

O/C

ASHWIN S. MEHTA

Advocate Bombay High Court

32, Madhuli, Dr. Annie Besant Road, Worli, Mumbai – 400 018.
Office No. 022 66519000, Mobile No. 9819917118, E-mail asm55@yahoo.com

Date: 24th October, 2024

To,

1. SHILPA BHATE ASSOCIATES

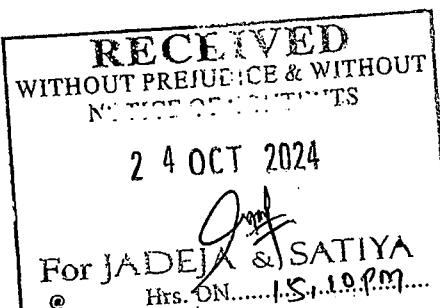
Advocate for Custodian Respondent No. 1
217, 2nd Floor, Rex Chamber,
W.H. Marg, Ballard Estate,
Mumbai 400 001.

Email: shilpabhatalegal@gmail.com

*Received
by [Signature] on 24/10/2024 at 3:50 PM*
SHILPA BHATE & ASSOCIATES
217, 2nd Floor, REX Chamber,
W. H. Marg, Ballard Estate,
Mumbai - 400 001.

2. JADEJA & SATIA

✓ Advocate for Respondent No. 2 & 3
1st Floor, Mistry Mansion,
107, M G Road, Fort,
Mumbai – 400 001.



3. MR. VINIT JAIN

Advocate for Respondent No. 4 (IEPF)
Central Bank of India,
4th Floor, Office No. 4
Fort, Mumbai – 400 023.

*For: [Signature]
24/10/2024
Anil K. Divekar.*

4. ALPA N JOBALIA

Respondent No. 7
Plot No. 1305, B-403, Shiva Blessing -1,
Nr B Division, Ghogha Circle,
Bhavnagar, Gujarat – 364001.

EN721994920IN INR:677721994726
SPP WORLI 5.0 <400018>
Counter No.1, 24/10/2024, 14:36
To:ALPA N JOBALI, PLOT NO 1305 B 4
PIN:364001, Bhavnagar HO
From:ASHWIN S ME, ADV BOMBAY HIGH
Wt:720gms
Amt:106.20, Tax:16.20, Amt.Paid:106.00(Cash)
(Track on www.indiapost.gov.in)
(Dial 18002666848) (Wear Masks, Stay Safe)

5. JEHANGIR KHAJOTIA

Advocate for Respondent No. 5, 8.1 & 9.1
3rd Floor, Room No. 16, Radha Bhavan,

*Received cash receipt of New Cheque for Rs. 5,819.11
by Intern Bhushan Gurav
24/10/2024 for R. 5,819.11*

Nagindas Master Road,
Mumbai – 400 023.

6. SNEHA B. PANDEY

Advocate for Respondent No. 10 & 11
B/15, New Shrenik CHS., Ashok Nagar,
Mulund (West), Mumbai – 400 080.

भारतीय डिप्टी
EN721994712IN IVR:697772199471
SPP MULI S.O <400018>
Counter No:1,24/10/2024,14:34
To:SNEHA B PANDE,ADV FOR RESPONDENT
PIN:400080, Mulund West SO
From:ASHWIN S MEH,ADV BOMBAY HIGH
Wt:720gms
Amt:47.20,Tax:7.20,Amt.Paid:47.00(Cash)
<Track on www.indiapost.gov.in>
<Dial 18002668868> <Wear Masks, Stay Safe>

Dear Sirs,

REF: BEFORE THE SPECIAL COURT

MISC. APPLICATION NO. 10 OF 2023

SMT. JYOTI H MEHTA
V/s
THE CUSTODIAN & ORS.

...APPLICANT
...RESPONDENTS

I am concerned for Applicant in the above Matter.

I am sending herewith copy of **AFFIDAVIT IN REJOINDER OF JYOTI H. MEHTA TO COMBINED AFFIDAVIT IN REPLY OF SMT. KALPANA JOBALIA, RESPONDENT NO. 10 & 11. DATED 23rd DECEMBER, 2024** in the above matter by way of service upon you.

Thanking You
Yours truly,

(Ashwin S Mehta)
Advocate for Applicant

Encl: as above

ASHWIN S MEHTA
Advocate Bombay High Court
32, Madhuli, Dr. A B Road, Worli, Mumbai 400 018.

Office No. 022 66519000, Mobile No. 9819917118, E-mail asm55@yahoo.com

IN THE SPECIAL COURT (TRIAL OF OFFENCES RELATING TO
TRANSACTIONS IN SECURITIES), ACT, 1992 AT MUMBAI

MISCELLANEOUS APPLICATION NO. 10 OF 2023

SMT. JYOTI H MEHTA	...APPLICANT
V/s	
THE CUSTODIAN & ORS.	...RESPONDENTS

To,
The Officer on Special Duty,
Special Court, Mumbai.

Sir,

BE PLEASED to take on file the Affidavit in Rejoinder of Smt Jyoti H. Mehta Applicant as per Direction passed by Hon'ble Special Court in the above Matter.

"CERTIFIED THAT THE SOFT COPY FILED HEREWITH IS A REPLICA OF THE HARD COPY FILED".

Dated this 24th October, 2024.

Yours truly,


(ASHWIN S MEHTA)
Advocate for Applicant

Encl: as above

**BEFORE THE SPECIAL COURT (TRIAL OF OFFENCES
RELATING TO TRANSACTIONS IN SECURITIES) ACT, 1992**
MISC. APPLICATION NO.10 OF 2023

Smt Jyoti H. Mehta .. Applicant

Vs

The Custodian & Ors. .. Respondents

**AFFIDAVIT IN REJOINDER OF SMT JYOTI H. MEHTA TO
COMBINED AFFIDAVIT IN REPLY OF SMT KALPANA JOBALIA,
RESPONDENT NOS.10 & 11.**

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**BEFORE THE SPECIAL COURT (TRIAL OF OFFENCES
RELATING TO TRANSACTIONS IN SECURITIES) ACT, 1992**
MISC. APPLICATION NO.10 OF 2023

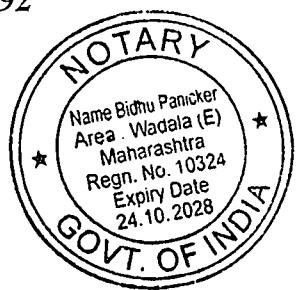
Smt Jyoti H. Mehta

.. Applicant

Vs

The Custodian & Ors.

.. Respondents



**AFFIDAVIT IN REJOINDER OF SMT JYOTI H. MEHTA TO
COMBINED AFFIDAVIT IN REPLY OF SMT KALPANA JOBALIA,
RESPONDENT NOS.10 & 11**

I, Jyoti H. Mehta, Applicant in the above matter residing at 32, Madhuli Apartments, Dr. Annie Besant Road, Worli, Mumbai 400 018 do hereby state on solemn affirmation as under:

1. I say that I have gone through the contents of the combined affidavit-in-reply dated 04.10.2024 filed by Smt Kalpana Jobalia on her behalf and on behalf of her late husband, Shri Jayesh D. Jobalia being Respondent Nos.10 & 11 and in rejoinder thereto I have to state as under:

2. I say that before proceeding to deal with the present affidavit-in-reply and in order that my present rejoinder is appreciated in proper perspective, I wish to bring on record crucial material and evidence that has been withheld and suppressed from this Hon'ble Court by Hero Honda Motors Ltd., Custodian and by the Jobalias all of them acting in collusion with each other to ensure

that I am unable to recover the attached property as claimed by me. I say that when I filed the present application I did not have copy of entire proceedings in MP 99 of 1998. I say that earlier I discovered some suppressed material and brought it on record of the present proceedings by filing an additional affidavit on 24.06.2024. I say that since Custodian and Hero Honda Motors Ltd. suppressed the crucial material of Custodian's letter dated 28.09.1999 addressed to the company and affidavit of IT department of September 1999 I applied to the officer of this Hon'ble Court to supply me a certified copy of the entire proceedings of MP 99 of 1998 and since then I have received the copy of the same from this Hon'ble Court. I say that from the said copy I have further discovered substantial material and evidence which will have a direct bearing on the adjudication of the present proceedings and therefore I am bringing the same on record. I say that the Custodian who ought to have recovered the subject shares from the Jobalias have been thwarting my efforts to ascertain truth by refusing to grant inspection to me of the crucial evidence lying in his possession.

