

आयकर अपीलीय अधिकरण, ए' न्यायपीठ, चेन्नई  
IN THE INCOME TAX APPELLATE TRIBUNAL, 'A' BENCH : CHENNAI

श्री अब्राहम पी. जॉर्ज, लेखा सदस्य एवं  
श्री धुव्वुरु आर.एल रेड्डी, न्यायिक सदस्य के समक्ष।  
[BEFORE SHRI ABRAHAM P. GEORGE, ACCOUNTANT MEMBER  
AND SHRI DUVVURU RL REDDY, JUDICIAL MEMBER]

आयकर अपील सं./I.T.A. No.3025/CHNY/2017.

निर्धारण वर्ष /Assessment year : 2014-2015.

M/s. Quscient Technologies Pvt. Ltd,  
4B, No.141, Prince Infocity Phase II,  
Rajiv Gandhi Road,  
Kandanchavedi,  
Chennai 600 096.

**Vs.** The Deputy Commissioner  
of Income Tax,  
Corporate Circle 5(2)  
Chennai.

**[PAN AAACQ 1361P]**  
**(अपीलार्थी/Appellant)**

**(प्रत्यर्थी/Respondent)**

अपीलार्थी की ओर से/ Appellant by : Shri. D. Anand, Advocate  
प्रत्यर्थी की ओर से /Respondent by : Shri. AR.V. Sreenivasan, IRS, JCIT.

सुनवाई की तारीख/Date of Hearing : 24-05-2018  
घोषणा की तारीख /Date of Pronouncement : 24-05-2018

**आदेश / ORDER**

**PER ABRAHAM P. GEORGE, ACCOUNTANT MEMBER**

This appeal filed by the assessee is directed against an order dated 30.08.2017 of Id. Commissioner of Income Tax (Appeals)-3, Chennai.

2. Assessee has filed this appeal with a delay of four days. Condonation petition has been filed. Reason shown for the delay seems to be justified. Ld. Departmental Representative did not raise any serious objection. Delay is condoned. Appeal is admitted.

3. Ld. Counsel for the assessee submitted that the issue raised through the grounds was on an addition of ₹62,40,268/- made by the Id. Assessing Officer under the pretext that there was a difference between the turnover shown by the assessee in its Service Tax return and turnover shown in the Income Tax return.

4. Ld. Counsel for the assessee submitted that during the course of assessment proceeding, assessee was required to explain the higher billings returned by it in its Service Tax return when compared to billings shown by it in Income Tax return. As per the Id. Authorised Representative, assessee had pointed out that the difference of ₹62,40,268/- was on account of invoices raised in advance. Ld. Authorised Representative submitted that assessee was in the business of providing IT enabled services, BPO service and software development services. Contention of the Id. Authorised Representative was that turnover shown by the assessee in its Service Tax return was ₹21,51,04,395/- whereas the figure shown in its IT return came to ₹20,88,64,127/-only. As per the Id. Authorised

Representative, the difference of ₹62,40,268/- was due to advance billings done by the assessee for services which were still to be performed. According to the Id. Authorised Representative, definition of taxable service u/s.66B of the Service Tax Act, included services which were agreed to be provided by a person to another. According to him, advance billings made were also to be included in taxable services by virtue of Section 65(105)(zzz) of the Service Tax Act. Contention of the Id. Authorised Representative was that assessee had in the subsequent year shown such accrued income as part of its sales in the Income Tax return and paid taxes thereon. As per the Id. Authorised Representative, accrued income was rightly accounted in the subsequent year since services relating to such income were provided by the assessee only in such assessment year. Reliance was placed on the copies of Service receipt ledger in the books of the assessee for financial year ending 31.03.2015 and also on its profit and loss account for the year ending 31.03.2015.

**5.** Per contra, Id. Departmental Representative submitted that assessee having billed on its clients a sum of ₹21,51,04,395/-, it could not show a lesser amount in its Income Tax return. As per the Id. Departmental Representative, lower authorities were justified in considering the difference between turnover shown in the Service Tax return and turnover shown in the Income Tax Return as income for the

impugned assessment year. Further, according to him, just for a reason that assessee disclosed such income in the subsequent year, would not shift the year of accrual of the tax liability.

