

Commissioner of Income-tax Vs. N. Shajilal

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Court : Kerala

Decided On : Feb-13-2009

Reported in : [2010]320ITR489(Ker)

Judge : C.N. Ramachandran Nair and; K. Surendra Mohan, JJ.

Acts : [Income Tax Act, 1961](#) - Sections 10(14)

Appeal No. : I.T.A. Nos. 82, 119, 161, 165 and 166 of 2008

Appellant : Commissioner of Income-tax

Respondent : N. Shajilal

Advocate for Pet/Ap. : P.K.R. Menon and; Jose Joseph, Advs.

Disposition : Appeal dismissed

Judgement :

C.N. Ramachandran Nair, J.

1. The question raised in all these appeals filed by the Revenue is whether the additional conveyance allowance granted by the LIC to Development Officers is exempt from tax under Section 10(14) of the Income-tax Act, 1961, as held by the lower authorities. We have heard standing counsel appearing for the Department and have perused the orders of the Tribunal and that of the first appellate authority.

2. This court had occasion to consider the issue in the context of challenge against deduction of tax on additional conveyance allowance in the decision in Franco John v. Union of India reported in : [2004] 269 ITR 441 (Ker), wherein it was held that reimbursement of actual expenditure incurred by employees towards conveyance expenditure is allowable deduction, whether it be granted as allowance or not. In all these cases, on facts we find that at least the first appellate authority found that the employer namely, LIC which is a statutory corporation under the Government of India is reimbursing only actual expenditure incurred by the Development Officers for travel to promote business of the LIC. So much so, on facts, the respondent was found eligible for the exemption. We, therefore, dismiss these appeals but leaving freedom to the Department to establish and disallow exemption in cases where the employee does not prove that the additional conveyance allowance received is not reimbursement of actual expenditure and is not a perquisite which is outside the scope of Section 10(14) of the Act.