3. I say that I addressed letter to Custodian on 28.11.2023 (**Ex. B Pg. 897**) to seek his cooperation in the recovery of the attached property particularly since his office is in exclusive possession of facts, material and evidence relating to the attached property. I say that my legitimate request was rejected by the Custodian by letter dated 27.12.2023 (**Ex. O Pg. 1330**). I say that in every proceeding the Custodian has been similarly thwarting my efforts by rejecting my legitimate request in each and every case despite being in possession of material which can assist in recovery of attached property. I say that I also cited a similar case of pending recovery in the case of Hindustan Lever where my request was rejected by the Custodian (**Ex. P, Q & R Pgs. 1332-1407**). I say that even the Advocate of Shri Nirav D Jobalia has refused inspection of material relied upon by Shri Jobalia (**Ex. A, B & C Pgs. 862-870**). I say that only because of above, I applied for the certified copy of proceedings in MP



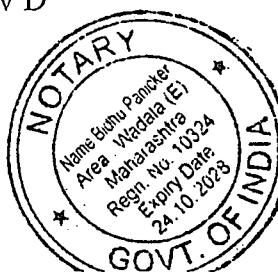
99 of 1998 so that the Respondents do not succeed in their illegal efforts of withholding and suppressing the crucial evidence in their possession. I say that it is settled law in litigation every party has an obligation to bring on record all the material and evidence on record.

4. I say that in the present case which involves recovery of attached shares of Hero Honda Motors Ltd. from the Jobalia family substantial pleadings have already taken place in as much as Hero Honda Motors Ltd. has already filed 2 affidavits being the affidavit-in-reply on 01.09.2023 and additional affidavit on 29.12.2023. I say that the Custodian belatedly filed affidavit-in-reply to my application only on 26.03.2024 i.e. after almost 13 months. I say that Respondent No.5 Shri Nirav D Jobalia has filed 4 affidavits viz. affidavit-in-reply dated 29.09.2023, affidavit-in-sur-rejoinder dated 19.01.2024, affidavit-in-reply dated 18.01.2024 to additional affidavit of the Applicant and affidavit-in-reply dated 16.07.2024 to the amended application of the Applicant. I say that in all the above affidavits the Deposing Respondents have withheld and suppressed material and crucial evidence in their possession and Smt Kalpana Jobalia in her present affidavit-in-reply have also not come clean and suppressed material and evidence in her possession.
5. I say that besides above, on 02.02.2024 the Applicant had filed Interim Application No.2 of 2024 in MA 10 of 2023 to seek the amendment and relief of joining late Shri Jayesh D Jobalia and Smt Kalpana Jayesh Jobalia as Respondent Nos.10 and 11 to the present application, a copy of which is enclosed at **Exhibit A**. I say that this Interim Application was strongly opposed by Hero MotoCorp Ltd. by filing an affidavit on 26.02.2024, a copy of which reply is enclosed at **Exhibit B**. I say that thereafter this Hon'ble Court passed an order 01.03.2024 in the aforesaid IA 2 of 2024 and granted the relief prayed for by the Applicant by overruling the objections raised by Hero MotoCorp Ltd. and a copy of this order is enclosed at **Exhibit C**. I say that in compliance with the above order dated 01.03.2024, I amended the



application and served the copy of the same on Respondent Nos.10 and 11. I say that these Respondents have filed a combined affidavit-in-reply on 04.10.2024 to which I am re-joining now.

6. I say that I am aggrieved that the above Respondents have acted in collusion with each other and they have deliberately and consciously suppressed and withheld from this Hon'ble Court crucial facts and evidence in their possession hoping that the same will never surface and the false defences and stands adopted by them would succeed. I say that these Respondents are also playing a fraud on this Hon'ble Court in order to get a favourable order and to deny my legitimate claim of recovery of attached property. I say that a detailed scrutiny of records I was fortunate to discover some of the crucial evidence and therefore brought all of them on record of the present proceedings by filing an additional affidavit on 29.12.2023 through which I have brought on record clinching and irrefutable evidence which cannot be now denied both by Hero MotoCorp Ltd. and the Custodian. I say that right in the beginning when I discovered the benami shares and addressed my first letter on 27.11.2020 (**Ex. AA Pg.470**) the Custodian should have immediately supplemented and supported my efforts of recovery by confronting Hero MotoCorp Ltd. with his letter dated 28.09.1999 but instead and despite my several letters addressed to the Custodian he did not reveal his above crucial letter hoping that it will never get discovered and Hero MotoCorp Ltd. will succeed in the false stand taken by it. I say that after I filed an additional affidavit on 29.12.2023 the Custodian felt compelled to file his reply and accordingly sought permission to file the same for the first time only on 05.01.2024 after being served with the copy of my additional affidavit and this fact is duly recorded in the order of this Hon'ble Court dated 05.01.2024. Thus it is a matter of record that after remaining completely silent despite possessing crucial evidence the Custodian filed his affidavit-in-reply i.e. after about 28 months. I say that such crucial time has been used by Shri Nirav D



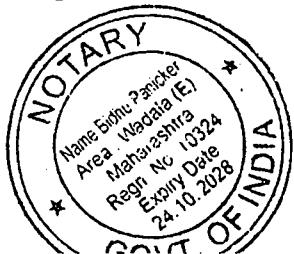
Jobalia to not only secure release of shares but to thereafter sell the same in the market and fraudulently used the sale proceeds. I say that Shri Nirav D Jobalia in 4 affidavits filed till date has not made any disclosure regarding the shares obtained by him from the IEPF though he is required in law to give a complete account of the subject shares and come clean before this Hon'ble Court. I say that the Custodian has a vested interest in withholding and suppressing the material and evidence in order to cover up gross illegalities and violations committed by him of a number of orders of this Hon'ble Court. I say that like-wise Hero MotoCorp Ltd. having illegally dealt with the attached shares is also playing hide and seek and placing evidence on the record and acknowledging their existence only after being compelled to do so. I say that each of these Respondents are creating impediments in recovery of attached properties. In essence even though I am discharging the statutory duties of the Custodian and recovering huge quantities of attached properties lying in the hands of third parties, instead of supporting my efforts the Custodian is acting as an adversary and thwarting my efforts. I say that in the present case itself the recovery could have taken place in a few months but it has already taken about 4 years due to the Custodian acting as an adversary. I say that the Custodian has completely abandoned his statutory duties of tracing and recovering every attached property from third party and to comply with every order of this Hon'ble Court and to preserve, protect and augment the attached assets belonging to Mehtas.

7. I say that in order to suppress the material the Custodian has stopped granting inspection of files and records in his possession which would assist in recovery of the attached assets and the rejection letter of the Custodian dated 27.12.2023 has also been brought on record by me (**Ex. O Pg.1330**). I say that whenever the Custodian refuses to give inspection to me in any recovery proceedings (and this has been happening in almost every proceedings involving recovery of attached property), I get strong suspicion that he is



withholding crucial evidence in his possession, which supports the recovery. I say that I have already filed before this Hon'ble Court MA 19 of 2024 in MA 10 of 2023 to seek the relief of inspection of records lying in the possession of Custodian, which is presently pending hearing before this Hon'ble Court. I say that in the meantime and with the limited choices available to me and in order to fortify my case, as stated before I obtained the certified copy of the proceedings in MP 99 of 1998. I say that affidavits filed by several Respondents including by Hero Honda Motors Ltd. were not in my possession. I say that legally I am duty bound to bring on record all the facts and evidence in my possession and even therefore I am placing the same on record of the present proceedings.

