

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

**I.T.A. No. 354/Kol/2017**  
Assessment Year: 2011-12

**M/s. Rita Transport.....Appellant**  
**Vill & P.O. Bahula,**  
**Burdwan - 713 322**  
**[PAN: AAIFR 4520 L]**

**I.T.O. Ward 1(1).....Respondent**  
**Ayakar Bithi, City Centre,**  
**Durgapur - 713 216.**

**Appearances by:**

*Shri U. Dasgupta, Advocate appearing on behalf of the Assessee.*  
*Shri P.K. Mandal, Addl. CIT appearing on behalf of the Revenue.*

Date of concluding the hearing : February 21, 2018  
Date of pronouncing the order : April 11, 2018

**ORDER**

This appeal filed by the assessee is directed against the order of Ld. CIT(A), Durgapur dated 17.11.2016.

2. The issue involved in Ground No. 1 relates to the addition of Rs. 1,43,353/- made by the A.O. and confirmed by the Ld. CIT(A) being 15% of difference in contract receipts.

3. The assessee in the present case is a partnership firm which is engaged in the business of transportation. The return of income for the year under consideration was filed by it on 30.12.2011 declaring its total income at Nil. In the profit & loss account filed along with the said return, a sum of Rs. 2,37,36,333/- was credited on account of gross receipts. On enquiry made from the concerned party viz. Eastern Coalfields Ltd., the A.O. however found that the gross

receipts of the assessee's business for the year under consideration were actually Rs. 2,46,86,324/-. There was thus a difference of Rs. 9,49,991/- in the gross receipts shown by the assessee and the same was explained by the assessee as contract receipts for March 2011 which were declared in the subsequent year. Since the assessee was following the mercantile system of accounting, the A.O. held that the gross receipts for the month of March should have been accounted for by the assessee in the year under consideration itself. He accordingly made an addition of Rs. 1,43,353/- to the total income of the assessee being gross profit @ 15.09% of the receipts of the receipts of Rs. 9,49,991/-. On appeal, the Ld. CIT(A) confirmed the said addition as the assessee could not offer any satisfactory explanation as regards the understatement of receipts to the extent of Rs. 9,49,991/-.

4. I have heard the arguments of both the sides on this issue and also perused the relevant material available on record. The learned counsel for the assessee has invited my attention to the information furnished by Eastern Coalfields Ltd. to the A.O. vide letter dated 28.02.2014 (copy at page no 21 of the Paper Book) wherein the bills raised by the assessee during the year under consideration were shown at 1,90,19,514/-. He has contended that since the receipts of more than 2.37 crores were declared by the assessee, there was no suppression of any gross receipts as alleged by the A.O. He has contended that this aspect can be verified by the A.O. from the relevant record. Since the learned DR has not raised in this regard, I set aside the impugned order of the Ld. CIT(A) on this issue and restore the matter to the file of the A.O. to decide the same afresh after verifying the claim of the assessee that there was actually no

suppression of gross receipts from the relevant record. Ground No. 1 is accordingly treated as allowed for statistical purpose.

5. The issue involved in Ground No. 2 relates to the addition of Rs. 25,760/- made by the A.O. and confirmed by the Ld. CIT(A) on account of difference in bank fixed deposit.

6. In the balance sheet filed along with the return of income, term deposits with Indusind Bank were shown by the assessee at Rs. 12,30,889/-. On verification from the bank, the same however were found by the A.O. to be Rs. 12,57,659/-. The difference of Rs. 25,760/- accordingly was added by the A.O. to the total income of the assessee. On appeal, the Ld. CIT(A) confirmed the said addition on the ground that the assessee could not reconcile the difference found by the A.O. in bank term deposit.

7. I have heard the arguments of both the sides on this issue and also perused the relevant material available on record. The learned counsel for the assessee has invited my attention to the balance sheet of the assessee placed at page no 4 of the Paper Book as well as the statement of account issued by the Indusind Bank placed at page no 23 of the Paper Book to show that the difference of Rs. 25,760/- in bank term deposit actually pertained to the earlier year and not to the year under consideration. He has contended that the said difference therefore cannot be added in the year under consideration. The learned DR, on the other hand, has contended that this specific contention raised by the learned counsel for the assessee for the first time before the Tribunal on the basis of relevant documentary

evidence requires verification by the A.O. I find merit in the contention of the learned DR. This issue therefore is also restored to the file of the A.O. for deciding the same afresh after verifying the claim of the assessee that the difference in question in bank term deposits actually pertained to the earlier year and not to the year under consideration. Ground No. 2 is accordingly treated as allowed for statistical purpose.

