(1998) 10 MAD CK 0093

In the Madras High Court

Case No : Tax Case No. 195 of 1990 (Reference No. 118 of 1990)

Commissioner of Income Tax APPELLANT

Vs

Shigeru Baba RESPONDENT

Date of Decision : 27-10-1998

Acts Referred:
Income Tax Act, 1961 — Section 10, 10(14)

Citation : (2000) 161 CTR 72 : (2000) 242 ITR 592

Hon'ble Judges : R. Jayasimha Babu, J;A. Subbulakshmy, J

Bench : Division Bench

Advocate : R. Sivaraman, for the Appellant; P.P.S. Janarthana Raja, for the Respondent

Judgement

R. Jayasimiia Babu, J.—The question referred to us at the instance of the Revenue is as to "whether, on the facts and in the circumstances of the case, the Appellate Tribunal was justified in law in holding that the reimbursement of daily expenses and out of pocket expenses incurred by the foreign technician in India towards his stay in India is exempt u/s 10(14) of the Income Tax Act, 1961 ?" The year of assessment is 1981-82.

2. The assessee is a citizen of Japan who had stayed in India in connection with the supply of capital goods and erection of machinery for an Indian company, Tuticorin Alkali Chemicals and Fertilisers Ltd., Madras. He received from the Indian company during his stay in India reimbursement of the lodging, boarding and entertainment expenses. The Income Tax Officer has treated the amount of Rs. 71,811 as income from other sources and levied tax thereon.

3. The Commissioner as also the Tribunal held that the amounts reimbursed related to expenses which were wholly, necessarily and exclusively incurred for the purpose of duties which the assessee was required to perform in India and therefore would be exempt from tax u/s 10(14) of the Act.

4. The finding recorded by the Tribunal is a finding of fact. We have not been

shown any other material on record which would support the submission that the finding of the Tribunal is not based on any material.

5. We answer the question referred to us in favour of the assessee and against the Revenue.

