IN THE HIGH COURT OF BOMBAY AT GOA.

PIL WRIT PETITION NO. 24/2016

Mr. TRAJANO D'MELLO,
of major age, Indian National,
Social Activist, presently the Spokesperson of
Goa Unit Indian National Congress Party,
resident of House No.
186/B-4, Peddem, Mapusa,
Bardez-Goa.
having Pan Card No.A42PD5227C. **PETITIONER**

VERSUS

1. STATE OF GOA, through its
Chief Secretary, having
Office at Secretariat,
Alto Porvorim, Bardez-Goa.

2. ADMINISTRATOR OF COMMUNIDADES,
North Zone, Opposite Mapusa
Civil Court, Mapusa, Bardez Goa.

3. COMMUNIDADE OF ANJUNA,
through its Attorney, having Office
at Communidade Ghor, Anjuna,
Bardez-Goa.

4. THE DIRECTOR OF TOURISM,
Government of Goa, having
Office at Patto, Panaji-Goa.

5. VILLAGE PANCHAYAT OF
ANJUNA-CAISUA, through its
Sarpanch, having office at
Anjuna, Bardez-Goa.

6. VILLAGE PANCHAYAT OF
CANDOLIM, through its
Sarpanch, having office at
Camdp;o,. Bardez-Gpa/

7. PERCEPT LIMITED, a Company
incorporated under the Companies
Act, 1956, having its Legal Office

at P-22, Raghuvanshi Estae,
11/12, Senapati Bapat Road,
Mumbai-400013 and having its
Current Office at P2, Land 2A,
Raghuvanshi Estate, 11/12,
Senapati Bapat Marg,
Mumbai-400013.

8. VIACOM 18, M/s. Starlight
Events and Entertainment Pvt. Ltd.,
S 1, Yesoda Building, St. Inez,
PANAJI- GOA. **RESPONDENTS**.

Shri Rohit Bras De Sa, Advocate for the petitioner.
Shri S.D.Lotlikar, AG with Shri P. Dangui, AGA for the respondents no.1, 2 & 4.
None for other respondents.

CORAM : ANOOP V. MOHTA &
NUTAN D.SARDESSAI, JJ
DATE : 27^{h} FEBRUARY, 2017.

ORAL JUDGMENT (**Per Anoop V. Mohta, J**.):

1. Heard finally by consent.

2. The learned Advocate General, on instructions, has placed on record the Charts of pending tax dues and VAT of the respective Proprietors against whom the petitioner has made grievances including of the non-payment of taxes/dues and its recovery by the State authorities, in accordance with law. Those charts are taken on record and marked "X" and "X1" for identification. These charts show the status of pending appeals and assessment proceedings and the due tax/VAT balance amounts to be paid to the concerned authorities.

3. This Court (Vacation Judge), on 4th November, 2016, after considering the rival contentions and the grievance as raised that no effective steps to recover the arrears of balance dues as required have been taken and, therefore, in para 14 and 15 has recorded as under:-

> "14. This Court had directed expeditious disposal of appeals. Besides, if there is no legal impediment like stay from the Appellate Authority or Tribunal, there is no reason as to why the State Authorities should not take expeditious steps to recover such amount, particularly, in the light of the directions issued by this Court while disposing of PILWP No.24 of 2014. Accordingly, such directions are reiterated at this interim stage.
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> 15. The statement made by the learned Advocate General that the pending application of respondent no.7 seeking permission to hold the music festival in the State of Goa for the year 2016 will not be considered until respondent no.7 clears the amount demanded or at least furnishes a bank guarantee in respect thereof is accepted".

4. The statement is made by the learned Advocate General that the concerned Proprietors have failed to pre-deposit the due requisite amount even for entertaining the statutory appeal and, therefore, one appeal is dismissed; and other appeals are

pending before the Authorities concerned. In some cases the assessments are pending.

5. The statement is reiterated by the learned Advocate General for the Music Festival in the State of Goa in the year 2017 no such application of the concerned respondent for permission or licence will be considered, unless the due amount demanded is paid or furnish the bank guarantee in respect thereof, as recorded above in para 15 of order dated 4th November, 2016.

6. However, it is made clear that once the tax due amount is paid, the State Government will consider the respective applications, in accordance with law. It is for the State to take steps and the decision at earliest by following the procedure of law. The power of the State and its authorities, need to be exercised within the framework of the statutes and the rules. There is no provision to adjust the amount due of other litigations while granting or renewing the licenses in question. The remedy is elsewhere. The State authorities are empowered to impose conditions, if required, in facts and circumstance, as condition precedent, to grant such licenses and/or the permission. Even pendency of issues, cannot be the reason for the State or its authorities not to ask for dues/arrears of tax or such amount. It

is its obligations to recover the tax in accordance with law. Therefore, we are inclined to record that the State or the concerned Authorities will take steps to recover the due arrears of taxes and/or requisite amount, if any, by following the procedure of law.

7. In view of this, by consent the petition is disposed off with liberty. No costs.

NUTAN D. SARDESSAI, J. **ANOOP V. MOHTA, J.**

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