

**IN THE INCOME TAX APPELLATE TRIBUNAL  
KOLKATA BENCH 'SMC', KOLKATA  
[Before Shri P.M. Jagtap, AM]**

**I.T.A. No. 1818/Kol/2017**  
Assessment Year: 2010-11

**Shib Shankar Mondal & Ors.....Appellant**  
**Sripur (Kamarpukur), Goghat,**  
**Hooghly - 712 612**  
**[PAN: AAKFS 6717 Q]**

**I.T.O. Ward 1(4).....Respondent**  
**3Khadinamore, Chinsurah,**  
**Hooghly - 712 101.**

**Appearances by:**

*Shri Biswajit Sarkar, Advocate appearing on behalf of the Assessee.*  
*Shri A.K. Bandyopadhyay, Addl. CIT appearing on behalf of the Revenue.*

Date of concluding the hearing : February 15, 2018

Date of pronouncing the order : February 19, 2018

**ORDER**

This appeal filed by the assessee is directed against the order of Ld. CIT (Appeals) – 6, Kolkata dated 18.04.2017 and the solitary issue involved therein relates to the addition of Rs. 9,79,323/- made by the A.O. and confirmed by the Ld. CIT(A) on account of mileage rebate.

2. The assessee in the present case is a partnership firm which is carrying on the business as M.R. Distributor. The return of income for the year under consideration was filed by it on 27.09.2010 declaring a total income of Rs. 48,100/-. As noted by the A.O. during the course of assessment proceedings, there were credits of Rs. 9,79,323/- in the bank account maintained by the assessee with State Bank of India, Arambagh Branch. The explanation offered by the assessee in this regard before the A.O. was that the said amounts were received by it from the Government as mileage rebate. It was explained that the dealers situated above 8 k.m. distance from the godown of the distributor were eligible to get extra allowance on transport charges

called as rebate mileage and such rebate mileage amounting to Rs. 9,79,323/- received during the year under consideration was distributed to the concerned dealers according to their eligibility. This explanation of the assessee was not found acceptable by the A.O. He noted that the similar amount of rebate mileage received by the assessee firm in the earlier two years was not distributed to the dealers. He also examined three of the dealers of the assessee and in their statement recorded by the A.O., the said dealers could not offer any satisfactory explanation to support and substantiate the case of the assessee. The A.O., therefore, treated the amount of Rs. 9,79,323/- received by the assessee on account of mileage rebate as its undisclosed income and addition to that extent was made by him to the total income of the assessee in the assessment completed under section 143(3) vide an order dated 28.03.2013.

3. Against the order passed by the A.O. u/s 143(3), an appeal was preferred by the assessee before the Ld. CIT(A) and since the submissions made by the assessee in support of its case on the issue in dispute were not found acceptable by him, the Ld. CIT(A) proceeded to confirm the addition of Rs. 9,79,323/- made by the A.O. on account of mileage rebate for the following reasons given in paragraph no 5 of his impugned order:

*"5. I have considered the facts of the case and the appellant's submissions. The facts, in brief, are that the appellant's bank account with SBI, Armbagh Branch was found credited with various sums aggregating to Rs. 9,79,323/- on different dates. The amount was not found accounted for. The explanation given by the appellant was that the appellant had to give mileage rebate to M.R. Distributors whose piece of business is situated at a distance more than 8 Kms. from the distributor's godown.*