8. The issue involved in Ground No. 3 relates to the disallowance of Rs. 7,76,061 made by the A.O. and confirmed by the Ld. CIT(A) being 20% of the total indirect expenses.

9. During the course of assessment proceedings, the assessee could not produce any documentary evidence to support and substantiate its claim for the various indirect expenses to the tune of Rs. 38,80,305/-. As noted by the A.O., the said expenses were mostly incurred by the assessee in cash and in the absence of any supporting bills or vouchers, the same were not fully verifiable. He accordingly made a disallowance of Rs. 7,76,061/- being 20% of the indirect expenses of Rs. 38,80,305/- claimed by the assessee. On appeal, the Ld. CIT(A) confirmed the said disallowance made by the A.O. observing that the same was fair and reasonable in the facts and circumstances of the case including the fact that the assessee had failed to produce the relevant documentary evidence in the form of bills and vouchers.

10. 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 contended that the disallowance of 20% made by the A.O. and confirmed by the Ld. CIT(A) out of indirect expenses for unverifiable element is highly excessive and unreasonable keeping in view the nature of the assessee's business and the fact that the books of account of the assessee were duly audited. He has also pointed out that the net profit declared by the assessee for the year under consideration is 4% as against the net profit rate of 5% declared for A.Y. 2009-10 whereas a similar disallowance on account of unverifiable indirect expenses was made only to the extent of Rs. 1,00,000/-. Keeping in view the lower net profit declared by the assessee on the gross receipts of Rs. 2.37 crores as compared to that of A.Y. 2009-10 and the fact that a similar disallowance on account of unverifiable indirect expenses was made in A.Y. 2009-10 to the extent of Rs. 1,00,000/-, I find that the disallowance of 20% out of indirect expenses made by the A.O. and confirmed by the Ld. CIT(A) is excessive and unreasonable and it would be fair and reasonable to restrict the same to 10%. I accordingly modify the impugned order of the Ld. CIT(A) on this issue and allow partly ground no 3 of the assessee's appeal.

11. The issue involved in Ground No. 4 relates to the addition of Rs. 1,54,850/- made by the A.O. and confirmed by the Ld. CIT(A) on account of difference in sundry debtors account.

12. In the balance sheet filed along with the return of income, a sum of Rs. 13,76,174/- was shown by the assessee as receivable from Eastern Coalfields Ltd., Kenda Area. On verification from the said party, the same was found to be Rs. 15,31,024/- showing the

difference of RS. 1,54,850/- which was added by the A.O. to the total income of the assessee. On appeal, the Ld. CIT(A) confirmed the said addition made by the A.O. by observing that there was failure on the part of the assessee to reconcile the difference pointed out by the A.O.

13. I have heard the arguments of both the sides and also perused the relevant material available on record. Although the learned counsel for the assessee has contended that one more opportunity may be given to the assessee to reconcile the difference of Rs. 1,54,850/- pointed out by the A.O., I find merit in the contention of the learned DR that sufficient opportunity has already been afforded to the assessee by the authorities below to explain the said difference which the assessee has failed to do. Moreover, no reconciliation has been prepared and furnished by the assessee even before the Tribunal reconciling the said difference. I, therefore, find no merit in Ground No. 4 raised by the assessee and dismiss the same.

**14. In the result, the appeal of the assessee is partly allowed.**

Order Pronounced in the Open Court on 11<sup>th</sup> April, 2018.

Sd/-

(P.M. Jagtap)  
ACCOUNTANT MEMBER

**Dated: 11/04/2018**

Biswajit, Sr. PS

Copy of order forwarded to:

1. M/s. Rita Transport, Vill + P.O. Bahula, Burdwan – 713 322.
2. ITO Ward 1(1), Aayakar Bithi, City Centre, Durgapur – 713 216.

3. The CIT(A)

4. The CIT

5. DR

True Copy,

By order,

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