

**(2002) 12 DEL CK 0081**

**Delhi High Court**

**Case No:** IT Ref. No. 111 of 1993

Commissioner of Income Tax

APPELLANT

Vs

R. Frohnholzer

RESPONDENT

**Date of Decision:** Dec. 12, 2002

**Acts Referred:**

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

**Citation:** (2003) 180 CTR 560 : (2003) 130 TAXMAN 506

**Hon'ble Judges:** Mahmood Ali Khan, 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.

At the instance of the Revenue, the Tribunal, Delhi Bench-D, 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 law 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 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 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,