

C.A.No. 1152 OF 1999
ITEM No.109

Court No. 5

SECTION IIIA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL NO.1152 OF 1999@@
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C.I.T., MEERUT & ANR.

Appellant (s)

VERSUS

MORGENSTERN WERNER

Respondent (s)

(With Office Report)

Date : 24/10/2002 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE M.B. SHAH
HON'BLE MR. JUSTICE P. VENKATARAMA REDDI
HON'BLE MR. JUSTICE D.M. DHARMADHIKARI

For Appellant (s) Mr. Rajiv Tyagi, Adv.
Ms. Sushma Suri, Adv.

For Respondent (s) Mr. S. Rajappa, Adv.

UPON hearing counsel the Court made the following

O R D E R

.....L.....I.....T.....T.....T.....T.....T.....T.....T.....J.....R
.SP2

Heard the counsel for the parties for about half and hour.

The appeal is dismissed in terms of the signed order.
No costs.

.SP1

(A.S. Bisht)
Court Master

(Janki Bhatia)
Court Master

(Signed order is placed on the file)

..L.....T.....T.....T.....T.....T.....T.....T.....T.....T.....J
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1152 OF 1999@@
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C.I.T. , MEERUT & ANR.

APPELLANT(S)

:VERSUS:

MORGENSTERN WERNER

RESPONDENT(S)

O R D E R@@
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..L.....I.....T.....T.....T.....T.....T.....T.....T.....T.....J...R

.SP2

Heard the learned counsel for the parties.

The High Court has given a specific finding that the respondent-assessee had not stayed in India during the preceding 9 years and he was not ordinary resident in India, and, therefore, he would be governed by the proviso to Section 5(1)(c) of the Income Tax Act.

Admittedly, the assessee was a technician working with M/s. Kraft Work Union (Siemens) and was drawing his salary in Germany. Hence, he was not taxable in India and therefore, his salary could not be included in the total income to be assessed in India. He was deputed by his company as a technical liason officer to provide technical guidance to M/s. Bharat Heavy Electricals Ltd. for which he was paid Rs.500/- as daily allowance. The said allowance was exempt from income-tax as per the notification datd 21st February, 1989. This being a finding

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of fact does not call for any interferences in this appeal. Hence, this appeal is dismissed. There shall be no order as to costs.

.SP1

.....J~
(M.B. SHAH)@@
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.....J
(P. VENKATARAMA REDDI)@@
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.....J
(D.M. DHARMADHIKARI)@@
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New Delhi;

October 24, 2002.