IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 11.02.2019
CORAM :
THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. Nos.1066, 1070 and 1074 of 2019
and
MP. Nos.1196, 1198 and 1200 of 2019

M/s.Ultra Tiles (P) Ltd.,
Rep. by its Director,
No.26, KPM Sapphiers,
11th Avenue, Ashok Nagar,
Chennai 600 083.
... Petitioner in the above Writ Petitions

Vs.

Assistant Commissioner (ST),
K.K.Nagar Assessment Circle,
Chennai 600 033.
... Respondent in the above Writ Petitions

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent and quash the assessment proceedings in TIN No.33791420901/2012-13, 33791420901/2015-16 and 33791420901/2013-14 respectively dated 29.11.2018 and direct the respondent to pass fresh orders after providing an opportunity of personal hearing to the petitioner.

For Petitioner :M/s.C.Baktha siromani
For Respondent :M/S.G.Dhanamadri
GA (TAXES) for all Wps.

COMMON ORDER

Heard Mr.C.Baktha Siromoni, learned counsel for the petitioner and Ms.G.Dhana Madri, learned counsel for the respondent.

2.These Writ Petitions challenge orders of assessment all dated 29.11.2018, on the ground of violation of principles of natural justice.

3.At the earlier hearing on 11.01.2019, the respondent was given time to specifically seek instructions on whether an opportunity of personal hearing has been afforded to the petitioner herein.

4.Today, Ms.Dhana Madri, produces an extract from the tapal dispatch register that reveals that notice for personal hearing dated 25.10.2018 was sent by ordinary post. She also produces the online postal track stating that the notice has been delivered on 26.10.2018 in the Ashok Nagar post office.

5.Rule 19 of the Tamil Nadu Value Added Tax Rules (in short the Rules) specifically requires notices to be issued under the cover of registered post. Rule 19 of the Act is extracted below:

> "19. Service of notices summons or orders.- (1) The service on a dealer of any notice, summon or order under the Act or these rules may be effected either electronically or manually in any of the following ways, namely: - (a) by giving or tendering it to such dealer or his manager or agent or the legal practitioner appointed to represent him or to his authorised representative; or
> Explanation - Endorsement by person who delivers the notice, summon or order of having tendered or given will be proof for the purpose of this sub-rule. (b) if such dealer or his manager or agent or the legal practitioner appointed to represent him, or his authorised representative is not found, by giving or tendering it to any adult member of his family; or (c) by sending it to the address of the dealer by registered post; or "

6.In the present case, this has evidently not been done. Accordingly, the impugned orders of assessment dated 29.11.2018 for the years 2012-2013; 2013-2014 and 2015-2016 are set aside, to be re-done de novo after proper and adequate opportunity of personal hearing is afforded to the petitioner.

7.The petitioner will appear at the first instance before the assessment authority on 04.03.2018 at 10.30 am. The assessments shall be finalised de novo, after hearing the petitioner and considering all materials produced by it within a period of one (1) month from the date of completion of personal hearing.

8. The Writ Petitions are disposed of in the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

sai

To

The Assistant Commissioner (ST),
K.K.Nagar Assessment Circle,
Chennai 600 033.

+1 CC TO GOVERNMENT PLEADER (Taxes)SR.NO. 12352
+1cc to M/s.C.Baktha siromani , Advocate SR.No. 12952

W.P. Nos.1066, 1070 and 1074 of 2019
A.SK(05/03/2019)