IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2022

CORAM :

THE HON'BLE MR. JUSTICE R. MAHADEVAN

AND

THE HON'BLE MR. JUSTICE MOHAMMED SHAFFIQ

Tax Case Appeal No.732 of 2017

Tamilnadu Warehousing Corporation Limited,
82, Anna Salai,
Guindy, Chennai – 600 032.
[PAN: AAACT 2474Q] ... Appellant

Vs.

The Assistant Commissioner of Income Tax,
Corporate Circle 3 (1),
Chennai – 600 034. ... Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, "A" Bench, Chennai, dated 04.05.2017 passed in I.T.A.No.323/Mds/2016.

For Appellant : Ms.S.Sreelakshmi Valli
For Mr.G.Baskar

For Respondent : Mr.M.Swaminathan
Standing Counsel

J U D G M E N T

(Judgment was delivered by R. MAHADEVAN, J.)

This Tax Case Appeal has been filed by the appellant / assessee challenging the order dated 04.05.2017 passed by the Income Tax Appellate Tribunal, Bench 'A', Chennai ('the Tribunal', for brevity) in I.T.A.No.323/mds/2016 for the Assessment Year 2008-2009.

2.The above appeal was admitted on 22.12.2017 on the following substantial questions of law :

"(i) Whether the Income Tax Appellate Tribunal is right in law in upholding the reassessment even when the Assessing Officer failed to pass a speaking order on the objections raised by the appellant against reopening of assessment?

(ii) Whether on the facts and circumstances of the case, the Income Tax Appellate Tribunal is right in law in not cancelling the reopening after four years from the end of the assessment year, as there was no failure on the part of the assessee to disclose fully and truly all material facts necessary for assessment, due to which, any income chargeable to tax has escaped assessment?

(iii) Whether on the facts and circumstances of the case, the Income Tax Appellate Tribunal is right in holding that the provision for leave encashment is not an allowable expenditure under provisions of Section 43B(f) of the Income Tax Act, 1961? and

(iv) Whether the Income Tax Appellate Tribunal is right in deciding the issue of allowability of provision for leave encashment against the appellant, when the same issue had been decided in favour of the appellant by the same Tribunal in the appellant's own case for the assessment years 2005-06 and 2010-11?"

3. When the matter was taken up for hearing, the learned counsel for the appellant filed a memo dated 29.10.2021, wherein, it is stated that the appellant / assessee has already availed the benefit conferred under the Direct Tax Vivad Se Vishwas Act, 2020 and Form 3 has also been issued to them and hence, nothing survives for further adjudication herein. Stating so, the learned counsel sought permission of this court to withdraw this appeal.

4. In view of the above submissions made by the learned counsel for the appellant / assessee, this tax appeal case is dismissed as withdrawn. No costs.

[R.M.D, J.] **[M.S.Q, J.]**
04.07.2022

r n s
Internet : Yes.
Index : Yes / No.

To

1. The Commissioner of Income Tax
   (Appeals – II),
   Chennai.

2. The Assistant Commissioner of Income Tax,
   Corporate Circle 3 (1),
   Chennai – 600 034.

3.The Income Tax Appellate Tribunal,
   Chennai, "A" Bench.

R. MAHADEVAN, J.

and

MOHAMMED SHAFFIQ, J.

r n s

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