

BEFORE THE COMMISSIONER OF WEALTH-TAX (APPEALS)-III, HYDERABAD

Sri Satishchandra Modi
Main HUF,
5-4-187, Karbala Maidan,
Secunderabad.

APPELLANT

Assessment Year

1986-87

Order appealed against

Order made u/s.16(3)

. . .

BRIEF FACTS OF THE CASE

The appellant an Hindu Undivided Family consisting of Satish Modi his wife and Children filed return of Wealth of Rs. (-) 90,279/-. The Wealth Tax Officer by his order dated 25-01-89 completed the assessment u/s.16(3) determining total wealth of Rs. 31,421/-. While so determining total wealth of Rs.31,421/-, he has made the following additions which are disputed in appeal.

Two partitions were effected. One in 1976 and another in 1978. Application u/s.171 were filed. Wealth-tax assessments since then have been made on the balance of Wealth after giving effect to the amounts distributed in partition in this assessment.

GROUND OF APPEAL

1. The order of Wealth-tax Officer in so far as it is against the appellant is contrary to law and facts of the case.
2. The Wealth-tax Officer has failed to appreciate the facts in assessing the wealth of a separate HUF in the hands of appellant HUF.
3. The Wealth-tax Officer has erred on facts and law in bringing to tax (Wealth) of Rs.22,300/- on an estimate basis as belonging to Sri Satish Modi, his wife and minor son Soham.
4. The Wealth-tax Officer has erred on facts and law in bringing to tax (Wealth) of Rs.99,400/- on an estimate basis as belonging to Sri Satish Modi, his wife and minor son Sourabh.
5. Any other ground or grounds of appeal that may be submitted at the time of hearing.

APPELLANT.

SHRI Y.R. RAO, I.R.S.,
Asst. Commissioner of Wealth-tax,
Central Circle, Hyderabad
WEALTH - TAX DEPARTMENT

District.

G. I. R. No.

Dt. 25-01-1989

1. Year of assessment **1986-87**
2. Name of assessee (with complete address) **Sri Satishchandra Modi,
1-10-72/2/3, Begumpet, Hyderabad.**
3. Status :-
Individual-citizen/Not a citizen of India
Hindu Undivided Family.
Company
**HUF (MAIN) consisting of Sri
Satishchandra Modi, his wife and
two sons Mr. Sourabh & Mr. Soham
(SPECIFIED HUF)**
4. Whether :-
Resident and ordinarily resident.
Resident but not ordinarily resident
Non-resident
Resident
5. Valuation Date **31-03-1986**
6. Section and sub-section under which the
assessment is made **16(3)**

ASSESSMENT ORDER

The assessee-HUF consists of Sri Satishchandra Modi, his wife Smt. Tarulatha Modi and his 2 sons Mr. Sourabh and Mr. Soham. The assessee filed the wealth tax return disclosing negative wealth of Rs. (-) 90-279/-. In response to posting notice u/s.16(2), the assessee's A.R. Sri Anil Kumar Vithlani, C.A., attended and explained the return.

2. In the preceding assessment years, since the partial partition was not accepted by the Department as claimed u/s.171 of the I.T. Act, both the incomes of the smaller HUFs viz., Sri Satishchandra Modi with his wife and son Soham and Sri Satishchandra Modi with his wife and son Mr. Sourabh are clubbed as per provisions of s.171 in the hands of Sri Satishchandra Modi (Main HUF)

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both for Income-tax and wealth-tax purposes. In this very same case in earlier years, the net wealth of the minor HUFs viz., Sri Satishchandra Modi with his wife and son Mr. Sourabh and Sri Satishchandra Modi with his wife and son Mr. Soham was clubbed with the net wealth of this Main HUF. For the very same reasons, the net wealth of the above 2 minor HUFs is clubbed in this Main HUF and assessment completed u/s.16(3) as under:-

