresh assessment.

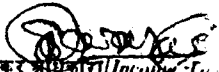
8. यदि आप इस निर्धारण/जुमनि/शास्ति धारा 216 के अधीन संदेय व्याज के विरुद्ध अपील करना चाहते हैं तो आप आय-कर अधिनियम, 1961 के अध्याय 20 के भाग-क के अधीन अपील, प्ररूप सं० 35 में, जो उस प्ररूप में यथा अधिकथित सम्यक रूप से स्टांम्पित और सत्यापित हो, आय-कर आयुक्त (अपील)/सहायक आय-कर आयुक्त (अपील) को इस सूचना की प्राप्ति से तीस दिन के अन्दर, पेश कर सकते हैं।

If you intend to appeal against the assessment/fine/penalty/interest payable under Section 216 you may present an appeal under Part A of Chapter XX of the Income Tax Act, 1961, to the Commissioner of Income-tax (Appeals)/Assistant Commissioner of Income-tax (Appeals) within thirty days of the receipt of this notice, in Form No. 35, duly stamped and verified as laid down in that form.

9. यह रकम आय-कर अधिनियम, 1961 की धारा के अधीन आय-कर आयुक्त (अपील)/सहायक आय-कर आयुक्त (अपील)/सहायक आय-कर आयुक्त (निरोक्षण)/आय-कर आयुक्त के परिणामस्वरूप देय हुई है। यदि आप पूर्वोक्त आदेश के विरुद्ध अपील करना चाहते हैं तो आप उक्त अधिनियम के अध्याय 20 के भाग-ख के अधीन, प्ररूप सं० 36 में जो उस प्ररूप में यथा अधिकथित सम्यक रूप से स्टांम्पित और सत्यापित हो, आय-कर अपील अधिकरण को इस आदेश की प्राप्ति से साठ दिन के अन्दर, पेश कर सकते हैं।

The amount has become due as a result of the order of Commissioner of Income-tax (Appeals)/Assistant Commissioner of Income-tax (Appeals), Inspecting Assistant Commissioner of Income-tax/Commissioner of Income-tax under Section of the Income Tax Act, 1961. If you intend to appeal against the aforesaid order you may present an appeal under Part B of Chapter XX of the said Act to the Income Tax Appellate Tribunal within sixty days of the receipt of that order, in Form No. 36 duly stamped and verified as laid down in that form.

तारीख/Dated 25.9.92
स्थान/Place Hyderabad


आय-कर अधिकारी/Income Tax Officer
ASSISTANT COMMISSIONER
OF INCOME TAX, CIRCLE
HYDERABAD

टिप्पणियाँ/Notes :-

- (1) अनुपयुक्त पंरे और शब्दों को काट दीजिए।
Delete inappropriate paragraphs and words.
- (2) यदि आप रकम के संदाय चेक द्वारा करना चाहते हैं तो बैंक, नजाना अधिकारी/उप-नजाना अधिकारी/अधिकारी, भारतीय बैंक/भारतीय रिजर्व बैंक के नाम लिखा जाना चाहिए।
If you wish to pay the amount by cheque, the cheque should be drawn in favour of the Treasury Officer/Sub-Treasury Officer/Agent, State Bank of India/Reserve Bank of India.
- (3) यदि आप रकम के संदाय के लिए समय का विस्तार करना चाहते हैं या किस्तों में संदाय करने की प्रस्तावना करते हैं तो, अधिनियम, 1961 के अध्याय 20 के भाग-ख के अधीन, प्ररूप सं० 36 में जो उस प्ररूप में यथा अधिकथित सम्यक रूप से स्टांम्पित और सत्यापित हो, आय-कर अधिकारी को करना चाहिए। उक्त अधि के अधिनियम के अध्याय 20 के भाग-ख के अधीन, प्ररूप सं० 36 में जो उस प्ररूप में यथा अधिकथित सम्यक रूप से स्टांम्पित और सत्यापित हो, आय-कर अधिकारी को करना चाहिए। उक्त अधि के अधिनियम के अध्याय 20 के भाग-ख के अधीन, प्ररूप सं० 36 में जो उस प्ररूप में यथा अधिकथित सम्यक रूप से स्टांम्पित और सत्यापित हो, आय-कर अधिकारी को करना चाहिए।
If you intend to seek extension of time for payment of the amount or propose to make the payment by instalments, the application for such extension or as the case may be, permission to pay by instalments, should be made to the Income Tax Officer before the expiry of the period specified in paragraph 2. Any request received after the expiry of the said period will not be entertained in view of the specific provisions of Section 220(3).

