

STATE OF NEW YORK

DEPARTMENT OF TAXATION AND FINANCE

BOARD OF COMMISSIONERS - CORPORATION TAX BUREAU

In the Matter of the Applications of

REPRO. MESTA CO., INC.

for revision or refund of franchise taxes under Article 9-A of the Tax Law for the fiscal years ended June 30, 1963 and June 30, 1964.

Hearing Case No. 6407
" " " 6408

Taxpayer computed and paid taxes, without allocation, for the fiscal years ended June 30, 1963 and June 30, 1964 as follows:

	<u>6/30/63</u>	<u>6/30/64</u>
Entire Net Income	\$561,088.69	\$505,767.10
Tax at 5 1/2%	30,859.88	27,797.19
Plus Subsidiary Capital Tax	266.16	281.96
Total Tax	\$ 31,126.04	\$ 27,989.15

The corporation subsequently filed forms CT-3360, Report of Change in Taxable Income by U. S. Treasury Department, and paid additional taxes, without allocation, in the amount of \$979.93 for the fiscal year ended June 30, 1963 and \$975.30 for the fiscal year ended June 30, 1964.

Timely applications were filed on August 17, 1966 and August 22, 1966, respectively, supplemented by amended returns.

The corporation contends it had a regular place of business outside New York so as to be entitled to allocate its business income.

Taxpayer had previously filed an application for revision or refund in connection with the fiscal year ended June 30, 1962 and an informal hearing had been held in the matter. The corporation was granted a refund for that year in the amount of \$3,881.89, which was approved by the Tax Commission, based on the fact that it had a regular place of business. The hearing disclosed that the taxpayer maintains, for its own exclusive use under a lease arrangement, an office in Milan, Italy, which is regularly used in carrying on the business of the corporation, and, accordingly, the taxpayer is entitled to allocate its business income.

On the amended returns filed for the fiscal years ended June 30, 1963 and June 30, 1964, to supplement taxpayer's applications, deduction was claimed for current liabilities in arriving at subsidiary capital. Correspondence conducted on this issue discloses that the taxpayer is not entitled to the deduction for each year.

The Board recommends that the taxes be corrected, allowing a business allocation, as follows:

	<u>6/30/63</u>	<u>6/30/64</u>
Allocated Entire Net Income per amended return	\$486,002.49	\$437,961.30
Tax at 5 1/2%	26,730.14	24,087.87

**Subsidiary Capital Tax
per original return**

**Total Tax
Tax Paid
Refund due**

	266.16	281.96
	26,996.30	24,369.83
	32,105.97	28,964.45
	\$ 5,109.67	\$ 4,594.62

/s/

D. H. Gilhooly

Chairman

/s/

J. J. Genevich

Approved
E. A. DORAN

JJC:MB
10/27/66

Approved
JAMES R. MACDUFF
11-4-66

OK