

आयकर अपीलीय अधिकरण, ' बी ' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
"B" BENCH, CHENNAI**

श्री जॉर्ज माथन, न्यायिक सदस्य एवं श्री एस जयरामन, लेखा सदस्य केसमक्ष

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER AND
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER**

आयकर अपील सं./ I.T.A. No. 3427/Mds/2016

निर्धारण वर्ष/Assessment Year : 2012-13

Deputy Commissioner of Income Tax,
Corporate Circle -4(1),
Chennai.

M/s. Lifecell International Pvt. Ltd.,
Vs. No. 26, Vandalur,
Kelambakkam Main Road,
Keelakottayur Village,
Chennai – 600 048.

[PAN: AAECA 7997B]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri R. Jayakumar, CIT

प्रत्यर्थी की ओर से/Respondent by

: Shri T. Banusekar, CA

सुनवाई की तारीख/Date of Hearing

: 12.06.2017

घोषणा की तारीख/Date of Pronouncement

: 12.06.2017

आदेश / O R D E R

PER S. JAYARAMAN, ACCOUNTANT MEMBER:

This is an appeal filed by the Revenue against the order of the
Commissioner of Income Tax (Appeals)-8, Coimbatore dated 26.10.2016.

2. M/s. Lifecell International Pvt. Ltd., the assessee, is engaged in the business of collection, processing, preserving and storing of blood stem cells viz., Cells from Umbical Cord, Embryonic stem cells and Adult stem cells at the time of delivery of a child. The samples collected are processed under minus 196°C temperature condition. The company at the time of enrolment offers two options to its clients for its services viz., Annual storage plan or the 21 year storage plan. Under Annual subscription plan, the fee receivable from client will be recognized as income in the year of receipt itself. Under the 21 year storage plan, the assessee collects the storage fee in advance from the clients. A portion of the said fee would be offered to tax in the year of receipt and the balance will be deferred to balance period of 20 years and recognized as income in the balance 20 years proportionately. For all clients, irrespective of the plan they chooses, the enrolment fee, processing fee and first year storage fee are received at the time of enrolment itself.

3. While making the assessment for the assessment year 2012-13, inter alia, the AO found that the assessee has received Rs. 34,51,24,579/- as storage fees for 21 years for new enrolment. After recognising Rs. 1,63,25,096/- as income of current year, the assessee deferred Rs. 32,87,99,483/-, being the storage fees received in advance from clients. The Assessing Officer rejected this working and held that the entire sum received by the assessee should be subjected to tax in this year itself. However, after adjusting Rs. 1,63,25,096/- towards the revenue recognised for current year in the P&L account and offered as income and Rs. 6,38,94,353/- towards revenue recognised during the year out of earlier

enrolments, which is already taxed from assessment year 2005-06 to 2011-12, the AO determined the additional income of Rs. 26,49,05,130/-. The AO's above treatment is put in a tabular form, for easy understanding as under:

Particulars	Amount (in Rs.)
Total enrolment during the year	34,51,24,579
Less: Revenue recognised in the profit & Loss Statement of current year	1,63,25,096
Less: Revenue recognised during the year out of the earlier enrolment which is already taxed from AY 2005-06 to AY 2011-12	6,38,94,353
Additional Income to be recognised	26,49,05,130

4. Aggrieved, the assessee filed an appeal before the CIT(A)-8, Chennai. The CIT(A) found that this issue had been decided in favour of assessee for assessment year 2005-06 to 2010-11 by the orders of Jurisdictional Benches of ITAT in Order Nos. ITA No. 2849/Mds/2014, 851/Mds/2011, 2850/Mds/2014, 342/Mds/2012, 2851/Mds/2014 & 2142/Mds/2014 respectively. Hence, following the decisions of various benches of the Jurisdictional ITAT Benches in the assessee's own case for the assessment year 2005-06 to 2010-11, the CIT(A) deleted the disallowance made by the AO towards storage fee. Aggrieved, the Revenue filed this appeal with the following grounds:

2.1 The CIT(A) erred in deleting the addition on deferred income of storage fees of Rs. 26,49,05,130/- received in advance for a period of 21 years.

2.2 The CIT(A) erred in holding that out of the lump sum payment received by the assessee only a portion of fee for particular

year is to be treated as income and the balance to be carried forward till the completion of 21 years on a pro rata collection of yearly basis.

2.3 The CIT(A) failed to take note that as per Section 5(1) of the Income Tax Act, 1961 the storage fee collected and received during the year should be taxed in the year of receipt itself.

2.4 The CIT(A) erred in not appreciating the findings of the AO that the assessee has not provided any proof or document in support of its claim that the expenditure incurred for upkeep of the samples are met only out of the storage fee collected in advance.

2.5 The CIT(A)'s findings is not proper especially when the clauses in the agreement clearly shows that all fee paid by the client are not refundable and there is not certainty that the services would be utilised by the parents during the entire contract period especially when no expenditure on account of refund of storage fee was claimed by the assessee.

2.6 It is submitted that the CIT(A)'s relied upon orders of ITAT on similar identical issue in the assessee's own case for assessment years 2005-06 to 2010-11 have not become final and against which Department's appeal u/s. 260A is pending before the Hon'ble High Court of Madras.

5. The DR argued on the lines of the assessment order and on the lines of the grounds of appeal. Per contra, the Ld. Counsel submitted that the impugned issue is squarely covered in favour of the assessee by the decisions of this Tribunal, supra.

6. We heard both the parties, perused the material on record and gone through the orders of authorities below. The issue involved in this appeal is, whether the advance storage fee received by the assessee for a period of 21 years is to be offered for taxation in the year of receipt, as done by the AO or is it

has to be spread over for a period of 21 years as is done by the assessee. This Tribunal found that on similar issue and on identical facts in the assessee's own case for assessment years 2006-07 and 2008-09, the appeals were allowed in assessee's favour, supra, and following them allowed the appeal in favour of the assessee in ITA No. 2142/Mds/2014 dated 11.03.2005 for assessment year 2010-11. Since, the facts of the case remain identical in this assessment year also, following the above decisions the revenue's appeal is dismissed.

7. In the result, the revenue's appeal is dismissed

Order pronounced on Monday, the 12th day of June, 2017 at Chennai.

Sd/- (जॉर्ज माथन) (GEORGE MATHAN) न्यायिक सदस्य/Judicial Member	Sd/- (एस जयरामन) (S. JAYARAMAN) लेखा सदस्य/Accountant Member
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चेन्नई/Chennai,

दिनांक/Dated: 12th June, 2017

JPV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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|------------------------|--------------------------|------------------------------|
| 1. अपीलार्थी/Appellant | 2. प्रत्यर्थी/Respondent | 3. आयकर आयुक्त (अपील)/CIT(A) |
| 4. आयकर आयुक्त/CIT | 5. विभागीय प्रतिनिधि/DR | 6. गार्ड फाईल/GF |