(2002) 12 DEL CK 0008

In the Delhi High Court

Case No : IT Ref. No. 403 of 1992 & IT Reference No. 403 of 1992 12 December 2002

Commissioner of Income Tax APPELLANT

Vs

Kammholz Kurt RESPONDENT

Date of Decision : 12-12-2002

Acts Referred:

Citation : (2003) 130 TAXMAN 270

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

Bench : Full Bench

Advocate : R.C. Pandey and Ajay Jha, for the Revenue, 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, 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. There is no appearance an behalf of the assessed. Accordingly we have heard Mr. R.C. Pandey, learned senior standing counsel for the revenue.

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.

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 authoritative pronouncement, our answer to the question referred is in the affirmative, i.e., in favor of the assessed and against the revenue.

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