*Such rebate is reimbursed to the appellant by the Office of Sub-divisional Controller (F & S), Government of West Bengal. However, the year in which the rebate is paid to the M.R. Distributors may not match with the year in which the reimbursed by the Government is received. Thus, the receipts of Rs.9,79,323/- could not be treated as income. The AO examined the P&L Accounts for the financial years relevant to A.Ys. 2008-09, 2009-10 and 2010-11 and found that only Rs. 1.49 lakhs was paid as rebate by the appellant in the financial year relevant to A.Y.2009-10. No rebate was paid in the financial years relevant to A.Ys. 2008-09 and 2009-10. Statements of three M.R. Dealers recorded revealed that they were making payments to the appellant only after deducting the rebate mileage allowable to them as per sale memos. Hence, according to the AO, there was no question of making further payments to the M.R. Dealers. As no rebate was paid to the M.R. Dealers during the previous year, the receipts of Rs.9,79,323/- were added as unaccounted receipts. During the appellate proceedings, the appellant has made submissions which are similar to those made at the stage of assessment. There is no dispute that the appellant had received rebate of Rs.9,79,323/- from the Government of West Bengal during the previous year which was not accounted for. The appellant's case is that the receipts represent reimbursement of mileage rebates paid by the appellant to M.R. Dealers in earlier years. The appellant also furnished statements of rebate for various periods during the financial year with copies of self made debit notes in respect of rebate and mileage charges, which apparently do not have any correlation with the amounts received by the appellant during the previous year. Moreover, the appellant has also not clarified as to why no rebate is shown to be debited in the Profit and Loss Account. Be that as it may, the statements of the M.R. dealers reveal that the sales credited by the appellant were net of the rebates paid, if any, as the M.R. dealers were paying for their purchases as per amounts determined after deducting rebate in the sale memos. The main finding in the assessment order is that the receipts aggregating to Rs.979,323/- were not accounted for. The appellant has not disputed this finding. Hence, even if the receipts represented reimbursement of rebates distributed by the appellant in earlier years, it has not been explained with sufficient details or evidence as to why the receipts were not accounted for when the rebates paid had already been deducted from the sales. Thus, while expenses have been claimed as deduction, the corresponding reimbursement has not been offered for taxation. Hence, the addition of Rs.9,79,323/- is confirmed."*

Aggrieved by the order of the Ld. CIT(A), the assessee has preferred this appeal before the Tribunal.

4. I have heard the arguments of both the sides and also perused the relevant material available on record. The learned counsel for the assessee has filed a Paper Book before the Tribunal giving the details of mileage rebate received during the year under consideration as well as the payments made to the concerned dealers on account of such mileage rebate. He has also filed the copies of all the vouchers evidencing the payments made to the concerned dealers on account of mileage incentive along with the ledger account extract. He has contended that these details and documents were also filed by the assessee before the A.O. in support of its claim that the entire mileage rebate received during the year under consideration from the government was distributed to the concerned agents. He has contended that the A.O., however, rejected the claim of the assessee on the basis of the earlier years figures as well as the statement of three dealers without verifying the documentary evidence filed by the assessee. He has contended that if one more opportunity is given to the assessee to establish its case on evidence on the issue under consideration by sending the matter back to the A.O., the assessee will be able to satisfy the A.O. by establishing that the amount in question received from the government on account of mileage rebate was fully distributed to the concerned dealers. Although the learned DR has raised objection in this regard by submitting that sufficient opportunity has already been given to the assessee by the A.O. as well as by the Ld. CIT(A), I find that the documentary evidence placed on record by the assessee is very much relevant to decide the issue

relating to the assessee's claim that the entire mileage rebate having been distributed to the concerned dealers, there was no income that actually accrued to the assessee on account of mileage rebate and since neither the A.O. nor the Ld. CIT(A) appear to have verified the same, I consider it fair and proper and in the interest of justice to give one more opportunity to the assessee to putforth its case. The impugned order of the Ld. CIT(A) is accordingly set aside and the matter is restored to the file of the A.O. for deciding the same afresh after giving the assessee one more opportunity to establish its case.

**5. In the result, the appeal of the assessee is treated as allowed for statistical purposes.**

Order Pronounced in the Open Court on 19<sup>th</sup> February, 2018.

Sd/-  
(P.M. Jagtap)  
ACCOUNTANT MEMBER

**Dated: 19/02/2018**

Biswajit, Sr. PS

Copy of order forwarded to:

1. Shib Shankar Mondal & Ors., Sripur, Kamarpukur, Goghat, Hooghly – 712612.
2. ITO, Ward 1(4), Khadinamore, Chinsurah, Hooghly – 712 101.
3. The CIT(A)
4. The CIT
5. DR

True Copy,

By order,  
Sr. P.S. / H.O.O.  
ITAT, Kolkata