THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 22.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Writ Appeal No.964 of 2017
C.M.P.No.13264 of 2017

T.P.Santosh Kumar ... Appellant

-vs-

1. The Chief Secretary to Government,
   Union of India,
   Government of Union Territory of Puducherry,
   Puducherry.

2. The Commercial Tax Officer,
   Mahe.

3. The Deputy Tahsildar (Revenue),
   Mahe.

4. Mr.Sanjeevan,
   Son of Anandan,
   Proprietor,Royal Chickens,
   Odayoth House,
   Pandakkal, Mahe. ... Respondent

Writ Appeal filed under Clause 15 of Letters Pattent, against the order dated 03.07.2017 in W.P.No.4875 of 2017.

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ, more Specifically a Writ of Certiorarified Mandamus calling for the records on the file of the 3rd respondent relating to the impugned notice of attachment dated 09.02.2017 bearing Ref.Nil and quash the same and consequently forbear the respondent 1 to 3 from in any manner proceeding against the petitioner in respect of the tax or other arrears due in respect of M/s. Royal Chickens bearing TIN No.34450009285.

For Appellant : Mr.D.Bharatha Chakravarthy
for M/s.Sai Bharath and Ilan

For Respondents 1 to 3 : Mr.K.Harini,
Addl. Govt. Pleader (Pondy)

JUDGMENT

[Judgment of the Court was made by S.MANIKUMAR, J.]

Challenge in this appeal is to an order, made in W.P.No.4875 of 2017, dated 03.07.2017, by which, the Writ Court declined to issue a Writ of Certiorarified Mandamus, to quash the notice of attachment, dated 09.02.2017, issued by the Deputy Tahsildar (Revenue), Mahe, 3rd respondent herein and consequently, declined to forbear respondents 1 to 3 herein, in any manner, from proceeding against the appellant, in respect of the tax or other arrears, due in respect of M/s.Royal Chickens, bearing TIN nO.34450009285.

2. Facts elicited from the affidavit, in support of the writ petition and the material on record, are that in the year 2007, by virtue of a deed, dated 17.03.2007, the appellant entered into a partnership with one K.T.K.Dilip, for the business of sale of chickens at Mahe, in the name and style of "Royal Chickens". According to him, within one year, from the start of business, the Original Partner, Mr.K.T.K.Dilip retired from business and the 4th respondent, Mr.Sanjeevan, become a partner.

3. Before the writ Court, the appellant has further contended that the 4th respondent owned 95% share in the business and that the appellant had owned only 5% share. Modification in the partnership was duly produced before the Commercial Tax Officer, Mahe, 2nd respondent herein, by filing Form B, dated 28.09.2009. Subsequently, the appellant retired from partnership, with effect from 31.03.2010 and that the retirement deed was also filed before the 2nd respondent herein, along with Form-B.

4. The Government of Puducherry, vide G.O.Ms.No.68, dated 31.12.2011, imposed tax, at the rate of 5%, on sale of live chicken. The 4th respondent, did not file any returns. By best judgment method, an assessment order was passed, for the year 2012-13, demanding an arrears of tax of Rs.38,84,353/- and penalty of Rs.45,52,762/-, totaling Rs.84,37,115/-. No sooner, the notice of assessment was served, the appellant approached the 2nd respondent and explained the matter, stating that he no longer continued in the business. However, there was no reply from the 2nd respondent.

5. Hence, the appellant was constrained to submit a fresh deed of dissolution, between him and the 4th respondent, on 04.01.2013, stating that he had retired from partnership, with effect from 31.03.2010. However, vide communication, dated 05.03.2013, the 2nd respondent returned the same, by saying that three months' notice required under the partnership deed has not

been given and hence, they will not accept retrospective retirement. Under these circumstances, a communication, dated 20.01.2014, cancelling the registration of the dealership, was also served on the appellant.

