(2012) 05 DEL CK 0386

In the Delhi High Court

Case No : Rev. Petition No. 118 of 2012 in I.T.A. No. 1428 of 2010

Commissioner of Income Tax APPELLANT

Vs

Hidechito Shiga RESPONDENT

Date of Decision : 21-05-2012

Acts Referred:
Income Tax Act, 1961 — Section 10(10CC), 17(2)(iv)

Citation : (2012) 345 ITR 269

Hon'ble Judges : Sanjiv Khanna, J;R.V. Easwar, J

Bench : Division Bench

Advocate : Harpreet S. Ajmani, proxy for Ms. Rashmi Chopra, for the Appellant; Piyush Kaushik with Prince Pawaiya, for the Respondent

Final Decision : Dismissed

Judgement

1. This is an application for review. The appeal was dismissed on May 31, 2012 (?), on the ground that the tax effect in the present case was Rs. 1,39,715. The appeal was admitted, vide order dated November 23, 2010, on the question whether the Tribunal was right in holding that the tax paid by the employer was exempt u/s 10(10CC) of the income tax Act, 1961 ("the Act", for short). It is noticed that section 10(10CC) of the Act was not invoked by the assessee and is not the subject-matter of the appellate impugned order. The issue raised before the Tribunal relates to valuation of the perquisite "rent free accommodation" in terms of rule 3 of the income tax Rules, 1962, as amended with effect from April 1, 2001. We have already interpreted the said rule and held that tax borne and paid by the employer is covered by section 17(2)(iv) of the Act and, therefore, has to be excluded while computing the perquisite of "rent free accommodation" as per the amended rule 3. (see CIT v. Telsuo Miter a I.T.A. No. 323 of 2012 and connected matters dated May 17, 2012) (since reported in C.I.T Vs. Telsuo Mitera,). In view of the aforesaid, we do not find any merit in the review petition and the application for condonation in filing and refiling. They are dismissed.

