

FORM E

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

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... **1st Range** ...

Filed on 30/10/92

*No. of 19

Name and address of the Appellant.

**Master Kishan S. Mehta
1-10-72/2/2, Begumpet,
Hyderabad.**

Permanent Account Number.

2-739

Assessment year in connection with which the appeal is preferred.

1988-89

Assessing Officer/Valuation Officer passing the order appealed against.

A.C.O. 1 (2)/1988

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.

28(1) (a)

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

20-09-1988

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.)

Tax, Rs. 2,081/- dt. 20-09-1988

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

23

Deletion of penalty of Rs. 2,081/-

†Relief claimed in appeal.

- 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 should be sent to the appellant.

**M/s C. Jay and Company
Chartered Accountants
c/o Mehta Automobiles
58/3, N.C. Road,
Secunderabad-500 003**

Satish Mehta
Signed
(Appellant)

STATEMENT OF FACTS : (ATTACHED)

GROUNDS OF APPEAL :

ATTACHED

Satish Moh
Signed
(Appellant)

FORM OF VERIFICATION

I, SATISH MOH, CPA holder of Satish Moh the appellant, do hereby declare that what is stated above is true to the best of my information and belief.

Place... Hyderabad ...Signature... *Satish Moh*Date... 29-10-1992 ...Status of Appellant... Individual CPA holder of Satish Moh ...

- 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. ~~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)

W.T. Penalty 18(1)(C) 1602
आय-कर अधिनियम, 1961 की धारा 156 के अधीन मांग की सूचना
Notice of Demand under Section 156 of the Income-Tax Act, 1961

आई० टी० ए०-7
I.T.S.-7

सेवा में
To

Master. Saham S. Mohi
1-10-72/2/3
Begunjal

प्रास्थिति
Status..... Indl
जी० आई० ए० न०
G.J.R. No..... S. 739

आपको सूचित किया जाता है कि निर्धारण वर्ष के लिए आपके द्वारा संदेय रूपये की राशि, जिसके बारे में पीछे दिए गए हैं, अधिभारित की गई है।

This is to give you notice that for the assessment year..... 88-89 a sum of Rs. 3081/..... details of which are given on the reverse has been determined to be payable by you.

2. इस रकम की संदाय इस सूचना की तारीख से 35/..... दिनों के अन्दर स्थित मजाना अधिकारी/उप-मजाना अधिकारी/अधिकारी, भारतीय स्टेट बैंक/भारतीय रिजर्व बैंक को किया जाना चाहिए। उपरोक्त राशि के संदाय के लिए 35 दिन से कम की अवधि अनुज्ञात करने के लिए मन्त्रालय आय-कर आयुक्त (निर्वाहण) 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..... within 35/..... 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 उपरोक्त अवधि की समाप्ति के पश्चात् प्रारम्भ होने वाली तारीख से बारह प्रतिशत प्रतिवर्ष की दर से साधारण व्याज का संदाय धारा 220(2) के अनुसार करने के बाध्य 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 मुनवाई युक्त अवसर दिए जाने के पश्चात्, आप पर (उतनी मात्रा जो बकाया 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 बचती के लिए आय-कर अधिनियम, 1961 की धारा 222 से 229, 231 और 232 के अनुसार कार्यवाहियां 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 मांग में इस मांग की सूचना 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 या धारा 142(1) के अधीन जारी की गई सूचना का अनुपालन करने में असफल रहे हैं/या धारा 143(2) अधीन जारी की गई सूचना का अनुपालन करने में असफल रहे हैं, इसलिए, वा 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 व्यक्तिगत 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 और नए सिरे से निर्धारण करने के लिए कार्यवाही करने के लिए इस सूचना की तारीख की एक मास से अन्दर मुझको आवेदन कर सकते हैं।

[क०प० उ०/P.T.O.]

The assessment has been made under Section 144 of the Income Tax Act, 1961, because you failed to make the 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) or 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 a 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/जुर्मान/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 स्टांप्पित 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 (निरीक्षण)/आय-कर आयुक्त के आदेश 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 अपील, प्ररूप सं० 36 में जो उस प्ररूप में यथा अधिकथित सम्यक रूप से स्टांप्पित 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

ASSISTANT COMMISSIONER

Income Tax Officer (-)

पता/Address

टिप्पणियाँ/Notes :-

- (1) अनुपयुक्त पैरे और शब्दों को काट दोड़िए।
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 स्टेट 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, यथास्थिति ऐसे विस्तारण या किस्तों में संदाय करने की अनुज्ञा प्राप्त करने के लिए आवेदन पैरा 2 में विनिर्दिष्ट अधिकारी के अवसान से पूर्व आय-कर अधिकारी को करना चाहिए। उक्त अधिकारी के अवसान के पश्चात् प्राप्त हुए किसी निवेदन की, धारा 220(3) के विनिर्दिष्ट उपबन्धों को ध्यान में रखते हुए, ग्रहण नहीं किया जाएगा।

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 Asst. Commissioner of Wealthtax, Cir.1(2), Hyderabad.
Smt. S. Narasanna,
Asst. Commissioner of W.T.
Cir.1(2), Hyderabad.

GIR. NO. S. 739

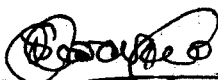
dated: 25.9.1992.

Wealthtax penalty - Asst. year 88-89
Sri Soham S. Modi, C/I M & M Associates,
1.10.72/1/2, Begumpet, Hyderabad -
Passing of penalty order u/s 18(1)(c) -

O R D E R

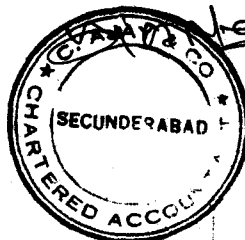
The notice u/s 17(1) was issued on 27.3.89 and was served on the assessee on 15.6.89. But there was no response from the assessee. No return was filed by him. Assessment was completed ex parte on the basis of information available on record u/s 16(5) on 31.3.92 on a total income of Rs. 9,10,300. While doing so, penalty proceedings were initiated u/s 18(1)(c). In response to the penalty notice issued, assessee asking the assessee to explain as to why penalty should not be levied for concealment of income. In response to this, the assessee filed a reply on 29.5.92 stating that - ' due to certain misunderstanding with the previous auditor, a new auditor 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 apprised of pending matters since the entire back records were being with the previous auditor, and the assessee came to know at the end of '92 that no return was filed by him. The assessee's reply was not acceptable because the assessee depend entirely on auditor and it is the responsibility of the assessee but not the auditor to file return, in response to notice u/s 17(1). The misunderstanding with the previous auditor is not a real reason which beyond the assessee's control by which it was prevented him to file the return.

In the circumstances, I am not convinced and satisfied with the assessee's explanation. Hence, I levy a penalty of Rs. 3081/- which should be paid as per u/s 18(1)(c) challan enclosed.


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

Copy to the assessee.

CERTIFIED TRUE COPY.



30/9/92