6. Thereafter, the appellant has caused a legal notice on 23.10.2014 and 01.11.2014, stating that he had already retired from Partnership in the year 2010 itself, much before the levy of tax and that he is no way connected with the business. Contention has also been made that the 4th respondent was carrying on the business as the sole proprietor. Subsequently, a distraint order was served on the appellant on 19.07.2016. Thereafter, he submitted his explanation on 29.07.2016.

7. While so, on 15.12.2016, a notice of demand, demanding the arrears of tax, amounting to Rs.1,15,79,465/- from the appellant and that on 09.02.2017, an order of attachment was passed, attaching his property, measuring 33 Centiares (about 1 cent along with 2 shops) and that his property would be brought for sale, in 15 days' time. In response to the same, he made a representation on 16.02.2017. In the abovesaid circumstances, left with no other alternative, the appellant has filed W.P.No.4875 of 2017, for a Writ of a Certiorarified Mandamus, to quash the notice of attachment, dated 09.02.2017, issued by the Deputy Tahsildar (Revenue), Mahe and consequently, to forbear respondents 1 to 3, from in any manner, proceeding against the appellant, in respect of tax or other arrears, due in respect of M/s.Royal Chickens, bearing TIN No.34450009285.

8. Before the Writ Court, the Commercial Tax Officer, Mahe, 2nd respondent herein, in his counter affidavit, has submitted that M/s.Royal Chicken is an assessee in his Books of Accounts, for conducting business of resale of Live Chicken. As per Entry No.81A, of Part-A of Third Schedule appended under Section 14 of the Puducherry Value Added Tax Act, 2007, re-sale of live chicken at Mahe region, is taxable at 5%. However, as per Puducherry Value Added Tax (Amendment) Act, 2012 (Act No.5 of 2012), live chicken sold in Mahe region, attracts levy of tax at 5%, with effect from 01.01.2012.

9. The 2nd respondent has submitted that the appellant was a partner in the partnership firm, constituted under the deed of partnership, dated 17.03.2007, with one Mr.K.T.K.Dileep, S/o.K.T.K. Soman, Kerala and the said firm was registered under the Puducherry Value Added Tax Act, 2007 w.e.f. 12.04.2007. However, the said partnership deed has not been registered, as per the Indian Partnership Act, 1932. Subsequently, the partnership was dissolved by the retirement of one of the partners, Mr.K.T.K.Dileep, S/o.K.T.K. Soman, vide Retirement of Partnership Deed, dated 04.02.2008 and that the appellant continued, as a sole proprietor of the firm, after the

retirement of Mr.K.T.K.Dileep, S/o.K.T.K. Soman.

10. The 2nd respondent has further submitted that after the retirement of one of the partners, Mr.Sajeevan, S/o.Anandan, 4th respondent herein, has entered as a new partner in the firm, by submitting Form-B, dated 28.09.2009 and also furnished an unregistered ante-dated partnership deed, dated 29.04.2008. Thereafter, the firm was continued as partnership firm, with the appellant along with the 4th respondent herein, in the name and style of M/s.Royal Chicken.

11. Before the Writ Court, the Commercial Tax Officer, Mahe, 2nd respondent, has further submitted that as per Section 11(1)(a)(ii) of the PVAT Act, 2007, a registered dealer shall inform the registering authority, within thirty days, if there is a change in ownership of the business, including any change in the status. However, the appellant herein has admitted a new partner, by executing unregistered partnership deed, in the month of April, 2008 and furnished the fact, in Form-B to the second respondent, only during September' 2009.

12. The 2nd respondent has further submitted before the Writ Court that according to Puducherry Value Added Tax (Amendment) Act, 2012, the appellant is liable to pay tax at the rate of 5%, in respect of live chicken sold at Mahe, with effect from 01.01.2012. Despite notices issued on various dates, M/s.Royal Chickens neither filed returns nor paid the tax. Therefore, assessment was also completed on best judgment assessment basis and a sum of Rs.49,31,803/- was determined as the tax liability. Penalty was Rs.66,47,662/-. Therefore, the total arrears, upto February, 2014, due to the Government, was Rs.1,15,79,465/-. Assessment order was not challenged and that the same has reached the finality. After giving sufficient notice, the registration granted to the firm was cancelled, w.e.f. 20.01.2014.

