

## Commissioner of Income Tax Vs Sam Orie

**Court:** Delhi High Court

**Date of Decision:** March 21, 2003

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

**Citation:** (2004) 266 ITR 630

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

**Bench:** Division Bench

**Advocate:** Prem Lata Bansal and Ajay Jha, for the Appellant; None, for the Respondent

### Judgement

D.K. Jain J.

1. At the instance of the Revenue, the Income Tax Appellate Tribunal, Delhi Bench-D, New Delhi (for short "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. The answer to the question referred 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.

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