8. I say that earlier through the additional affidavit dated 29.12.2023, I have brought on record copies of letters dated 11.01.1995, 22.06.1995 and 28.09.1999 addressed by the Custodian to Hero MotoCorp Ltd. I also brought on record the crucial letter addressed by the Custodian to Hero Honda Motors Ltd. on 28.09.1999 in which he forwarded an affidavit filed by the Income Tax department on 10.09.1999 in the said MP 99 of 1998. In this affidavit the department has disclosed the names of 3 Jobalias as holders of benami shares in Hero Honda Motors Ltd. and has even given complete particulars of the same (**Refer Pg. 931**). I say that besides above, I also brought on record clinching evidence of 4 letters addressed by MCS Ltd. the then STA of Hero Honda Motors Ltd. in which it rejected transfer of 200 shares of its company sold by the Jobalias when lodged for transfer by 4 purchasers of these 200 shares. I say that transfer of 150 shares was rejected on identical grounds i.e. by relying upon the aforesaid letter of Custodian dated 28.09.1999 and through these letters Hero Honda Motors Ltd. admitted that these 150 shares were attached benami shareholdings of Mehtas. In support of above contentions, from the 2 letters dated 27.11.1999 and letter dated 30.12.1999 I am reproducing the grounds set out by Hero Honda Motors Ltd. for rejecting



transfer of 150 shares sold by Smt Alpa N Jobalia and the same are reproduced below:

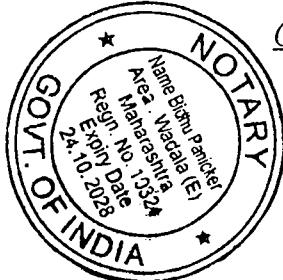
"In this connection we wish to inform you that the above share certificate constitute the bonus shares issued by the company during the year 1998 against the benami holdings of Harshad S Mehta. Please note that the said shares are also subject matter of misc. application No.99 of 1998 pending before the Special Court bearing the title case The Custodian vs. Harshad S Mehta & Others. Copy of the letter No.5013/Cus/Bom/MP-99/98/PN/98(236-M11) dated 28.09.1999 of the office of the Custodian alongwith affidavit of Deputy Commissioner of Income Tax filed in the Special Court on the above matter is enclosed for your ready reference.

In view of the above circumstances we are sorry to inform you that we cannot take any action pertaining to the alleged shares and therefore, we are enclosing herewith photocopies of the share certificate as well as transfer deeds for your reference.

Further, you may take up the matter with the Special Court constitute under the Special Court (Trial of Offences Relating to Transactions in Securities) to protect your interest, if you so desire. " (emphasis supplied)

9. I say that besides above, I brought on record the rejection letter of MCS Ltd. dated 02.12.1999 in which it rejected transfer of 50 shares sold by Shri Jayesh D Jobalia on the following grounds:

"In this connection we wish to inform you that we have received a letter No.5343/CUS/BOM/HMG/MISSING SHARES/89 (1335-13) dated 9th October, 1999 from the OFFICE OF THE CUSTODIAN THE SPECIAL



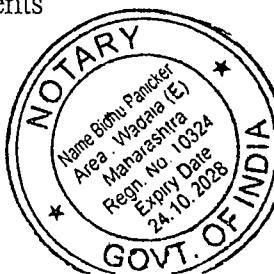
COURT (Trial of offences relating to transaction in Securities) Act, 1992
alongwith a list regarding purchase of 8325 shares by notified parties
(HARSHAD MEHTA GROUP) subsequently lost by them. (copy of the letter
is enclosed for your reference).

In their above letter they required from us/company the details of accrued
benefits such as dividend, bonus, right paid/issued in respect of shares
mentioned in aforesaid letter/list to be submitted to the special court for
necessary direction. Also as per their letter all the shares held by the notified
entities can be dealt with only by the Custodian as per direction of the Special
Court.

Please note that the above share certificate(s) constitute the bonus shares
issued by the company during the year 1998 against share certificate No.
3743 which is appearing in the list sent by them.

In view of the above circumstance, we are sorry to inform you that we cannot
take any action pertaining to the alleged shares and therefore we are
enclosing herewith photocopies of share certificate as well as transfer deed
for your further action. Please note that the original shares are detained with
us. (emphasis supplied)

I say that the transfer of 50 shares was rejected by Hero Honda Motors Ltd. only on the basis of letter of Custodian dated 09.10.1999 informing the company about purchase of 8325 shares of the company by Mehtas the custody of which has been lost by them. I say that Custodian's above letter dated 09.10.1999 has been withheld and suppressed from this Hon'ble Court both by Hero Honda Motors Ltd. and the Custodian despite the fact that Shri Jayesh D. Jobalia has been treated as holding attached shares of the company. I say that in view of the above 4 letters of MSC Ltd. none of the Respondents



can now take any contrary position in the present proceedings and deny my legitimate claim.

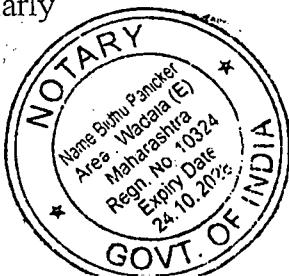
10. I say that through my above additional affidavit dated 29.12.2023, I also brought on record the crucial correspondence that was exchanged by the Superintendent of Police of Bharuch city with the Custodian wherein he informed him that a criminal case has been filed against Smt Alpa N Jobalia and Shri Jayesh D Jobalia for selling 200 attached shares of Hero Honda Motors Ltd. I say that in the above correspondence the Custodian has clearly conveyed in his letters dated 06.10.2000 and 12.10.2000 to the Bharuch Police that the subject shares constituted attached property u/s 3(3) of the Torts Act. I say that after addressing a letter to Hero Honda Motors Ltd. on 28.09.1999 forwarding the affidavit of the IT department dated 10.09.1999 and even after discovering the fact that the Jobalias have illegally sold the attached benami shares the Custodian has yet deliberately –
 - a. Violated the combined order of this Hon'ble Court dated 13.03.1997 in MA 194 of 1993 and MA 53 of 1994 by not recovering the attached shares and accruals from Jobalias.
 - b. Violated his statutory duty and legal obligation to place the facts of violation of Sec.3(4) of the Torts Act by Jobalias before this Hon'ble Court to seek directions from it. The Custodian has also violated his statutory duty of preserving, protecting and augmenting the attached assets and in tracing and recovering the attached property lying with third parties.
 - c. Dealt with the attached benami shares lying in the hands of Jobalias by deciding himself not to recover the same though Custodian has filed several affidavits before this Hon'ble Court and before Hon'ble Supreme Court that he never deals with the attached properties by himself but always acts as per directions of this Hon'ble Court as required u/s 3(4) of



the Torts Act and the relevant extracts of such averments made on oath by Custodian in numerous proceedings (**Ex L Pg 1232**).

- d. I say that the Custodian has also filed numerous affidavits before this Hon'ble Court making averments that he complies with all the orders of this Hon'ble Court and recovers every attached property and the relevant extracts of his such averments are enclosed (**Ex K Pg 1206**).
- e. Not been recovering the attached properties belonging to Mehtas from 1992 onwards amounting to thousands of crores including in cases where this Hon'ble Court has already directed him to recover the attached assets with the *mala fide* object of impoverishing the asset base of Mehtas and with the ulterior objects of conferring huge monetary favours onto third parties in the present case being Jobalias. This is one more such case.
- f. Violated the undertaking given by the Custodian to this Hon'ble Court including by filing affidavit dated 12.01.2017 in MA 8 of 2016 (**Ex. F Pg.1138**) by stating on oath that the Custodian will comply with all the orders of this Hon'ble Court and recover every attached property.
- g. Violated the undertaking given even by the Advocate representing the Custodian on 15.12.2017 in MA 8 of 2016 that the Custodian's office will continue to complete pending tasks to ensure compliance with the orders and co-ordinate with the Applicant's Advocate (**Ex. C Pg.1130**).

- 11.** I say that from the above, it can be seen that right from the year 1999 Hero Honda Motors Ltd., Custodian and the IT department have all treated the subject shares of Hero Honda Motors Ltd. standing in the names of Jobalias as attached property u/s 3(3) of the Torts Act and therefore it is not open for Hero Honda Motors Ltd. and the Custodian to now take any contrary stand and oppose the recovery of the attached shares from the Jobalias as claimed by me. I say that principle of estoppel would apply against them and they cannot be permitted to approbate and reprobate on this issue particularly



after the crucial evidence of 1999 which was withheld and suppressed by these Respondents have already been brought on record by me. I say that Hero MotoCorp Ltd. who is supposed to act neutral in a *lis* between me and the Jobalias cannot act partisan and now take a completely contrary stand in the present proceedings to cover up violations committed by it and in order to escape its liability to make good the subject shares to me having illegally dealing with the same without permission of this Hon'ble Court. I say that when Hero MotoCorp Ltd. dealt with the attached shares it already had facts and evidence in its possession that the subject shares constituted attached property. It has become necessary to bring on record the several affidavits filed by Hero MotoCorp Ltd. before this Hon'ble Court in MP 99 of 1998 and other proceedings so that it does not get away scot free after consciously committing several violations of the provisions of the Torts Act and the orders passed by this Hon'ble Court.