13. Before the writ Court, the 2nd respondent has further submitted that, as per Section 40 of the Puducherry Value Added Tax Act, 2007, action was initiated to recover tax and penalty, under the Pondicherry Revenue Recovery Act, 1970. Proposal was submitted to the Collector, Puducherry and he has requested to take necessary action, to attach the movable/immovable properties, so as to realize the arrears, under the abovesaid Act from the appellant-firm. Accordingly, the Deputy Tasildar, Mahe, has issued a statutory notice, in Form-1 on 19.07.2016. Attachment notice was issued on 09.02.2017. Assessment order and notice, directing payment of arrears of tax and penalty, the same were not challenged.

14. On the other hand, the appellant, vide letter, dated

03.01.2013, requested the second respondent to issue a duplicate copy of the deed to be produced before his Auditor. Subsequently, on 14.01.2013, the appellant has submitted a letter, along with Form-C and a deed of Dissolution of Partnership, mentioning the date of retirement with retrospective effect from 31.03.2010. The 2nd respondent returned the dissolution deed to the appellant, vide letter, dated 05.03.2013, with the following remarks:-

"(1) As per Original Partnership deed, dated 29.04.2008, Clause 4, "Duration:- The duration of the Partnership shall be "AT WILL" determinable by anyone of the partners giving the others "THREE MONTHS" notice in writing". Hence the question of retrospective effect of dissolution deed with effect from the closing hours of 31.03.2010 does not arise.

(2) As per the Original Partnership deed clause (14) (e) amendment or addition of the said deed may be made by the resolution of the partners, but no mention there with or in any other clause that the same may take effect retrospectively is available in the original deed which also ensures prospective effect only in any action related to the deed."

15. Before the writ Court, the 2nd respondent has also placed reliance on Sections 33(1) & (2) and 34(a) & (b) of the PVAT Act, 2007, which stipulates the liability of a firm and payment of tax, when a firm is dissolved and the same are extracted hereunder:

"33.(1) Where any firm is liable to pay any tax or other amount under this Act, the firm and each of the partners of the firm shall be jointly and severally liable for such payment.

(2) Where a partner of a firm liable to pay any tax or any amount under this Act retires, he shall, notwithstanding any contract to the contrary, be liable to pay the tax or other amount remaining unpaid at the time of his retirement and any tax or other amount due up to the date of retirement, though un-assessed.

34. Payment of tax when Hindu undivided family, firm or other association of persons is partitioned or dissolved:- Where a dealer is a Hindu undivided family, firm, or other association of persons, and such family, firm or association is partitioned, or dissolved, as the case may be,

(a) the tax payable under this Act by such family, firm, or association of persons for the period up to the date of such partition or dissolution shall be assessed as if no such partition or dissolution had taken place and all the provisions of this Act apply accordingly; and

(b) every person who was at the time of such partition, or dissolution a member or partner of the Hindu undivided family; firm or association of persons and the legal representative of any such person who is deceased shall, notwithstanding such partition or dissolution, be jointly and severally liable for the payment of the tax, penalty or other amount payable under this Act, by such family, firm or association of persons, whether assessment is made prior to or after such partition or dissolution."

16. Before the writ Court, contention has also been made that on scrutiny of the dissolution deed, dated 04.01.2013, it was found that the said deed has been typed in a judicial stamp paper, dated 06.12.2012, which would show that the deed itself has been prepared, during the month of January, 2013 and also made without the signature of witness and proper date of execution of the said deed. The 2nd respondent has also submitted that the dissolution deed is a fabricated document, created by the appellant, after the receipt of the assessment order, in order to evade tax liability, raised against him.