PROCEEDINGS OF THE WEALTHTAX ASSISTANT COMMISSIONER, CIRCLE-1(2) HYD.

Mrs. S. Narasamma,
Asst. Commissioner of Wealthtax
Circle-1(2), Hyderabad.

..

QIR No.S.739

Dated: 25.9.1992

Wealthtax assessment - Master Sohan S.Modi
C/o M.&M Associates, 1.10.72/2/3, Begumpet
Hyderabad - Levy of penalty u/s 18(1)(b) -
Order passed - Assessee year 85-86

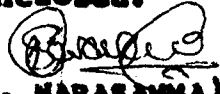
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PENALTY ORDER U/S 18(1)(b) OF THE W.T.ACT

A notice u/s 17(1) was issued on 27.3.1989 and served on the assessee on 15.6.89. But there is no response from the assessee to the above notice. No return was filed by the assessee and hence the assessment was completed ex parte basing on the information available, u/s 16(5) of the W.T.Act on 31.3.1992. While completing the assessment penalty proceedings u/s 18(1)(b) were initiated. In response to ~~which~~ the penalty notice issued, the assessee filed a reply on 29.5.92 stating that 'due to certain misunderstanding with the ~~the~~ previous auditor, a new audit was appointed. the entire back records were being maintained with the previous auditor. The new auditor was not aware of the receipt of the notice and he could not be fully appraised of pending matters since the entire back records were being with the previous auditor. Non-filing of returns in response to notice u/s 17(1) was brought to the knowledge of the new auditor only at the ~~the~~ end of March, 1992. Due to his prior commitments, return of wealth in the last moment could not be prepared and filed. The failure to file the return in response to notice u/s 17(1) was due to above reasons which were beyond assessee's control and was not intentional. Hence the assessee requested to drop the penalty proceedings initiated u/s 18(1)(b).

The explanation filed by the assessee is not satisfactory and I am not convinced with the reasons given. It is the assessee's responsibility to respond to any notice u/s under wealthtax Act but not an Auditor to file a return u/s 17(1). The misunderstanding with the previous auditor is not the real reason which is beyond the assessee's control, and not prevented by sufficient reasons.


In the circumstances, I am constrained to levy a minimum penalty of Rs. ~~378/362~~ u/s 18(1)(b) of the W.T. Act which should be paid as per challan enclosed.


(S. NARASAMMA)
Asst. Commissioner of Wealthtax
Circle-1(2), Hyderabad.

Copy to the assessee.

CERTIFIED TRUE COPY.




25/9/92

26/03/92

From
Sohan Modi
(per father & natural guardian)
Beneficiary in M/s.M&M Associates,
1-10-72/2/3, Begumpet,
Hyderabad - 500 016.

To
Assistant Commissioner of Wealth Tax,
Circle 1(2)/HYD
Hyderabad.

Sir,

Sub: Notice U/s 17(1) - filing of Wealth
Tax Returns - own - Asst.Year 1980-81
to 1988-89 - Reg.

- - -

In connection with the above matter it is submitted
as under.

1. The above notice is received as a beneficiary in
M/s.M & M Associates.
2. M/s.M&M Associates is a private family trust evidenced
by Deed of Trust dated 31.03.1981. The trust has adopted
its previous year beginning from August and ending on July
every year. The first previous year of the trust is for
a period from 31.03.81 to 31.07.1981. The first Assessment
year for the Trust is therefore 1982-83.
3. Wealth Tax Returns for Asst.Years 1980-81 to 1988-89 are
already filed and the assessments are also completed.
4. As per Balance Sheet of M/s.M & M Associates, the trust
has a negative wealth. Further the trust is an accumulative
trust wherein the share of the beneficiary is to be
accumulated till he attains majority.
5. The share of assessee is negative wealth of M/s.M & M
Associates is therefore not included in the Wealth Tax
returns.
6. The net wealth of M/s. M & M Associates for AY 1983-84
to 1989-90 is negative and the share of the assessee is
also negative.

Yours faithfully,

Satish Modi
(SATISH MODI)
(Father & Guardian)