on 30/10/92

[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-

Wealth-tax Range

Name and address of the Appellant. Permanent Account Number. Assessment year in connection with which the appeal is preferred. Assessing Officer/Valuation Officer passing the order appealed against. Where valuation of any asset has been referred to the Valuation Officer, designation and address of such Valuation Officer. •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. Where the appeal relates to any assessment, penalty/ fine, the date of service of the relevant notice of demand. In any other case, the date of service of the intimation of the order appealed against. 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.) Section of the Wealth-tax Act, 1957, under which the appeal is preferred. †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.

and to the appellant.

(Appellant)

STATEMENT OF FACTS: (ATTACHED)

GROUNDS OF APPEAL:

ATTACERS

Signed
(Appellant)

## FORM OF VERIFICATION

I, sazzan molder of schem mold the appellant, do hereby declare that what is stated above is true to the best of my information and belief.

Place...

Date 29-40-4991

Signature...

Status of Appellant

Setup Medical Milder

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, it 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.

HJKJ/Forms available with; M/s. LAW SALESCO Pvt. Ltd., Kothi, Hyd.—Phone: 551776.

## 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 noninclusion 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. @ Soppost the letter & endored berwith.

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.

## GROUNDS 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.

160 W. T. featly 18 (1) (C)

याई॰ टीं • एस •-7 I.T.S.-7

(निका 15 देखिए) (See Rule 15)

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

संबा म	
To Maylor Show 5 male	nsteula Indl
To: Marker Doham 5 mali 1-10-78/2/3 Begunfet	जी ॰ माई ॰ मार ॰ स ॰ ८ . चे 3 9
अर्थका श्रीयत कावा बाता है कि निवारण वर्ष	ः ः के लिए ग्रापके द्वारा सदेयः ः ः ः स्पर्ये की
राति, जिसके ब्योरे पीछे बिए वए हैं, सबधारित की गई है।  This is to give you notice that for the assessment year.  of which are given on the reverse has been determined to be pa	87 - 88 a sum of Rs 24574 details
2. इस रकम की संदाय इस सूचना की तारीख से 35/····	्रिया १५ ५००
ढनाना मधिकारी/उप-खत्राना मधिकारी/मधिकर्ता, भारतीय स्टेट बैक/भारतीय 35 दिन से कम की संबंधि मनुसात करने के लिए महावक माप-कर मायुक्त	
के लिए एक चालान संसम्ब है।	Treasury Officer/Agent, State Bank of India/Reserve Bank of
India at	within 35/ days of the

3. यदि भाप उत्पर विनिदिष्ट भवधि के मन्दर रकम का सदाय नहीं करते तो भाष उपर्युक्त भवधि की समाप्ति के पश्चात् प्रारम्भ होने वाली तारीख से बारह प्रतिशत प्रतिवर्ष की दर में साधारण व्याज का मंदाय धारा 220(2) के भनुसार 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 श्राय-कर की रक्तम का संदाय अपर विनिदिष्ट भवधि के भन्दर नहीं करते तो धारा 221 के भनुसार श्रापको सुनताईयुक्तियुक्त अयसर दिए जाने के पश्चात,भ्राप पर (उतनी मास्ति जो वकाया कर की रकम के भरावर हो मकेगी) 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 अपर पिनिदिष्ट अवधि के भन्दर नहीं करते तो उसकी वसूली के लिए भाय-कर सिधिनियम, 1961 की आरा 222 से 229, 231 भीर 23<del>2 के बात</del>ुसार 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 प्राय-कर प्रधिनियम, 1961 की धाल :43(1) के प्रधीन पूरा हो गया है। यदि प्राय इस निर्धारण के बारे में प्राक्षेप करते हैं तो प्राय निर्धारण के बारे में प्राक्षेप करने के लिए प्रकृप में ००-० गं इस मांग की सूचना की नामील की नारीख से एक मास के प्रन्दर मुझकी प्रावेदन 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 बाप धारा 139(2) के मक्षीन भाग की विवरणी देने में मसफल रहे हैं भीर आपने धारा 139(4) या धारा 139(5) के मधीन विवरणी या पुनरीक्षित विवरणी नहीं दी बाप धारा 142(1) के मधीन जारी की गई सूचना का मनुपालन करने में मसफल रहे हैं/भाप धारा 143(2) के मधीन जारी की गई सूचना का मनुपालन करने में मसफल रहे हैं/भाप धारा 143(2) के मधीन का मनुपालन करने में मसफल रहे हैं, इसलिए या निर्धारण माय-कर मधिनियम, 1961 की धारा 144 के मधीन किया गवा है। किन्तु यदि बाप धारा 139(2) के मधीन विवरणी देने से पर्याप्त हेतुक के कारण में निवारित हो गए थे या भाषको धारा 142(1) या धारा 143(2) के मधीन जारी की गई सूचना भारत नहीं हुई थी या भाषको धारा 142(1) या धारा 143(2) के मधीन जारी की गई सूचना के निवश्यनों का मनुपालन करने के लिए युक्तियुक्त शवसर प्राप्त नहीं हुआ था या माप उनका मनुपालन करने से पर्याप्त हेतुक के कारण निवारित हो गए थे तो भाष पारा 146 के मधीन इस निर्धारण को रह करने के लिए भीर नए तिरे से निर्धारण करने के लिए कार्यवाही करने के लिए इस सूचना की नाजीन की तारीव की एक मास से मन्दर मुक्तको माचेवन कर सकते हैं।