17. The 2nd respondent has denied the contention that the Department has advised the petitioner to file a fresh deed of dissolution deed, nor entertained any correspondence, before the letter, dated 05.03.2013. The 2nd respondent has further denied the receipt of representation, dated 16.02.2017 and contended that there was a RTI application, dated 05.03.2013, for which, suitable reply was given.

18. Having regard to the rival contentions, the writ Court, vide order in W.P.No.4875 of 2017, dated 13.07.2017, at Paragraphs 2 and 3, ordered as follows:

"2.The petitioner's case is that he was the erstwhile partner of the Royal Chickens and resigned from partnership and submitted Form B declaration on 28.09.2009. Therefore, it is submitted that no liability can be fastened on to the petitioner as he is not the partner of the 4th respondent firm. It is seen that the declaration which was filed by the petitioner was returned by the Assessing Officer assigning certain reasons by order dated 05.03.2013 and this order has become final and has not been questioned either by the petitioner or by the 4th respondent. Therefore, the present plea raised by the petitioner apart from being misconceived is not maintainable. It is not in dispute that the order of assessment passed by the 2nd respondent as against the 4th respondent under the provisions of the

Pondicherry Value Added Tax Act against the 4th respondent has become final and the 4th respondent or the partnership firm has not challenged those orders and allowed to attain finality. Separate revenue recovery proceedings has been initiated as against the 4th respondent also.

3.In the light of the above facts, the plea raised by the petitioner, at this juncture, is a far fetched plea and cannot be acceded to and the petitioner has not made out any grounds to interfere with the impugned order. Hence, the writ petition stands dismissed."

19. Assailing the correctness of the said order, the instant writ appeal has been filed, on the grounds, inter alia

"2. The Learned Judge ought to have seen that it is only the 4th respondent who is carrying on the business as sole proprietor right from the year 2010 and as such the appellant did not enjoy any of the pecuniary benefit from the 4th respondent and has also produced relevant documents so as to prove the same. Under the above circumstances, the Learned Judge ought not to have dismissed the writ petition.

3. The respondents ought to have seen that the petitioner is not producing any deed of dissolution with retrospective effect but, the actual dissolution took place with effect from 31.03.2010 and since the 2nd respondent's office informed that they did not have the record of such dissolution of partnership, once again a fresh deed was entered into and submitted and therefore, the same cannot be rejected on the ground that it is retrospective in nature.

4. The Learned judge without considering the facts that after 2010 the appellant has nothing to do with the 4th respondent concern and as such he shall not share the burden caused by the respondent. Under the above circumstances, the Learned Judge ought not to have dismissed the writ petition, without considering the material issue and the grievances projected in the writ petition."

20. Heard the learned counsel appearing for the parties and perused the materials available on record.

21. The appellant is stated to have submitted Form-B to the Registering Authority, viz., Commercial Tax Officer, Mahe, on 28.09.2009, stating that his share in the partnership firm, was 5%. Assessment order for the year 2012-13, has been passed, demanding an arrears of tax at Rs.38,84,353/- and penalty of Rs.45,52,762/-, totaling Rs.84,37,115/-. Thereafter, on

16.11.2012, M/s.Royal Chickens, was issued with a notice of demand, under Form-O and notice of penalty, under Form-RR and that the same are extracted hereunder:

GOVERNMENT OF PUDUCHERRY
COMMERCIAL TAXES DEPARTMENT
MAHE

FORM-RR
[See Rule 61]
Notice of Penalty

TIN: 34450009285/(01/12 to 05/12)

To

M/s.Royal Chickens,
MMC XIII/402.A MAIN ROAD PANDAKKAL, MAHE.

Please take notice that a sum of Rs.21,43,616 1- (Rupees Twenty One Lakh Forty Three Thousand Six Hundred and Sixteen Only) is payable by you by way of penalty under Section 37(4) of the Puducherry Value Added Tax Act, 2007 as per the details given below:-

Tax due for the Turnover of Rs.4,28,72,3301- @ 5 %
: Rs.21,43,616/-
Tax Paid by the dealer : Rs. Nil
Balance Tax due to the department : Rs.21,43,616/-
Penalty @ 100% of the above tax due: Rs.21,43,616/-

This balance of penalty amount shall he paid within thirty days from the date of service of this Notice and the penalty due shall be paid forthwith in the mode as specified in Rule 69 of the Puducherry Value Added Tax Rules, 2007, failing which the amount will be recovered as if it were an arrear of land revenue or fine imposed by a magistrate and you shall be liable to pay the penalty under section 37(4) of the Act.