12. I say that I have also enclosed affidavit of Custodian dated 09.03.2017 in MA 8 of 2016 in which in Para 4 he has made the following averments:

Para 4: "That it has been the endeavour of the office of the Respondent to ensure compliance of each and every order passed by the Hon'ble Supreme Court of India and Hon'ble Special Court in letter and spirit by proactive pursuance with all parties concerned like notified parties, companies, debtors, IT department, banks and others. Whenever required appropriate consequential applications are also filed before this Hon'ble Court praying for further directions to parties concerned to further enforce compliance to the orders of this Hon'ble Special Court." (Emphasis supplied)

I say that even after this Hon'ble Court passed an adverse order against the Custodian on 23.12.2016 in MA 8 of 2016, the Custodian has misled this

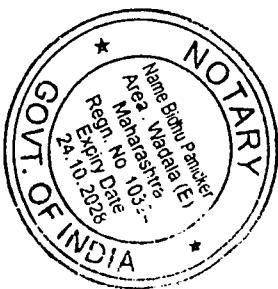


Hon'ble Court by filing false and misleading affidavits on 12.01.2017 and 09.03.2017 in the said MA 8 of 2016. I say that the Custodian has been regularly dealing with attached property with impunity and in several ways and has deliberately failed to recover our attached assets amounting to thousands of crores. I say that the Custodian is governed by ulterior objects of impoverishing the asset base of Mehtas and wants to confer huge monetary benefits onto several parties in the present case being Jobalias. I say that in his affidavit dated 26.03.2024, no explanation has been offered by the Custodian for not recovering attached shares from Jobalias for more than 2 decades. I say that when I discovered the facts of pending recovery by acting diligently, instead of appreciating my efforts the Custodian has chosen to thwart the recovery itself including by withholding and suppressing crucial evidence lying in his exclusive possession.

13. I say that because of such gross and deliberate failures of Custodian a burden is now cast upon me to recover the subject shares. I say that in the belated affidavit-in-reply filed by the Custodian on 26.03.2024, acting *mala fide* he has opposed my present application on completely false and frivolous grounds and at the same time he has also supported recovery of subject attached shares from the Jobalias and therefore he is blowing hot and cold at the same time. I say that the Custodian has not come clean and admitted his above failures and wants to absolve himself by making baseless allegations against me to keep the recovery of the attached assets pending cumulatively amounting to thousands of crores. I say that while bringing the suppressed material on record I will also establish that the said suppression is consciously done by the Respondents only so as to defeat my valid claim and mislead this Hon'ble Court by making false averments and by acting in collusion with each other with the sole object to allow Jobalias and Shri Nirav D Jobalia in particular to usurp the attached assets.



14. I say that in the 2 affidavits filed by Hero Honda Motors Ltd. and 1 affidavit filed by the Custodian till date in the present proceedings, they have deliberately failed to bring on record the aforesaid crucial letter of Custodian dated 09.10.1999 addressed to Hero Honda Motors Ltd. in respect of 50 missing shares on which basis the company rejected the transfer of 50 shares sold by Shri Jayesh D Jobalia and therefore I have called upon them to provide a copy of the same under letter of my Advocate dated 14.10.2024, a copy of which is enclosed at **Exhibit D**. I say that before rejecting the transfer of aforesaid 50 shares the Hero Honda Motors Ltd. did not seek any order from this Hon'ble Court and it has merely acted on the basis of Custodian's letter and therefore it cannot now seek an attachment order from this Hon'ble Court. I say that Hero Honda Motors Ltd. has failed in reporting to the Custodian and this Hon'ble Court the attached benami shares in the case of Jobalias and several other parties as are listed in its letter dated 23.06.2021 (**Ex. JJ Pg 611 of the application**).
15. I say that all the attached benami shares are recoverable from the IEPF with accruals thereon and to the extent the shares are already released from IEPF such as in the cases of Shri Nirav D Jobalia, Smt Rekha Dinesh Shah, Smt Rita H. Shah (**Ex JJ Pg 611**), Hero MotoCorp Ltd. has already become liable to make good all such shares with accruals thereon. I say that further benami shares standing in the names of Shri Rajendra Shah, Smt Rekhaben Lalchand Shah, Smt Aarti R. Vora, Smt Malati Shah, Shri Vinod Mehta, Shri Sanjay Jain, Shri Dharmendra Sharma and Shri Sanjay Jain also ought to be recovered by the Custodian from the IEPF. I say that the Custodian has already been directed by this Hon'ble Court in paras 6 and 7 of its combined order dated 13.03.1997 in MA 194 of 1993 and in MA 53 of 1994 as under:



Para 6: “*The Custodian already has in his possession a large number of shares. The Custodian to now adopt necessary steps to recover possession of the balance shares from the benamidars, if they can be found. If the benamidar cannot be found the Custodian to apply for duplicate shares from the concerned companies.*” (emphasis supplied)

Para 7: “*It is clarified that the Custodian, the Income Tax Department and all parties are at liberty to apply for further and other orders as may be necessary for the efficient working out of this order and / or for a declaration that further and other shares are also benami shares.*” (emphasis supplied)

I say that the above order of this Hon’ble Court has deliberately not been complied with by the Custodian by not recovering the benami shares of Jobalias and other benami shares traced and discovered by me and forming part of the reply given by the company on 23.06.2021 (Ex. JJ pg. 611).

16. I say that in fact, if all the proceedings filed by the IT department before this Hon’ble Court and the orders passed therein are examined it clearly emerges therefrom that:
 - a) That the IT department investigated and was first to report benami shares and it stated that several shares still remain to be traced and recovered. It issued notices to all companies and passed orders attaching such benami shares even before this Hon’ble Court passed orders of their attachment. The affidavit filed by IT department in September 1999 reporting Jobalias as benamidars cannot be ignored.
 - b) That this Hon’ble Court passed several orders empowering the IT department and Custodian to trace and recover further shares and the same is known to Hero MotoCorp Ltd. and its STA.



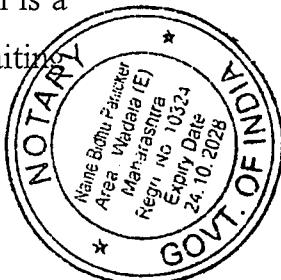
- c) That Hero MotoCorp Ltd. committed before this Hon'ble Court to trace and recover shares and that it would abide by its directions and orders.
- d) That once the Jobalias were identified as benamidars of Shri Harshad Mehta in several companies, the companies could not have given them any benefits of doubt by themselves in view of exclusive Civil jurisdiction of this Hon'ble Court u/s 9A of the Torts Act.
- e) I say that order of this Hon'ble Court dated 08.04.2003 in MP 99 of 1998 is all pervasive and covers all identified benami shares and therefore Hero MotoCorp Ltd. or Jobalias cannot read into this order to urge that the shares of Jobalias were not covered under the above order. In fact, the Advocate for Hero Honda Motors Ltd. has not participated in the proceedings when above order was passed by this Hon'ble Court.
- f) Further, liberty was always given by this Hon'ble Court to IT department, Custodian and everyone to report further benami shares so that they get recovered.
- g) Hero MotoCorp Ltd. itself prevented sale of 200 shares by Jobalias in the year 1999 itself even while MP 99 of 1998 was under adjudication.
- h) That the Custodian has also addressed several letters to Hero Honda Motors Ltd. repeatedly calling upon it to trace and report particulars of further benami shareholdings held in the company. Hero Honda Motors Ltd. cannot take advantage of its own failures and violations consciously committed to deal in the attached shares.

17. I say that when Shri Harshad Mehta filed his affidavit dated 25.02.1994 and disclosed 800 benami shares of Shri Nilesh D. Jobalia under Folio No.136971, he was never called upon by this Hon'ble Court to establish his ownership by producing proof of purchase. I say that it was extremely easy for Hero Honda Motors Ltd. to trace and find out and report the benami shareholdings of Jobalias as is explained hereinafter. I say that in fact the IT



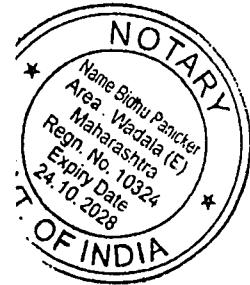
department disclosed the name of Smt Alpa N. Jobalia in MA 53 of 1994 filed by it where she was joined as Respondent No.38. I say that while returning the benami shares the Jobalias have dishonestly retained some of the benami shares of high value and conclusive evidence in this regard has already emerged. I say that in the present affidavit I have already brought on record atleast 3 such cases of Glaxo Ltd., Oswal Fats and Larsen & Toubro Ltd. where the benami shares have not been surrendered by Jobalias besides the subject shares. I say that besides above, the Jobalias have usurped dividends on all the benami shareholdings including in 19 companies where they have handed over the shares to Shri Harshad Mehta. I say that therefore the Custodian ought to be directed by this Hon'ble Court to recover even the attached dividends which have been usurped by the Jobalias.