(F.T.O. 30 /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)/comply with a notice issued under Section 43(2). However, if you were prevented by sufficient cause from making the return under Section 139(2) or did not receive the monce 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 भाष इस निर्धारण/जुर्मान/शास्ति धारा 216 के ग्रधान संदेय त्याज के विरुद्ध भ्रषील करना चाहते है तो ग्राप<sup>्र</sup>ग्राय-कर ग्रधिनियम, 1961 के बध्याय 20 के भाग-क के अधीन अपील, प्रहंप सं० 35 में, जो उस प्रहंप में यथा अधिकथित सम्यक हुए से स्टाप्यित और सःवापित हो, .....को इस मुचना की प्राप्ति से तीम दिन के म्रन्दर, भाय-कर भागुक्त (भागील)/महायक भाग-कर भागुक्त (भागील) : : : :

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 व्याय-कर व्यधिनियम, 1961 की धारा के मधीन भाष-कर भाष्वत (प्रपील)/सहायक ग्राय-कर प्रायुक्त (मपील)/सहायक भाय-कर प्रायुक्त (निरीक्षण)/भाय-कर ग्रायुक्त परिणामस्वरूप देव हुई है। यदि याप पूर्वोक्त ग्रादेश के विरुद्ध ग्रपील करना चाहते हैं तो भ्राप उनत ग्राधिनवम के मध्याय 20 के भाग-ख के ग्रधीन व्यपील प्ररूप सं 0 36 में जो उस प्ररूप में यथा ब्रधिकथित मध्यक रूप से स्टाम्पित और सत्थापित हो, आय-कर व्यपील ब्रधिकरण इस प्रादेश की प्राप्ति से साठ दिन के प्रत्दर, 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..... 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.

HYDERABAD.

दिप्पणियां/Notes :-

(1) ग्रनपयक्त पैरे भीर शब्दों को काट दीजिए। Delete inappropriate paragraphs and words.

- (2) यदि स्रोप रकम के संदाय चैक हारा करना चाहते हैं नो चैक, खजाना स्रोधकारी/उप-खजाना स्रोधकारी/क्राक्षिकता, भारतीय स्टेट बैक/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) वदि भ्राप रकम के संदाय के लिए समय का विस्तार करना चाहत है या किस्तों में सदाय करने की प्रश्रापना करते है तो, यक्षास्थिति. ऐसे विस्तारण या किस्तों में संदाय रूपने की ग्रनजा प्राप्त करने के लिए ग्रावेदन पैरा 2 में विनिदिष्ट ग्रवधि के ग्रवसान से पूर्व बाय-कर प्रधिकारी को करना चाहिए। उस्त अवधि के अवसान के परचान प्राप्त हुए किसी निवेदन की, धारा 220(3) के विनिर्दिट उपबन्धों को ध्यान में रखते हए, प्रहण 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 Incometax 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).

MGITBP Bbsr--41/8 GIFS/85-86--37,40,000.

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

Cir.1(2), Hyderahad.

GIR.NO.8.739

dated: 25.9.1992.

Wealthtax penalty - Asst.year 87-88 shri Soham S.Modi,C/i M & M Associates, 1.10.72/1/2, Begumpet,Hyderabad - Passing of penalty order u/s 18(1)(c) -

ORDBR

The notice u/s 17(1) was issued on 27.3.89 and was served on the assessee on 15.6.89. Met there was no response from the assessee. No return was filed by him. Assessment was completed exparts on the basis of information eveilable on record u/s 16(5) on 31.3.92 on a total income/wealth of Rs. 7,c%, 4,c4 While doing so, penalty proceedings were initiated u/s 19(1)(c). In response to the penalty notice issued, essesses asking the assesses 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 misunder-standing 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 purposed appraised of pending matters since the entire back records were being with the previous auditor, and the assessee came to know at the faq 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 misunderstending with the previous suditor 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 Ms. 2454 \_\_\_\_ which should be paid as per w/s 18(18(8)) challan enclosed.

(S. Marasama) Asst.Commissioner of wealthtax Circle-1(2), Hyderabad.

Copy to the assessee.

CERTIFIED TRUE GOPY.

SECUNDE PABAD

ACC

April april