(2012) 08 DEL CK 0001

In the Delhi High Court

Case No : ITA 1990 of 2010

CIT APPELLANT

Vs

Adam Robert John Mynott RESPONDENT

Date of Decision : 03-08-2012

Acts Referred:
Income Tax Act, 1961 — Section 10(10CC)

Citation : (2012) 08 DEL CK 0001

Hon'ble Judges : S. Ravindra Bhat, J;R.V. Easwar, J

Bench : Division Bench

Advocate : Rashmi Chopra, for the Appellant; Shashi M. Kapila, with Mr. Pravesh Sharma and Ms. Radhika Narang, for the Respondent

Final Decision : Dismissed

Judgement

S. Ravindra Bhat, J.—The Revenue claims to be aggrieved against the decision of the Income Tax Appellate Tribunal (''ITAT'' for short) dated 08.02.2010 whereby its appeal, directed against the Commissioner of Income Tax (Appeals) order was dismissed. The only issue which arises for consideration is whether the tax paid on the facility of rent free accommodation, by the employer, to the extent i.e. the sum of Rs. 1,05,765/-, is itself taxable or is it exempt. The CIT (Appeals) by the order impugned before the Tribunal held as follows: -

5. I have considered the submissions made by the appellant and the assessment order. The only issue of dispute in this case is that out of the tax borne by the employer on monetary as well as non monetary benefits, the assessee claimed a sum of Rs. 1,05,765/- as exempt stating that this relates to the non monetary benefits and therefore, was exempt u/s 10(10CC) of the I.T. Act and should not be subjected to grossing up whereas the AO has stated in his assessment order that the benefit (rent free accommodation), considered by the assessee as non-monetary is a monetary benefit and therefore, tax paid by the employer in respect of this benefit is not eligible for exemption u/s 10(10CC) and is to be grossed up.

2. This Court notices that the combined reading of Rule 3 of Income Tax Rules, 1962 excludes the tax components borne in respect of the perquisite and rent free accommodation paid by the employer and this position appears to have been considered and benefit given by this Court in CIT v. Telsuo Mitera, ITA No. 323/2010 and other connected cases decided on 17.05.2012. In view of the above discussion, the Revenue''s appeal has to fail. The same is accordingly dismissed.