18. I say that in fact, as stated before, Hero Honda Motors Ltd. could have easily traced and reported the above shareholdings of the Jobalias after it was informed in the year 1994 about the facts of 800 benami shares standing in the name of Shri Nilesh D Jobalia under Folio No.136971 due to the following reasons:
 - (i) That all the shares were lodged by Jobalias for transfer with the company at the same time and they got registered in their names on the same date of 11.09.1992.
 - (ii) That the address was common between all of them being C/o. Bella Electronics, 5/6 Sevashram Shopping Centre, 5 Bati, Bharuch.
 - (iii) That even the folio numbers were allotted next to each other.
 - (iv) That all of the transferees have been negligent never coming across as owners of the shares in the matter of collecting the shares, dematerialising them and they have allowed vast amounts of dividends and shares to get transferred to IEPF almost after 28 years which is a conduct of parties who are both fearful and at the same time waiting



for opportune time to usurp the attached property. I say that in matter of subject shares Shri Nirav D Jobalia has taken the lead and also inciting the other Jobalias to follow him.

- (v) That the conduct of the Jobalias was identical in most ways and extremely suspicious in several ways.
 - (vi) That Jobalias sold some shares but after criminal case was instituted against Smt Alpa N Jobalia and Shri Jayesh D Jobalia they appeared to be withdrawn and allowed almost passage of 22 years before claiming the shares from IEPF after apparently working out some arrangement with the company and its STA illegally rendered assistance to Shri Nirav D Jobalia and others in getting the shares released from IEPF.
- 19.** I say that Hero Honda Motors Ltd. and its STA are supposed to act neutral in any dispute *inter se* between me and Jobalias taking into account Sec. 9-A of the Torts Act and SEBI Regulations governing STAs and Registrars. In the present case acting in collusion with Jobalias, the company and its STA has clearly taken law into their hands by deciding the ownership of subject shares in favour of Jobalias and even by threatening me that the company would release further shares in favour of Jobalias and others. I say that since several years and through several of his letters the Custodian has always cautioned the company and duly explained to it the effect of unique provisions of the Torts Act and also about simultaneous and automatic attachment of properties thereunder. I say that if the shares actually belonged to the Jobalias they would not have neglected their shares. I say that the Jobalias have not produced any evidence for purchase and payment of the subject shares.
- 20.** I say that after Hero Honda Motors Ltd. was presented with overwhelming evidence against the Jobalias, it cannot justify its stand in favour of the Jobalias. I say that the company has already set up numerous precedents



which are binding upon it wherein it has contested the claims of third parties on the attached benami shares. I say that it has recovered attached benami shares back from SBI Capital Markets Ltd. which were wrongly transferred by it. I say that it has defended transfer of some benami shares in the case of Smt Alpa N. Jobalia on the ground that the subject shares were transferred prior to receipt of Custodian's letter dated 28.09.1999. I say that even assuming without admitting if the company had any genuine doubts it could have easily ascertained the truth by atleast confronting the Jobalias with facts and evidence already in its possession. I say that the company has never called upon the Jobalias to provide it with the proof of purchase and payment despite knowing that Shri Nilesh D. Jobalia was already declared as benami shareholder of Shri Harshad Mehta for 800 shares and that he had never contested the allegations against him. I say that both the Custodian and the company themselves have already set a precedence by opposing release of 225 shares of Hero Honda Motors Ltd. sold by benamidar Bhartiben Sheth under Folio No.137374. I say that the Custodian filed Report in MA 217 of 2010 (**Ex. V Pg 299**) as the said 225 shares were issued by Hero Honda Motors Ltd. directly to Bhartiben Sheth as bonus shares in the year 1995 on the base 900 shares. I say that even the company filed a detailed affidavit to oppose the said MA 217 of 2010 on 02.04.2011 (Ex. W pg.302). I say that in para 7(iv) and 7(viii) Hero Honda Motors Ltd. has admitted as under:

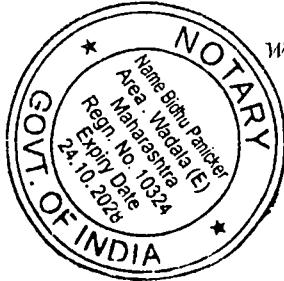
Para 7(iv) : "With reference to Paragraph 9 of the above Misc. Application, I say that pursuant to the intimation given by Respondent No.1 (Custodian) vide its letter No.415/Cus/Att/MA-53 of 94/906(KW) dated 09.03.1994 the above shares were formed part of corporate benefits on the benami holdings of Harshad S Mehta Group and Respondent No.2 marked "stop transfer" of the shares with other corporate benefits."



Para 7(viii) : “With reference to Paragraph 13 of above Misc. Application, I say that I categorically deny that, the Respondent No. 2 has made any false submission as alleged. I hereby state that, the answering Respondent has acted on the basis of the letter dated 09.03.1994 issued by the Respondent No. 1 and acted bona fide in the matter.”

21. I say that besides above, Hero MotoCorp Ltd. has also filed an affidavit-in-rejoinder on 21.09.2011 in MA 217 of 2010 a copy of which is enclosed at **Exhibit E** I say that the above affidavit is brought on record by me as a precedent and evidence to establish that in regard to benami shares Hero Honda Motors Ltd. was not only treating the shares as attached benami property on the basis of letters addressed by the Custodian but even without seeking any orders from this Hon’ble Court the company was recovering the attached accruals paid over by it to the benami shareholders. In support of my contentions, I am pleased to reproduce below the averments made by Hero Honda Motors Ltd. in some of the paras which are reproduced below:

Para 5(c): “With reference to para 3 of the rejoinder, the contents of the same are accepted except for the fact that though the then registrar i.e. MCS Ltd. had dispatched the bonus shares to the notified parties immediately thereafter as a prudent measure of recourse / duty of the company, the company had written letters / reminders to the Respondent No.17 (benamidar Meenaben H Modi) to not deal with the same in any manner whatsoever and return the benefits of the said shares so released, as they belonged to the benami holdings of Harshad Mehta Group entities. A copy each of the said letter(s) has been annexed alongwith as Exhibit __ (I), (II) and (III). I therefore say that Respondent No.17 was not authorised to deal with the said shares as there were benefits of the property already parted with and in view of such reminders by the company the entire responsibility



was of respondent 17 and not of the company as alleged by the Applicant.

... I say that the Respondent No.2 company in view of the embargo by the custodian did not affect the transfer of said shares and refused the same on their lodgement in the month of December 1996 by the Respondent No.26.

....I further say that the Applicant has tried to portray itself as the affected party without producing any legitimate documents of ownership of title to the suit shares. I say that in case he is the real affected party as an intermediary in the said channel, he has to prove the same before the Hon'ble Court and it is for the Hon'ble Court to decide as to how he has suffered loss due to the company in the said channel and on what account."

Para 5(d): "With reference to Para 4 of the Rejoinder the applicant himself admits that he has received the shares from the market but has not clarified from whom. It is also pertinent to note that admittedly the Applicant has not produced legally acceptable evidence/legitimate documents of ownership to the Custodian like Contract Notes and relevant proof as stated in the report submitted by the Custodian in this Hon'ble Court."

I say that the above affidavit conclusively establishes the understanding of Hero Honda Motors Ltd. regarding the provisions of the Torts Act and its true effects.

22. I say that only after I brought on record through my additional affidavit dated 29.12.2023 the copy of the above affidavit of the IT department dated 10.09.1999 filed in MP 99 of 1998 that the company has now brought the same affidavit on record through its affidavit dated 24.06.2024 which was earlier deliberately suppressed and withheld by it from this Hon'ble Court. I say that both the company and the Custodian are still withholding and suppressing crucial material and evidence in their possession under a fond

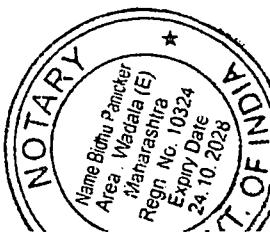


hope that that their violations will never get discovered and the Jobalias will go scot free. I say that these Respondents promoting each others interests have now become jointly and severally liable to make good the claim made by me. I say that all these Respondents have grossly failed to discharge their respective legal obligations under the Torts Act of making disclosure and causing recovery of attached assets. They have consciously violated the provisions of the Torts Act and have illegally dealt with the attached shareholdings and accruals thereon to usurp them forever. I say that besides above this Hon'ble Court may also take note of the fact that Hero Honda Motors Ltd. is a habitual offender as until now in several cases it has dealt with the attached shares and accruals belonging to Mehtas by illegally transferring their shares and dividends to IEPF and the facts relating to them are set out hereinafter.

