

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

Filed on 30/10/92

Wealth-tax Range... ~~2000-10000~~ Range ...

*No..... of..... 19.....-19.....

Name and address of the Appellant.

Mr. S. Mohan
1-15/7, N.S. Road,
Secunderabad.

Permanent Account Number.

2-730

Assessment year in connection with which the appeal is preferred.

1989-90

Assessing Officer/Valuation Officer passing the order appealed against.

A.C. 1 (2) / 1989

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) (b)

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

30-79-1992

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. 10,000/- on 07-07-1992

23

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

Deletion of Penalty of Rs. 1000/-

†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 may be sent to the appellant.

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

Satish Mohan
Signed
(Appellant)

STATEMENT OF FACTS : (ATTACHED)

GROUNDS OF APPEAL :

ATTACHED

Satish Modi
Signed
(Appellant)

FORM OF VERIFICATION

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

Place... Hyderabad ..Signature... *Satish Modi* Individual GPA Holder
of Sehan ModiDate... 29-10-92 ..

Status of Appellant... ..

- 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 Appensee is a minor and is one of the beneficiaries for a Private determined trust N/S N & N Associates. Notice n/s 17(1) was issued with a view to assess the beneficial interest of the appensee in N/S N & N Associates.

Non filling of return pursuant to notice n/s 17(1) was due to misunderstanding with the old partner and was beyond appensee's control and was not intentional.

REASONS 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 n/s 17(1)
2. Any other ground or grounds that was/were submitted at the time of hearing.

Satish mal
~~SECRET~~

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)/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/जुमनि/शास्ति धारा 216 के अधीन सदेय 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 सम्मक रूप से स्टाम्पित 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/line/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 सम्मक रूप से स्टाम्पित और सत्यापित हो, आय-कर अपील अधिकरण 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 25-3-92

स्थान/Place Hyderabad

टिप्पणियाँ/Notes :-

- (1) अनुपयुक्त पंरे और शब्दों को काट दें।
Delete inappropriate paragraphs and words.
- (2) यदि आप रकम के संदाय बैंक 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 पत्र 2 में विनिर्दिष्ट अवधि के अवसान से पूर्व आय-कर अधिकारी को करना चाहिए। उक्त अवधि के अवसान के पश्चात् प्राप्त हुए किसी निवेदन की, धारा 220(3) के विनिर्दिष्ट उपबंधों की 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).

आय-कर अधिकारी/Income Tax Officer
ASSISTANT COMMISSIONER
OF INCOME TAX - CIRCLE-1 (2)
HYDERABAD.

PROCEEDINGS OF THE ASSISTANT COMMISSIONER OF WEALTH-TAX
Circle-1(2) Hyd.

Smt. S. Narasamma
Asst. Commissioner of Wealth-tax
Circle-1(2), Hyderabad
.....

GIR No. S-739/AC1(2)

Dated ; 25.9.1992

Wealth-tax assessment - Asst. year 1989-90
Master *Soham* S. Modi, 1-10-72/2/3 Begumpet
Levy of penalty u/s 18(1)(b) of the W.T. Act -
order passed -

ORDER

A notice u/s 17(1) was issued on 27.3.89 and served on the assessee on 15.6.89. But there is no response from the assessee. No return was filed by the assessee. The assessment was completed ex parte basing on the information available on 31.3.92. While completing the assessment, penalty proceedings were initiated u/s 18(1)(b) of the W.T. Act. In response to the penalty notice, the assessee filed an explanation stating that " Due to certain mis-understanding with the previous auditor, a new auditor was appointed, the entire back records were being maintained with the previous auditor, The auditor who was newly appointed was not aware of the receipt of the notice and he could not be fully appraised of penalty matters since the entire back records were being with the previous auditor. Non filing of the return in response to notice u/s 17(1) was brought to the knowledge of the new auditor only at the fag end of March, 1992. Due to this 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 offered by the assessee is not convincing and satisfactory. It is the assessee's responsibility to respond to any notice under Wealth Act but not the Auditor. The misunderstanding with the previous Auditor is not the real reasons and the assessee cannot fully depend on him. In the circumstances, I am satisfied that the assessee is not prevented by sufficient reasons and levy a minimum penalty of Rs. *1000* u/s 18(1)(b) of the W.T. Act.

This should be paid as per challan enclosed.

S. Narasamma
(S. NARASAMMA)

Asst. Commissioner of Wealth-tax
Circle-1(2) Hyderabad

Copy to the assessee.

CERTIFIED TRUE COPY.



30/9/92