Sd/-
COMMERCIAL TAX OFFICER
MAHE.

Place: Mahe
Date : 16-11-2012

GOVERNMENT OF PUDUCHERRY
COMMERCIAL TAXES DEPARTMENT
MAHE

FORM-O
NOTICE OF DEMAND
[See Rules 22(3), 23(4), 24(3), 24(4), 25(2)(b)(i), 25 (4),
26(2), 27 and 43(2)]

TIN: 34450009285/(01/12 to 05/12)

To

M/s.Royal Chickens,
MMC XIII/402.A MAIN ROAD PANDAKKAL, MAHE.

Take notice that you have been assessed under the Puducherry Value Added Tax Act, 2007 to pay a tax of Rs.21,43,616/- (Rupees: Twenty One Lakh Forty Three Thousand Six Hundred and Sixteen Only) for the period from January-2012 to May -2012 (5 Months).The tax shall be paid within thirty days from the date of service of this notice, by cash or demand draft/cheque to the Commercial Tax Officer, failing which, the amount will be recovered as if it were an arrears of land revenue or fine imposed by a judicial Magistrate and you will also be liable to pay the penalty prescribed under sub-section (4) of Section 37 of the Act.

Turnover as determined by assessing authority in respect of -

Nature of Goods	Rate of Tax	Turnover
Live Chicken	5%	Rs.42,872,330/-
	Total	Rs.42,872,330/-

Sd/-
COMMERCIAL TAX OFFICER
MAHE.

Place: Mahe
Date : 16-11-2012

Note: (1) If payment is made by cheque, the same shall be crossed and drawn on anyone of the authorizod Banks within the city/town where the assessing authority's office is situated or by Demand Draft.

22. On 03.01.2013, the appellant has sought for issuance of a duplicate copy of the deed, to be produced before the Auditor, and that the same has been granted. Subsequently, on 14.01.2013, the appellant has requested the Commercial Tax Officer, Mahe, 2nd respondent herein, release him, from the partnership deed, from 31.03.2010 onwards. He has also enclosed the copy of the dissolution deed, dated Nil.01.2013. Clause 2 of the said deed, is extracted hereunder:

> "(2) The first partner has taken over and continued the running business of the said firm along with all the assets and liabilities, past, present or future, accrued or accruing, contingent or other along with the trade name of the firm and its products and right, titles and interest in quotas, permits, licences and concession. The second partner shall not carry on the business in the name of M/s.Royal Chicken at Pandakkal or hold out himself to be a partner in the said firm after the closing hours of 31st March, 2010."

23. Form-C, under Rule 3(3)(b) of the abovesaid Rules, for intimation of retirement from partnership, with effect from 31.03.2010, is stated to have been furnished. Considering the application, dated 14.01.2013, enclosing the dissolution deed, the Commercial Tax Officer, Mahe, Government of Puducherry, 2nd respondent herein, has sent a reply on 05.03.2013, to the effect that the question of retrospective effect of dissolution deed, with effect from the closing hours of 31.03.2010, does not arise. At the risk of repetition, contents of the said letter is extracted hereunder:

> "(1) As per Original Partnership deed, dated 29.04.2008, Clause 4, "Duration:- The duration of the Partnership shall be "AT WILL" determinable by anyone of the partners giving the others "THREE MONTHS" notice in writing". Hence the question of retrospective effect of dissolution deed with effect from the closing hours of 31.03.2010 does not arise.
>
> (2) As per the Original Partnership deed clause (14) (e) amendment or addition of the said deed may be made by the resolution of the partners, but no mention there with or in any other clause that the same may take effect retrospectively is available in the original deed which also ensures prospective effect only in any action related to the deed."

