(2002) 12 DEL CK 0080

Delhi High Court

Case No: IT Ref. No. 403 of 1992

Commissioner of Income Tax		APPELLANT
	Vs	
Kammholz Kurt		RESPONDENT

Date of Decision: Dec. 12, 2002

Acts Referred:

- Income Tax Act, 1961 - Section 10(14)

Citation: (2003) 185 CTR 525

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

Bench: Division Bench

Advocate: R.C. Pandey and Ajay Jha, for the Appellant; None, for the Respondent

Judgement

D.K. JAIN, J.
At the instance of the Revenue the Tribunal, Delhi Bench-E, has referred u/s 256(1) of the IT 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 IT Act, 1961 ?"

2. There is no appearance on 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.

4. 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.

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