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**(2003) 03 DEL CK 0102**

**In the Delhi High Court**

**Case No :** IT Ref. No. 42 of 1993 21 March 2003 & Income-tax Reference No. 42 of 1993

Commissioner of Income Tax

APPELLANT

Vs

Sam Orie

RESPONDENT

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**Date of Decision :** 21-03-2003

**Acts Referred:**

**Citation :** (2003) 131 TAXMAN 301

**Hon'ble Judges :** Madan B. Lakur, J;D.K. Jain, J

**Bench :** Full Bench

**Advocate :** Prem Lata Bansal and Ajay Jha, for the Petitioners, for the Appellant;

**Final Decision :** Disposed Off

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## **Judgement**

D.K. Jain, J.

At the instance of the revenue, the Income Tax Appellate Tribunal, Delhi Bench-D, New Delhi (hereinafter referred to as the Tribunal) has referred u/s 256(1) of the Income Tax Act, 1961, the following question for our opinion :

"Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in holding that the living allowance paid to foreign employees is exempt u/s 10(14) of the Act ?"

2. There is no appearance on behalf of the assessed. Accordingly we have heard Ms. Prem Lata Bansal, 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.

4. Answer to the question referred stands concluded by the decision of the Apex Court in Commissioner of Income Tax Vs. Goshline 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.

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