24. Thereafter, on 15.03.2015, the Commercial Tax Officer, Mahe, has issued a notice to the appellant, stating that the abovesaid letter, dated 05.03.2013, rejecting and returning the deed of dissolution of partnership in M/s.Royal Chicken,

Pandakkal, as defective, was returned by the Postal Department, Mahe, on 14.03.2013, as unclaimed and that the appellant has been requested to collect the said letter personally, from the Commercial Tax Officer, Mahe, within three days, from the date of receipt of the said letter.

25. Thereafter, on 18.10.2013, orders have been issued, for the assessment period, June' 2012 to August' 2012, on the basis of the best judgment assessment, completed under Sub-Section (2) of Section 24 of PVAT Act, 2007, thereby, fixing the taxable amount as Rs.10,72,328/- and penalty for equal sum, to be paid within 30 days of receipt of the order, dated 18.10.2013. M/s.Royal Chickens, has also intimated that failure to make the payment, would result in recovery proceedings, under the PVAT Act, 2007.

26. Form-O notice of demand, dated 18.10.2013, has been issued to M/s.Royal Chickens, to pay a sum of Rs.10,72,328/-, for the period from June 2012 to August 2012 (3 months), within a period of 30 days, from the date of service of the notice, by cash/demand draft/cheque to the Commercial Tax Officer, failing which, the amount would be recovered, as if it were an arrears of land revenue or fine and M/s.Royal Chickens, would also be liable to pay the penalty prescribed under sub-Section (4) of Section 37 of the Act. A separate notice of penalty, dated 18.10.2013, has also been issued by the 2nd respondent, under Form-RR, claiming penalty of Rs.10,72,328/-.

27. For the period between September' 2012 and March' 2013 (7 months), the Commercial Tax Officer, Mahe, 2nd respondent herein, has issued Form-O, Notice of Demand, dated 18.10.2013, directing M/s.Royal Chickens, to pay a sum of Rs.6,68,409/- and within a period of 30 days, from the date of service of the notice, by cash/demand draft/cheque to the Commercial Tax Officer, failing which, the amount would be recovered, as if it were an arrears of land revenue or fine and M/s.Royal Chickens, would also be liable to pay the penalty prescribed under sub-Section (4) of Section 37 of the Act.

28. Material on record discloses that on 20.01.2014, the Commercial Tax Officer, Mahe, 2nd respondent herein, has cancelled the registration, in exercise of the powers, vested under Section 12 of the PVAT Act, 2007. As M/s.Royal Chickens has failed to pay the amount demanded, action has been proposed to attach the movable/immovable properties, against non-payment of tax of Rs.49,31,803/- and penalty of Rs.66,47,662/-, totally Rs.1,15,79,465/-. Thereafter, a legal notice, dated 11.11.2014, has been sent by the appellant to the 2nd respondent herein, to drop further proceedings against him and he has further stated that if any tax is due to the department, the same has to be

paid by the 4th respondent, the sole proprietor, M/s.Royal Chicken, Mahe.

29. On 19.07.2016, the Deputy Tahsilar (Revenue), Mahe, 3rd respondent herein, has passed a distraint order, against the appellant, under Form No.1 of Section 8 of the Pondicherry Revenue Recovery Act, 1970. Against which, the appellant has sent a letter, dated 29.07.2016, to drop the revenue recovery proceedings, initiated against him. Considering the said representation, the 3rd respondent has sent a letter to the Commercial Tax Officer, Mahe, 2nd respondent herein, to clarify, as to whether, the appellant is still a partner of M/s.Royal Chicken, Pandakkal.