**6.** We have considered the rival contentions and perused the orders of the authorities below. It is not disputed that assessee had invoiced ₹21,51,04,395/- on its clients during the previous year relevant to the impugned assessment year. Service Tax return of the assessee disclosed such sum. However, in the Income Tax return what was shown by the assessee was only ₹20,88,64,127/-. However, revenue has not controverted the contention of the assessee that the difference of ₹62,40,268/- were on invoices raised for services which were still to be performed.

**7.** Taxing of services was introduced by Finance Act, 1994, through Sections 64 to 105 therein, and has been amended from time to time by various subsequent Finance Acts. Section 66B of the Finance Act, 1994 specifying the taxability of services includes a service provided as well as service agreed to be provided by a person to another. The terms "agreed to be provided" has been retained, from the definition of taxable service as contained in clause 105 of Section 65 of the said Act. Implications of the phrase "agreed to be provided" are as under:-

- *Services which have only been agreed to be provided but are yet to be provided are taxable.*
- *Receipt of advances for services agreed to be provide become taxable before the actual provision of service.*
- *Advances that are retained by the service provider in the event of cancellation of contract of service by the service receiver become taxable as these represent consideration for a service that was agreed to be provided.*

**8.** In the case before us there is no dispute that assessee was still to render services for which invoices of ₹62,40,268/- were raised. In other words, income corresponding to such services would, in our opinion, arise only in the year in which services were actually rendered. As per the assessee such income was duly recorded in its books of accounts for the financial year ending 31.03.2015. Assessee had shown following entries as a part of its "Sales –Non Voice".

| <i>Date</i>       | <i>Particulars</i>                | <i>Vch type</i> | <i>Vch No.</i> | <i>Credit.</i>    |
|-------------------|-----------------------------------|-----------------|----------------|-------------------|
| <i>01.04.2014</i> | <i>Dr. Accrued Income 2013-14</i> | <i>Journal</i>  | <i>1</i>       | <i>793187.00</i>  |
| <i>01.04.2014</i> | <i>Dr. Accrued Income 2013-14</i> | <i>Journal</i>  | <i>6</i>       | <i>641724.00</i>  |
| <i>01.04.2014</i> | <i>Dr. Accrued Income 2013-14</i> | <i>Journal</i>  | <i>7</i>       | <i>2055111.00</i> |

Similarly assessee had shown a sum of ₹27,50,246/ as accrued income for 2013-14 in its ledger account for "Sales –Technology". Aggregate of these four sums came to ₹62,40,268/-. Profit and Loss account of

the assessee for the year ending 31.03.2015 clearly show that it had disclosed revenue of ₹15,90,33,592/- from Service of services. Note 15 of its financial statement is reproduced hereunder:-

*Note 15- Sale of Services Comprises.*

*Lead Generation Services* 9,476,378

*Non Voice* 123,295,902

*Technology* ----

*Voice* 26,261,312

-----  
159,033,592

-----

Sums shown against non voice, voice and are the aggregate of the ledger receipt under these heads, and these ledger pages included the four entries aggregating to ₹62,40,268/-. Thus, there can be no dispute that the sum of ₹62,40,268/- was considered by the assessee as part of its service income for financial year ending 31.03.2015 relevant for assessment year 2015-2016. To a question from the Bench, Id. Departmental Representative agreed that the income whether considered in the impugned assessment year or subsequent assessment year was tax neutral. Considering all these, we are of the

opinion that the addition of ₹62,40,268/- ought not have been done for the impugned assessment year. Such addition stands deleted.

9. In the result, the appeal of the assessee is allowed.

Order pronounced on Thursday, the 24th day of May, 2018, at Chennai.

**Sd/-**

**(धुव्वुरु आर.एल रेड्डी)**

**(DUVVURU RL REDDY)**

**न्यायिक सदस्य/JUDICIAL MEMBER**

चेन्नई/Chennai

दिनांक/Dated: 24th May, 2018.

**KV**

**Sd/-**

**(अब्राहम पी. जॉर्ज)**

**(ABRAHAM P. GEORGE)**

**लेखा सदस्य /ACCOUNTANT MEMBER**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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