23. I say that after receiving the certified copy of proceedings in MP 99 of 1998 which is voluminous, I analyzed the same and further probed the matter by scrutinizing all the past proceedings relating to benami shares and orders passed therein. I have also traced several benami shares and accruals which have been transferred into IEPF only because the Custodian has not recovered all the benami shares and accruals thereon even after such shareholdings is already traced and identified. I say that the cumulative value of such unrecovered attached shares and accruals transferred to IEPF could run into several hundreds of crores. It has therefore become imperative that this Hon'ble Court directs Custodian to place complete details before this Hon'ble Court on the issue of compliance with the orders of this Hon'ble Court and the actual recovery of attached shares and accruals caused by the Custodian till date and furnish the status on pending recoveries failing which such benami shareholders will secure release of shares and accruals as done by Shri Nirav D. Jobalia and others in the present case.



24. I say that being aggrieved by the conduct of the Custodian and when I first realised that the Custodian is mismanaging our attached assets from the year 2006 I started calling upon the Custodian to provide me information relating to compliance made by him with the orders of this Hon'ble Court and the recovery of attached assets caused by him thereunder but my letters were not replied to by the Custodian. I say that therefore to begin with I filed MA Nos.106 to 113 of 2007 to seek details about compliance made by the Custodian and status of recovery of attached assets and am pleased to enclose a chart at **Exhibit F**, which gives the particulars of reliefs prayed for by me in above applications. I say that it can be seen from the chart that MA 113 of 2007 was filed by me to seek compliance of Custodian with the combined order of this Hon'ble Court dated 13.03.1997 in MA 194 of 1993 and MA 53 of 1994 and the copy of the said MA 113 of 2007 (with relevant annexures) is enclosed herewith at **Exhibit G**. I say that Custodian filed a Status Report in the above proceeding on 19.06.2008, a copy of which is enclosed at **Exhibit H**. I say that in this Status Report, the Custodian hardly disclosed any material facts nor met the prayers made by me in my above application and being aggrieved by the same I filed my affidavit-in-reply on 19.09.2008 and a copy of my reply is enclosed at **Exhibit I**.
25. I say that I narrated my grievance in the aforesaid affidavit of how the Custodian was not filing any Compliance Report, not revealing before this Hon'ble Court the progress that was made by him in making compliance with the aforesaid combined order dated 13.03.1997 in MA 194 of 1993 and MA 53 of 1994 as also subsequent order dated 08.04.2003 in MP 99 of 1998. I also made a grievance that the Custodian was not keeping me informed by not marking copies of correspondence being exchanged by him with third parties, the example of it can be seen from letter annexed by the Custodian with his Status Report dated 19.06.2008 at Exhibit B to letter



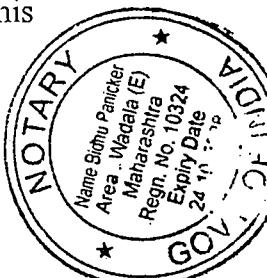
dated 03.02.1992 addressed by the Custodian to Shailesh Patil calling upon him to handover 50 shares of Sesa Goa out of 1710 shares disclosed by the company. I say that the Custodian has failed to address similar letters to Jobalias to handover the shares of Hero Honda Motors Ltd. pursuant to his letter addressed to the company on 28.09.1999. I say that in the reply filed by the Custodian he has not given any account of the above compliance which was required to be made by him. I say that had the Custodian addressed similar letters to the Jobalias the subject shares and the accruals on them would have got recovered in the year 1999 itself.

26. I say that be that as it may, this Hon'ble Court granted the reliefs prayed for by me in MA 111 to 113 of 2007 by a combined order dated 20.02.2009, a copy of which is enclosed at **Exhibit J**. I say that it can be seen from the above order that this Hon'ble Court directed appointment of a Chartered Accountant to submit his report as expeditiously as possible, in any case within 8 weeks from the date on which the copy of this order is delivered to it by the Custodian. The Chartered Accountant was given a liberty to apply for extension of time if necessary after filing Status Report of the progress made in the 8 weeks. The Chartered Accountants were directed to compile facts and prepare a Report on the accruals that have fallen due in the form of bonus/rights, preferential offers, dividends etc. on the shares, which are subject matter of MA 111 to 113 of 2007. The Chartered Accountants should draw entity-wise claim sheets as per owners of the shares and to urgently arrive at present value of the remaining recovery pending after taking into account any claim of interest for monies enjoyed by the third party. I say that admittedly the Custodian has neither complied with the above order, nor applied for extension of time to make compliance nor explained the difficulties faced by him if any, in making compliance with the above crucial order as it could involve recovery of attached shares and accruals of



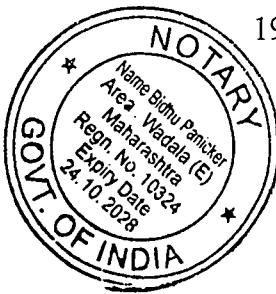
thousands of crores. I say that the above order has been consciously violated by the Custodian because of which huge recoveries of attached benami shares have remained pending and therefore this Hon'ble Court may direct the Custodian to make a full and proper compliance with the above order within next few months itself.

27. I say that since the Custodian was not making compliance with the orders passed by this Hon'ble Court in MA 106 to 113 of 2007 I filed before this Hon'ble Court MA 13 & 14 of 2011. I say that in this proceedings the Custodian filed false and misleading affidavits which were disbelieved by this Hon'ble Court and it passed a combined order on 04.01.2003 in MA 13 & 14 of 2011, a copy of which is already enclosed at Exhibit TT of the application. I say that in 13 Reports filed by the Custodian pursuant to above order dated 04.01.2003 the fact of pending compliance with aforecited orders was suppressed by the Custodian from this Hon'ble Court. I say that being aggrieved by deliberate failures of Custodian me and my family members filed MA 8 of 2016 before this Hon'ble Court to once again secure from Custodian compliance and recovery of attached properties of Mehtas. I say that in this proceeding Custodian gave an undertaking that all orders would be complied with and all attached assets will be recovered but in the affidavits filed by the Custodian the pending recovery of Jobalias was not disclosed. I crave leave of this Hon'ble Court to refer to and rely upon the proceedings in MA 106 to 113 of 2007, in MA 13 & 14 of 2011, 13 Reports filed by Custodian in compliance with order dated 04.01.2013 and MA 8 of 2016 when produced. I say that thus the Custodian till date has violated aforesaid combined order dated 13.03.1997 in MA 194 of 1993 and MA 53 of 1994, ordcr dated 08.04.2003 in MP 99 of 1998 and combined order dated 20.02.2009 in MA 111 to 113 of 2007, combined order dated 04.01.2013 in MA 13 & 14 of 2011, orders passed in MA 8 of 2016. I say that Custodian has consciously committed contempt of all the above orders passed by this



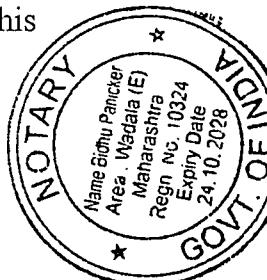
Hon'ble Court and which contempt is continuing and the Custodian has not purged himself of the said contempt. I say that in view of the above it has become imperative that the Custodian is issued strong directions giving him last opportunity to comply within shortest possible time as this alone can help realise the objects of the Torts Act. I say that in the least the Custodian is bound to be reprimanded for adopting adversarial stand and for filing such contumacious affidavit-in-reply dated 26.03.2024.