Deficit Wealth returned.	.. (-)	Rs. 90,279
Add: Net wealth assessed in the case of minor HUF viz., Sri Satishchandra Modi with his wife and son Mr. Sourabh. (HY-0039)	(+)	Rs. 99,400
Add: Net wealth assessed in the case of minor HUF viz., Sri Satishchandra Modi with his wife and son Mr. Soham. (HT-0040)	(+)	Rs. 22,300

NET WEALTH ..		31,421
		31,400

'DECLARED N.A. FOR 1986-87'

sd/- (Y.R.RAO)
Asst. Commissioner of Wealthtax,
Central circle-I, Hyd.

Copy to the assessee.

-/true copy/-

PROCEEDINGS OF THE COMMISSIONER OF INCOMETAX : ANDHRA PRADESH: II: HYD.

SRI G.P.NANDA, IRS,
Commissioner of Incometax,
Andhra Pradesh-II, Hyderabad.

1. Name and address of the assessee : Sri Satish Chandra Modi (HUF)
1-10-72/2/3/ Begumpeta, Hyd.
2. GIR No. : S-201
3. Relief sought for under section :
4. Asst. Year : 1986-87.
5. File No. : HQ. II/40/6/97-98.
6. Date of order : 18.09.97.
7. Present for the assessee : Shri Ajay Mehta, AR.

ORDER UNDER SECTION 264 OF THE INCOMETAX ACT, 1961.

The assessee has filed revision petition under section 264 dated 25.05.89 for the asst. year ~~198~~ 1986-87. In response to the notice Sri Ajay Mehta, AR on behalf of assessee appeared and heard. He submitted a letter dated 17.09.97 requesting to treat the present petition as withdrawn.

In view of the same, the petition is dismissed as withdrawn.

Sd/-

(G.P. NANDA)
Commissioner of Incometax,
Andhra Pradesh-II, Hyderabad.

To

The assessee through the AO.

Copy to the ITO, W-3(2), Hyd. with records in one vol. (for 86-87)

Copy to the Addl. CIT, R-5, Hyd.

B- city

Asst. Commissioner of Incometax
(H. Qrs.) - II,
O/o. Commissioner of Incometax,
Andhra Pradesh - II, Hyderabad.

[Handwritten signature]
28/1/98

ACT
ITO WARD 5 [2]
22 SEP 1997
CIRCL 5
HYDERABAD.

30

[Handwritten initials]

From
Satishchandra Modi HUF,
1-10-72/2/3, Begumpet,
Hyderabad.

DATE : 17.09.1997

To
The Commissioner of Income-tax,
A.P II/Hyerabad.

Sir,

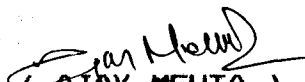
Sub:- Our Revision Petition dated 25.05.1989,
u/s 263 - Asst.year 1986-87.

Ref:- Petition No HQ II/40/6/97-98

Hearing for above petition is fixed on 17.09.1997. The petition is with respect to clubbing of minor HUF's income in the hands of Main HUF. We would like to withdraw our petition ,dated 25.05.1989 and as such our petition be considered as withdrawn.

Inconvience caused is regretted.

Thanking You,
Yours faithfully,


(AJAY MEHTA)
Authroised Representative.

Recd
17/9/97

Last Opportunity.

Office of the
Commissioner of Incometax,
AP. II, Hyd.

HQ. II/40/ 6/97-98.

Dt : 9-9-1997.

To
Sri. Sa tish Chandra Modi, (HUF),
1-10-72/2/3, Begumpet,
Hyderabad.

Sir/Sirs/Madam,

Sub : Revision petition filed before the Commissioner
of Incometax- Asst. Year(s)- **86-87.**

Your own- case posted for hearing-reg.

Ref : Your petition dated 25-05-1989.