30. Responding to the said letter, the Commercial Tax Officer, Mahe, 2nd respondent, has addressed a letter, dated 08.11.2016, to the Deputy Tahsildar (Revenue), Mahe, 3rd respondent herein, clarifying that the status of the existing partnership does not undergo any change and that the partnership remains as before. Thereafter, on 15.12.2016, the 3rd respondent has initiated revenue recovery proceedings, under Form No.4, "Demand Prior to Attachment of Land", under Section 25 of the Pondicherry Revenue Recovery Act, 1970 and directed the appellant to pay a sum of Rs.1,15,79,465/-, within 15 days from the date of service of the notice. Thereafter, on 09.02.2017, a notice of attachment, under Form No.5, as per Section 27 of the Pondicherry Revenue Recovery Act, 1970, has been issued, which is impugned in the writ petition.

31. As rightly contended that a letter, dated 16.02.2017 under the RTI Act, has been sent to the Public Information Officer, Commercial Tax Officer, Mahe. From the material on record, it could be deduced that when the appellant has sent letters, stating that he had retired from partnership, with effect from 31.03.2010, the Commercial Tax Officer, Mahe, 2nd respondent, vide letter, dated 05.03.2013, has stated that the question of retrospective effect of dissolution deed with effect from the closing hours of 31.03.2010, does not arise.

32. Admittedly, letter, dated 05.03.2013, rejecting the request of the petitioner, has not been challenged by the appellant before any competent forum/Court. Contention of the Department that the letter, dated 05.03.2013, rejecting and returning the deed of dissolution, as defective and that when the same was returned by the Postal Department, Mahe, on 14.03.2013, as unclaimed, the appellant has been requested to collect the said letter personally, from the Commercial Tax Officer, Mahe, within three days, from the date of receipt of the said letter, has not been disputed. On the contra, the appellant has enclosed a copy of the said letter, in the typed set of papers, filed along with the present appeal.

33. Cancellation of the registration, dated 20.01.2014,

extracted supra, has been communicated to the Firm. M/s.Royal Chicken has failed to pay tax and penalty for various periods, commencing from January' 2012 to February' 2014. The 2nd respondent has sent a letter, dated 03.11.2014, to the District Collector, Puducherry, to take action under the Revenue Recovery Act. When the appellant has not challenged, the decision of the 2nd respondent, rejecting and returning of the dissolution deed and when M/s.Royal Chickens, Mahe has failed to remit tax and penalty, stated supra, then in the light of Sections 33(1) & (2) and 34(a) & (b) of the PVAT Act, 2007, liability of the appellant, cannot be absolved. Orders of the assessment made against M/s.Royal Chickens, in which, the appellant was a partner, has become final.

34. Judicial notice can also be taken that when M/s.Royal Chickens, Mahe, represented by its Proprietor, filed a writ petition in W.P.Nos.34105 of 2012, praying for a declaration, to declare the Puducherry Value Added (Amendment) Act, 2012 (Act 5 of 2012), as ultra vires, along with others, a Hon'ble Division Bench of this Court, vide common order, dated 18.08.2015, has dismissed the writ petitions.

35. In the light of the above discussion, this Court is of the view that when a request for dissolution has been rejected, partners of M/s.Royal Chickens, who did not pay tax and penalty, the 2nd respondent, is left with no other alternative, to propose for action, under the provisions of the Pondicherry Revenue Recovery Act, 1970 and District Tahsildar (Revenue), Mahe, 3rd respondent, has also issued notices of demand and attachment.

36. For the reasons, stated supra, we do not find that the appellant has made out any strong case, to hold that the order of the writ Court made in W.P.No.4875 of 2017, dated 03.07.2017, as erroneous and therefore, to be set aside the same.

37. In the result, the Writ Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1. The Chief Secretary to Government,
   Union of India,
   Government of Union Territory of Puducherry,
   Puducherry.

2. The Commercial Tax Officer,
   Mahe.

3. The Deputy Tahsildar (Revenue),
   Mahe.

+1cc to Mr.Sai Bharath & Ilan, Advocate, S.R.No.60583
+1cc to the Government Pleader(P), S.R.No.60828

W.A.No.964 of 2017

KS(CO)
GN(27/09/2017)