28. I say that when the IT department filed MA 53 of 1994 it joined all the benamidars identified till that date by it as party Respondents being Respondent Nos. 32 to 641 to get several reliefs against them and trace and recover every share registered in their names in every company. I say that the IT department sought the relief to declare all such Respondents as benamidars of Shri Harshad Mehta. I say that in the above list of benamidars Smt Alpa N Jobalia was joined as Respondent No.38 and I crave leave of this Hon'ble Court to refer to and rely upon MA 53 of 1994 when produced. I say that the IT department had also filed before this Hon'ble Court MA 424 of 1994 in which application it provided the list of benami shares and the details of benami shares as per company reply, as per quantities seized by the department and as per HSM. I say that on perusal of Exhibit A to the above application it emerges that the 3 Jobalias viz. Smt Alpa N Jobalia, Shri Jayesh D Jobalia and Shri Nirav D Jobalia were reported to be holding 1300, 1400 and 1400 shares respectively in Glaxo India Ltd. However, the said shares till date have not been disclosed or handed over by all the above 3 Jobalias either to Shri Harshad Mehta or to the IT department or to this Hon'ble Court and it appears that the same have been usurped by the Jobalias and therefore a claim for recovery of these shares together with accruals thereon is liable to be made by the Custodian on them and I crave leave of this Hon'ble Court to refer to and rely upon the proceedings in MA 424 of 1994 when produced. I say that similarly in case of ITC Bhadrachalam Ltd.



750 shares were standing in the name of Shri Jayesh D Jobalia whereas he has handed over only 500 shares as confirmed in Exhibit F pg.103 of my application. I say that I am pleased to enclose at **Exhibit K** the said application (with the relevant pages) covering the above shares of Glaxo (India) Ltd. and ITC Bhadrachalam Ltd. I also crave leave of this Hon'ble Court to refer to and rely upon the proceedings in aforesaid MA 424 of 1994 when produced. I say that it can be seen from the above affidavit that according to the IT department vast quantities of benami shares already identified but were yet to be recovered and the particulars of which on a company-wise basis are provided in Exhibit B to the above application.

29. I say that alongwith his letter dated 28.09.1999 addressed to Hero Honda Motors Ltd. the Custodian had enclosed only the truncated version of the affidavit of IT department dated 10.09.1999 only covering the shares of Jobalias. I say that in fact a detailed affidavit has been filed by the IT department, a copy of which is enclosed at **Exhibit L** and which contains a long list of 138 cases of fresh discovery of benami shares which is enclosed at Annexure A1 to the above affidavit. I say that at Item No.116, I find that 840 shares of Oswal Fats were identified as benami shares in the name of Shri Nilesh D. Jobalia which have not been handed over by him and the Custodian has also not taken any steps to cause recovery of the said attached benami shares from him. I say that in the above 138 cases, vast quantities of benami shares are reported by the IT department and the same are already declared benami shares by this Hon'ble Court under its order dated 08.04.2003 passed in MP 99 of 1998 (**Ex G Pg 105**). I say that the above gets established by the following facts:
 - i. That the Custodian in his affidavit dated 26.03.2024 filed in the present proceedings in para 17 has confirmed that 750 shares of Hero MotoCorp Ltd. of Kalpana N. Jobalia were brought to the notice of this



Hon'ble Court which passed the order dated 08.04.2003 directing recovery of the benami shares. I say that since the above order was obtained by the Custodian his above averments are bound to be accepted.

- ii. I say that MCS Ltd. the STA of Hero Honda Motors Ltd. itself had rejected transfer of 200 shares on the basis of the affidavit filed by the IT department on 10.09.1999 and provided to the transferees both the copies of Custodian's letter dated 28.09.1999 and the affidavit of the IT department dated 10.09.1999.
- iii. I say that none of the companies listed in Annexure I to the affidavit of IT department dated 10.01.1999 has raised any issue before this Hon'ble Court challenging the above affidavit of the IT department.
- iv. I say that the IT department would have also issued appropriate notices and addressed letters to the company seeking its confirmation in respect of the additional names of Jobalias before it filed its above affidavit dated 10.01.1999 but the same are being withheld by the company from this Hon'ble Court.
- v. I say that Hero Honda Motors Ltd. was bound by the above affidavit dated 10.01.1999 in view of the combined order passed by this Hon'ble Court on 13.03.1997 in MA 194 of 1993 and MA 53 of 1994 (**Ex U Pg 293**). I say that in para 7 of the above order this Hon'ble Court had already granted liberty to the IT department for a declaration that further and other shares are also benami shares. I say that in fact a number of proceedings was filed by the IT department disclosing vast quantities of benami shares and all of these applications have been granted by this Hon'ble Court. I say that availing the above when the IT department filed its affidavit on 10.09.1999 in MP 99 of 1998 it was thereafter not open to Hero Honda Motors Ltd. to treat the shares



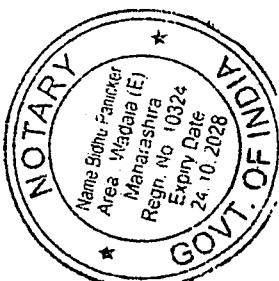
standing in the names of Jobalias as shares belonging to them and not Mehtas.

30. I say that it may also be noted that Shri V.K. Gupta of the IT department has made the following crucial averments in his affidavit:

Para 2 : “... ...However, I say and submit that on investigation and Detection by this Department, further holdings of benami shares of the Respondent No.1 have been brought to light, the list of which is appended herewith as Annexure 1. These shares had not been listed in the list of Benami shares of the Respondent No.1 as filed in the earlier applications filed by this Department. Neither do these shares appear in the Exhibit “G” of the petition mentioned above, nor have they been disclosed by the Respondent No.1 so far. Thus, these shares represent Benami holdings of the Respondent No.1 which hitherto remained not accounted for.” (emphasis supplied)

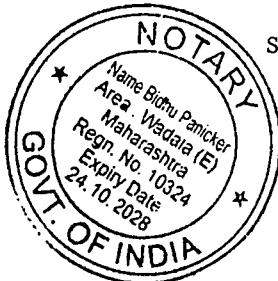
Para 5 : “I humbly state that the detection of Benami shares / securities is based on benami names and / or addresses used by the Respondent No.1 for receiving deliveries of these Benami shares / securities.” (emphasis supplied)

Para 6 : “I humbly state that this Department has taken all due care and caution with full diligence to be accurate in respect of the names and corresponding folio numbers, however the Department reserves its right for corrections, if necessary and required, from time to time.” (emphasis supplied)



I say that therefore at all times the petitions and applications and the affidavits being filed by the IT department and the Custodian were only work in progress and were never exhaustive and this was clear even to Hero Honda Motors Ltd. but it refused to assist in the process of tracing and recovery of attached benami shares and instead of working in tandem with this Hon'ble Court it has always adopted an adversarial position. I say that the company has also violated very well settled law that the Torts Act is a special and later statute containing non-obstante clauses in Sec. 3(3) and 13 of the Torts Act and therefore wherever there existed any conflict the provisions of the Torts Act would override over the provisions of other statutes. I say that in complete disregard of the above settled law the company has made compliance with Sec.205-C of the Indian Companies Act and transferred vast quantities of attached shares and accruals to Investor Education and Protection Fund (IEPF) and this violation is further explained hereinafter.

31. I say that thus it is falsely alleged by Hero Honda Motors Ltd. and Jobalias that this Hon'ble Court has not passed any order in regard to the shares disclosed by the IT department on 10.09.1999 by affidavit filed in MP 99 of 1998. I say that this Hon'ble Court on 08.04.2003 passed the order for attachment and recovery on consolidated basis and not company-wise or benami shareholder-wise basis and the contents of the said order speaks for itself. I say that the above order of this Hon'ble Court is deliberately misread and misinterpreted both by Hero MotoCorp Ltd. and by the Jobalias to suit their convenience. I say that Hero Honda Motors Ltd. had already complied with Custodian's letter dated 28.09.1999 and rejected transfer of 150 shares sold by Smt Alpa N. Jobalia and therefore it already knew that the subject shares were attached properties. I say that in any event, the Custodian had



already addressed several letters to Hero Honda Motors Ltd. in terms of which the subject shares were already deemed to be attached property. I say the above is stated without prejudice to my contentions that upon notification of Mehtas on 08.06.1992 all their properties and shares got simultaneously and automatically attached in the hands of Jobalias and in terms of law laid down in the judgment of T.B. Ruia Vs Custodian reported as (1997) 9 SCC 123 there was no requirement for passing of an order of attachment for the property to get attached u/s 3(3) of the Torts Act. In terms of the law laid down in L.S. Synthetics judgment once the attachment takes place the same continues it is lifted by this Hon'ble Court.

