

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.....

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

Name and address of the Appellant.

**Master SURESH S TADI
1-10-72/2/2, Begumpet,
Hyderabad**

S-739

Permanent Account Number.

1986-87

Assessment year in connection with which the appeal is preferred.

Assessing Officer/Valuation Officer passing the order appealed against.

A.C.1 (2)/Hyd

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.

19 (1) (b)

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

30-09-1992

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. 2,184/- 01/12/86

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

**23
Deletion of Penalty of Rs. 218/-**

†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.

NIL

Address to which notices should be sent to the appellant.
**M/S. C. Jay and Company
Chartered Accountants
C/o Mahta Automobiles,
58/3, M.G. Road,
Secunderabad-500 003.**

Suresh Sadi
Signed
(Appellant)

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 mod
APPELLANT

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

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

GIR NO.S.739

Date: 25.9.1992

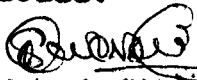
Wealthtax assessment - Master Sohan S. Modi
C/O M.S.H Associates, 1.10.72/2/3, Begumpet
Hyderabad - Levy of penalty u/s 13(1)(b) -
Order passed - Assl. year 1986-87

PENALTY ORDER U/S 13(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 13(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 tax previous auditor, a new audit was appointed. the entire bank 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 bank 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 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 13(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 17(1) 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. 218/- u/s 13(1)(b) of the W.T. Act which should be paid as per challan enclosed.


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

Copy to the assessee.

GERTIFIED 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)