In connection with the petition cited above, I am directed
to inform you that your case has been posted for hearing before
the Commissioner of Incometax, Andhra Pradesh-II, Hyderabad,
at his office at Aayakar Bhavan, 7th floor, Lal Bahadur Stadium
Road, Basheerbagh, Hyderabad at 11-00A.M. on 17-9-1997.

Yours faithfully,

B. G. Reddy

(B.G.REDDY)

Asst. Commissioner of Incometax (HQ. II)
for CIT AP. II Hyd.

*Recd
10/9/97
2/4/97*

Office of the
Commissioner of Income-tax,
Andhra Pradesh-II, Hyderabad.

Hqrs-II/40/ /97-98.

Date : 4-8-1997.

To
Sri. Satish Chandra Modi, (HUF).
1-10-72/2/3, Begumpet, Hyderabad.

Sir/Sirs/Madam,

Sub : Revision petition filed before the
Commissioner of Income-tax - Asst.
Year(s) - ~~II-86-87~~.
Your own - Case posted for hearing.

Ref : Your petition dated :

* * *

In connection with the petition cited above, I am
directed to inform you that your case has been posted for
hearing before the Commissioner of Income-tax, Andhra Pradesh-II
Hyderabad, at his office at Aayakar Bhavan, 7th Floor,
Lal Bahadur Stadium Road, Basheerbagh, Hyderabad, at 11:00 A.M.
. . . On 26.8.1997.

Yours faithfully,

R. ch

(B. G. REDDY)

Asst. Commissioner of Income-tax,
(Hqrs-II)

O/o Commissioner of Income-tax,
Andhra Pradesh-II, Hyderabad.

18/77

आयकर विभाग
INCOME-TAX DEPARTMENT

PAN.45.424-HV-0039.

जिला/District ; Hyderabad ; Pt.24-1-1989.

1. कर निर्धारण वर्ष
Year of Assessment 1986-87
2. निर्धारित का नाम (पूरा पता सहित)
Name of Assessee (with complete address) Sri Satishchandra Modi, 5-4-187/3 & 4,
Karbala Maidan, Secunderabad.
3. हैसियत*
Status* HUF with wife and son Mr. Sourabh.
(Specified HUF)
4. क्या—निवासी परन्तु साधारणतः निवासी नहीं
अनिवासी
निवासी
Whether—Resident Resident.
Resident but not ordinarily resident
Non-resident
5. लेखा-विधि
Method of accounting Mercantile
6. लेखा अवधि (भ्राय स्रोत के लिए इसे अलग दिखाएं)
Accounting period (to be shown separately for source of income) 31-3-1985.
7. किस धारा और उप-धारा के अधीन कर निर्धारण किया गया
Section and Sub-section under which the assessment is made. 143 (3) PROTECTIVE ASSESSMENT.

कर निर्धारण आदेश
ASSESSMENT ORDER

The assessee is a specified & Minor HUF of Sri Satishchandra Modi with his wife and son Mr. Sourabh. The assessee-HUF is a partner in M/s M Patel Desai & Co., with 12% share. The assessee-HUF filed a return of income on 30th July, 1986 admitting a total income of Rs. 12,010/-. Soon after receipt of the share income ~~taxable~~ particulars from the firm in which the assessee is a partner, it filed a

*क्या व्यक्ति, अविभक्त हिन्दू परिवार, कम्पनी, स्थानीय प्राधिकार, रजिस्ट्रीकृत या अरजिस्ट्रीकृत फर्म, व्यक्तियों की संख्या व्यक्तियों का निकाय ।

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

MOFPI (PBE) - 80/G.I.P.B. (C&L)/82-75,34,000

p.t.o.

revised return on 27th November, 1986, according to which the income admitted was Rs. 15,150/-.

2. Sri Anil Kumar Vithlani, C.A. attended in response to notice u/s 143(2) and the case was discussed with him. For the reasons elaborately discussed in the earlier asst. years' orders. the income of this HUF is clubbed with that of the main HUF viz., Sri Satishchandra Modi with his wife and 2 sons viz., Mr. Sourabh and Mr. Soham. However, this assessment is also made on a protective basis.

