IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.8.2019

CORAM :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN

Tax Case Appeal No.809 of 2013

The Commissioner of Income
Tax, Coimbatore ...Appellant

Vs

M/s.ARC Parcel Services Pvt.Ltd.,
Coimbatore-18. ...Respondent

APPEAL under Section 260-A of the Income Tax Act, 1961 against the order dated 08.5.2013 made in ITA.No.42/Mds/2013 on the file of the Income Tax Appellate Tribunal Chennai 'C' Bench for the assessment year 2004-05 against the order of the Commissioner of Income tax (II)-I Coimbatore dated 01.10.2012 made in A.No.378/11-12 and against the Assistant Commissioner of Income Tax Company Circle -I(1) Coimbatore dated 13.12.2011 made in PAN/GIR NO.AACCA4389D.

For Appellant : Mr.T.R.Senthilkumar, SSC assisted by
Ms.K.G.Usharani, SC

For Respondent: Mr.K.S.Karthikraja

Judgment was delivered by T.S.Sivagnanam,J

This appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 is directed against the order dated 08.5.2013 made in ITA. No. 42/Mds/2013 on the file of the Income Tax Appellate Tribunal Chennai 'C' Bench for the assessment year 2004-05.

2. The appeal was admitted on 28.1.2014 on the following substantial questions of law:

> "i. Whether, under the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in setting aside the assessment made under Section 147 holding that the same was initiated on account of change of opinion ? and
>
> ii. Whether, under the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in holding that there was no failure on the part of the assessee to disclose truly and fully the details and particulars necessary for completing the assessment under Section 143(3)?"

3. We have heard Mr.T.R.Senthilkumar, learned Senior Standing Counsel, assisted by Ms.K.G.Usharani, learned Standing Counsel appearing for the appellant and Mr.K.S.Karthikraja, learned counsel appearing for the respondent.

4. It is not disputed by the learned counsel on either side that the substantial questions of law framed for consideration in this appeal have been answered in favour of the assessee and against the Revenue by a Division Bench of this Court in the case of CIT, Coimbatore Vs. Kikani Exports (P) Ltd. [reported in (2015) 369 ITR 500].

5. Following the said decision, the above tax case appeal is dismissed and the substantial questions of law framed are answered against the Revenue and in favour of the assessee. No costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

To
The Income Tax Appellate Tribunal, Chennai 'C' Bench.

2.The Commissioner of Income tax (II)-I Coimbatore

3.The Assistant Commissioner of Income Tax Company Circle -I(1) Coimbatore

+1cc to Mr.K.S.Karthikraja , Advocate SR.No. 71673

TCA.No.809 of 2013

A.SK(30/09/2019)