(2002) 12 DEL CK 0029

In the Delhi High Court

Case No : IT Ref. No. 407 of 1992 12 December 2002

Commissioner of Income Tax APPELLANT

Vs

C. Babbington RESPONDENT

Date of Decision : 12-12-2002

Acts Referred:

Citation : (2003) 130 TAXMAN 579

Hon'ble Judges : Mahmood Ali Khan, J;D.K. Jain, J

Bench : Full Bench

Advocate : R.C. Pandey and Ajay Jha, for the Revenue V.U. Eradi, Ms. Parul Goel and Ms. Sampada Narang, for the assessed, for the Appellant;

Judgement

D.K. Jain, J.

At the instance of the revenue, the Income Tax Appellate Tribunal, Delhi Bench-E has referred u/s 256(1) of the Income Tax Act, 1961 the following question for the opinion of this court :

"Whether, on the facts and in the circumstances of the case, the Tribunal was right in holding that the living allowance was exempt u/s 10(14) of the Income Tax Act, 1961 ?"

2. We have heard learned counsel for the parties.

3. As is apparent from the format of the question, the issue arising for consideration is as to whether the living allowance received by a foreign technician is exempt u/s 10(14) of the Act. Since the issue is purely legal, we deem it unnecessary to state the facts.

4. Answer to the question stands concluded by the decision of the Apex Court in Commissioner of Income Tax Vs. Gosline Mario and Others, , wherein it has been held that the rupee payment taken in India in the shape of daily allowances for the foreign technician is exempt u/s 10(14) of the Act. In view of the said authorities pronouncement, our answer to the question referred is in the

affirmative, i.e., in favor of the assessed and against the revenue.

5. The reference stands disposed of with no order as to costs.