BUSINESS :- Share income from M/s Patel Tesai & Co., adopted provisionally subject to rectification u/s 155, as per revised computation statement filed by the firm.

Rs. ~~3,333~~
xxxxxx

OTHER SOURCES :-

Interest received as shown.

Rs. 12,012

TOTAL INCOME

Rs. ~~15,153~~
xxxxxx

14.

or

Rs. ~~15,150~~
xxxxxx

14.

Tax thereon :-

Incometax	...	Rs. 588
Less : A.T. paid	...	Rs. 1,333
Refundable	...	Rs. 745
Add : 214 intt.	...	Rs. 302
TOTAL REFUND	...	Rs. 1,047

Tax is x

*For Law
on 12/3/87
K 005 EGI
Varetha M. 477588
R. 1,047*

(Y.R. RAO)
Asst. Commissioner of Incometax,
Central Circle-I : Hyderabad.

Copy to the assessee

SARMA/

आयकर विभाग
INCOME-TAX DEPARTMENT

PAN, 45-421-IT-0030.

(जिला/District : Hyderabad ; Pt. 24.1-1989.

1. कर निर्धारण वर्ष
Year of Assessment 1986-87
2. निर्धारित का नाम (पूरा पता सहित)
Name of Assessee (with complete address) Sri Satishchandra Modi, 5-4-187/3 & 4,
Karbala Masjid, Secunderabad.
3. हेतियत*
Status* HUF with wife and son Mr. Soham.
(Specified HUF).
4. क्या—निवासी परन्तु साधारणतः निवासी नहीं
प्रनिवासी
Resident.
Whether—Resident
Resident but not ordinarily resident
Non-resident
5. लेखा-विधि
Method of accounting Mercantile.
6. लेखा अवधि (प्रायः स्रोत के लिए इसे अलग दिशाएं)
Accounting period (to be shown separately
for source of income) 31-3-1986.
7. किस धारा और उप-धारा के अधीन कर निर्धारण किया गया
Section and Sub-section under which the
assessment is made. 143 (3) PROTECTIVE ASSESSMENT.

कर निर्धारण आदेश
ASSESSMENT ORDER

The assessee is a specified smaller HUF of Sri Satishchandra Modi with his wife and son Mr. Soham. The kartha of the HUF filed a return on 30th July, 1986 admitting a total income of Rs. 3895/-. After obtaining correct share income particulars from M/s Patel Desai & Co., in which the assessee is a partner with 12% share, the assessee filed a revised return on 27th November, 1986 admitting a

*क्या व्यक्ति, प्रविभक्त हिन्दू परिवार, कम्पनी, स्थानीय प्राधिकार, रजिस्ट्रीकृत या अरजिस्ट्रीकृत फर्म, व्यक्तियों की संख्या व्यक्तियों का निकाय।

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

MS/PL (VST) - 80/2, I. T. O. (C41)/82-75,34,000

p.t.c.

total income of Rs. 7,040/-.

2. In response to hearing notice u/s 143(2), Sri Anil Kumar Vithlani, C.A. attended and explained the return. In the preceding year, the assessee was having 5% share in M/s Modi Builders. This year, it was not shown. It was explained to me that the business of the firm of M/s Modi Builders has been dissolved and business was taken over by M & M Associates which was having 95% share in M/s Modi Builders. Therefore, no income is shown. This is accepted and assessment is completed u/s 143(3) on a protective basis, adopting the share income from M/s Patel Tesai & Co., provisionally subject to rectification u/s 155. For the reasons elaborately discussed in the earlier years' orders, the income computed in this case is clubbed in the hands of the main HUF of Sri Satish-chandra Modi, his wife and 2 sons.

<u>BUSINESS</u> :- Share income from M/s Patel Tesai & Co., taken provisionally subject to rectification u/s 155. as per revised computation filed by the firm.	2,333		
	Rs. 2,333		
<u>OTHER SOURCES</u> :- Interest income as shown.	3,895		
	Rs. 3,895		6,228
TOTAL INCOME	Rs. 7,026		or
	Rs. 7,040		6,230

'DECLARET N.A. FOR 1986-87'

M.v. tax paid ... Rs. 1,333/- is refundable.
 Add : 214 intt. Rs. 399/-
 REFUNDABLE. Rs. 1,732/-

(Y. R. RAO)
 Asst. Commissioner of Income tax,
 Central Circle-I :: Hyderabad.

Copy to the assessee

SARMA/

INCOME - TAX DEPARTMENT

Date: 24-1-1989

1. Permanent Account No. 45-421-HX-0038.
- G. I. R. No.
2. Year of assessment 1986-87
3. Name of the assessee (with complete address) Sri Satishchandra Modi,
5-4-187/3&4, Karbala Maidan,
Secunderabad.
4. Status :- HUF (MAIN) with wife and 2 sons
Mr. Soham and Mr. Sourabh.
(SPECIFIED HUF)
5. Whether :-
Resident
Resident but not ordinarily resident Resident.
Non-resident
6. Method of accounting Mercantile
7. Accounting periods (To be shown separately for each source of income) 31-3-1986
8. Section and sub-section under which the assessment is made 143(3)

ASSESSMENT ORDER

The assessee is a specified HUF. For the accounting year ending 31-3-1986, the Kartha of the HUF filed a return on 30th July, 1986 declaring net loss of Rs. 13,210/-. The assessee again filed a revised return on 27th December, 1986 according to which the income returned was Rs. 17,020/-. The reasons for filing the revised return is stated to be that M/s. Meera Industries in which the assessee is a partner did not furnish its share income particulars. On receipt of the from the above firm, the assessee filed a revised return.

2. In response to the notice u/s. 143(2), the assessee's Auditor Sri Anil Kumar Athlani, C.A. attended and explained the return. The assessee is a partner in M/s. Meera Industries with 25% share. Since the assessment of the firm is not completed, the share income is adopted provisionally subject to rectification

W/s. 10

p.t.p.

u/s. 155. For the reasons elaborately discussed in the earlier years' asst. orders, income assessed in the hands of minor HUF of Sri Satishchandra Modi with his wife and son Mr. Sourabh and another minor HUF of Sri Satishchandra Modi with his wife and son Mr. Soham is clubbed in this case and the assessment is completed u/s. 143(3) as under:-

BUSINESS: Share income from M/s. Meera Industries taken provisionally subject to rectification u/s. 155, as per revised computation statement filed by the firm. 11,691

OTHER SOURCES:-

	Interest paid (loss)		<u>7,914</u>
			3,777
<u>Add:</u>	Income assessed in the hands of minor HUF of Sri Satishchandra Modi with his wife and son Mr. Sourabh. (HV-0039)		14,350
<u>Add:-</u>	Income assessed in the hands of minor HUF of Sri Satishchandra Modi with his wife and son Mr. Soham (HV-0040)		<u>6,230</u>
	Gross total income:		24,357
<u>Less:-</u>	Clubbed in the hands of Sri Satish Modi (HUF)	1750	
"	Deduction u/s. 80-VV.	<u>1050</u>	<u>2,800</u>
	Total income ..		21,557 or 21,560 =====

Note: In the absence of filing any evidence for donation of Rs. 5,000/- deduction u/s. 80-G of Rs. 2,500/- is not allowed.

Income Tax	..	2,468
Less: A.T. PAID		<u>5,000</u>
Refundable ..		2,532
Add: 214 Intt.	..	<u>1,031</u>
Refundable ..		<u>3,563</u>

Copy to the Assessee.

Sd/-
(Y.R. RAO)
Asst. Commissioner of Income Tax,
Central Circle-I: Hyderabad.

-/True copy/-