32. I say that I am also pleased to enclose at **Exhibit M** a copy of the first affidavit filed by Hero Honda Motors Ltd. on 06.07.1999 in MP 99 of 1998 which contains several crucial facts and evidence which have been consciously withheld and suppressed both by the company and the Custodian from this Hon'ble Court. I say that in Para 2 of the above affidavit Hero Honda Motors Ltd. has made the following averments:

Para 2: "*I say that the present Petition inter alia calls upon this Respondent to furnish particulars of Benami shares of the 1st Respondent. I say that this Respondent will abide by the orders and directions of this Hon'ble Court and I am making this Affidavit for the limited purpose of placing before this Hon'ble Court relevant facts required to be disclosed in relation to Misc. Petition and as per the requisition contained therein.*" (emphasis supplied)

I say that from the above it becomes obvious that the company was required to trace and report further benami shares but it failed to do so, so far as the subject and other shares are concerned.



33. I say that it can be seen from the above affidavit that on 09.03.1994 (**Ex. I**) the Custodian called upon Hero Honda Motors Ltd. to confirm whether 20,170 benami shares held in the company are in the names of first holders. I say that the company was advised by Custodian that in terms of Sec. 3(3) and 3(4) of the Torts Act all properties belonging to notified persons stand attached simultaneously with the issue of notification and constructively vest with the Special Court and therefore the company was called upon not to deal with these shares in any manner whatsoever without the permission of the Special Court. I say that without seeking any prior order from this Hon'ble Court Hero Honda Motors Ltd. made compliance with Custodian's letter by its reply dated 26.04.1994 (**Ex II**) and pointed out 2 errors in the list provided by the Custodian. The particulars of shares of Shri Nilesh D Jobalia are also provided carrying address of C/o. Bella Electronics, 5/6 Sevashram Shopping Centre, 5 Bati, Bharuch and the date of transfer in all the 20,170 benami shares is identical i.e. 11.09.1992. I say that since the shares of Jobalias were transferred on 11.09.1992 and with folio numbers next to each other the company could have very easily traced and reported the benami shares of Jobalias but it failed to do so.
34. I say that the Custodian thereafter addressed a letter to Hero Honda Motors Ltd. on 11.01.1995 (**Ex III**) with reference to 2 affidavits filed by HSM on 25.02.1994 and further affidavit on 09.08.1994 giving an updated list and the Custodian called upon Hero Honda Motors Ltd. to furnish the following:

"He (HSM) has now submitted an updated list of those shares to the Special Court on 09.08.1994 (copy enclosed). You may kindly arrange to verify and confirm the shareholdings indicated therein and discrepancies, if any, noticed may be pointed out to this office immediately.



You may also kindly arrange to note the instructions given in this office letter dated 9th /19th March 94 and furnish the additional information called for in this office letter dated 18.04.1994 to this office immediately in respect of shares and folios which were not listed in his earlier affidavit of 25th March 1994. " (emphasis supplied)

I say that thus the company was called upon to furnish further names of benami shareholders but the company failed to report any benami shares of Jobalias and others in its reply dated 30.01.1995 (**Ex IV**) despite having all the facts and evidence and which were even otherwise easily traceable from its records as explained earlier.

35. I say that once again on 22.06.1995 (**Ex V**) the Custodian addressed a letter to Hero Honda Motors Ltd. forwarding the list of benami shareholders in the books of the company as made available to the Custodian. It was once again conveyed that u/s 3(3) of the Torts Act all properties stand attached simultaneously on notification. It was further conveyed as under:

"Where therefore, there is certainty that one or the other of the properties belong to the notified persons, although in benami names, they will be deemed attached. " (emphasis supplied)

That the Custodian informed the company that several benami shares have been sold in the market. The company was called upon to confirm the list of benami shares and the dates on which they were registered as also the brokers to whom the purchase was made. The company was called upon to provide



and the details of transfer of shares. The company supplied the same information on 06.07.1995 (**Ex VI**).

36. I say that thereafter on 28.07.1998 (**Ex VII**) the Custodian addressed a crucial letter to Hero Honda Motors Ltd. with reference to all the prior proceedings in regard to the benami shares and the combined order passed by Hon'ble Special Court on 13.03.1997 and requested the company to provide the particulars of further benami shares by stating as under:

"The individual-wise and folio-wise list of the shares in our possession is enclosed. This list includes shares seized by the Income Tax Department and handed over to this office also. You are requested to kindly verify and indicate whether there are any more shares of your company standing in benami names other than those listed in the statement enclosed. If so, you are also requested to kindly furnish a list of shares indicating names and addresses of the holders, Folio No., Certificate No., Distinctive Nos. etc. in order to enable us to write to the benamis for deposit of the share certificates with this office. Please also indicate whether any of the shares are held by the company and if so arrange to deposit share certificates with this office."

(emphasis supplied)

I say that the above letter conclusively establishes that the Custodian called upon Hero Honda Motors Ltd. to trace and disclose further benami shares in its company but the company despite having all the material and information failed to disclose the subject and other attached shares and thereby failed to comply with the combined order of this Hon'ble Court dated 13.03.1997 passed in MA 194 of 1993 and MA 53 of 1994 (**Ex. U Pg. 293**). I say that

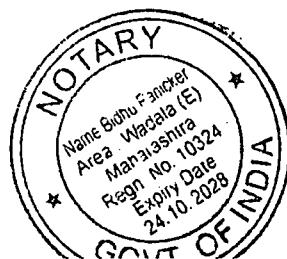


there was no question of the company calling upon me to disclose the order of attachment by this Hon'ble Court after the Custodian addressed the above letter dated 28.07.1998 to the company.

37. I say that this Hon'ble Court in Para 7 of the above combined order had granted the liberty to the IT department and Custodian and others as under:

Para 7: "It is clarified that the Custodian, the Income Tax Department and all parties are at liberty to apply for further and other orders as may be necessary for the efficient working out of this order and/or for a declaration that further and other shares are also Benami shares." (emphasis supplied)

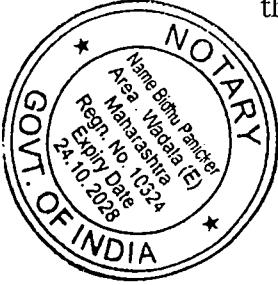
I say that the above order clearly empowered the Custodian and the IT department to trace and recover further benami shares and in order to comply with the above order the Custodian filed MP 99 of 1998 and the department filed affidavit in it on 10.09.1999 reporting further benami shares in 138 cases including the subject benami shareholdings of Jobalias reported at Item Nos.102 to 105 of the affidavit. I say that order dated 08.04.2003 in MP 99 of 1998 is required to be interpreted in context of several previous orders passed by this Hon'ble Court in numerous proceedings relating to benami shares. I say that having failed to trace and report the further benami shares Hero Honda Motors Ltd. cannot be allowed to take advantage of its own wrongs and violations consciously committed by it. I say that letters issued by the Custodian or disclosure made by the IT department on oath regarding benami shareholders were binding upon Hero Honda Motors Ltd. It may also be noted that in Para 10 of the above combined order dated 13.09.1997 that this Hon'ble Court has recorded appreciation of the IT



department's efforts in discovering the benami shares. I say that since Hero Honda Motors Ltd. has already complied with Custodian's letter dated 28.09.1999 by rejecting the transfer of 150 shares it is the defence adopted by the company in the present proceedings which are liable to be rejected.

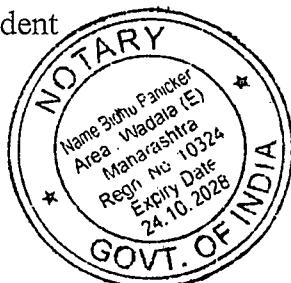
38. I say that the above letter was replied to by the company on 29.09.1998 (**Ex VIII**) but the company failed to disclose any further names and instead admitted that it had illegally transferred 212 shares sold by Bipin D Modi in favour of SBI Capital Markets Ltd. on 23.12.1996. I say that having violated the law and the orders of this Hon'ble Court it yet requested the Custodian to seek an order from this Hon'ble Court for recovery of the aforesaid 212 shares from SBI Capital Markets Ltd. In essence the company requested the Custodian to discharge the legal obligations which were required to be discharged by Hero Honda Motors Ltd. itself having illegally transferred the attached shares. I say that Custodian did not oblige and directed the company to recover the shares and the company complied with the directions of the Custodian and recovered the said 212 shares when they were lodged for dematerialization (**Ex IX**) by SBI Capital Markets Ltd.

39. I say that the Custodian addressed a letter to the company on 01.12.1998 (**Ex X**) and clarified that it had never informed it to remove "stop transfer". The Custodian called upon the company to deposit the said 212 shares and accordingly the company retrieved and transferred the said 212 shares back to Custodian as conveyed by their letter dated 25.05.1999 (**Ex XI**). I say that therefore the company has been regularly complying with the directions being given by the Custodian to it and not seeking order of this Hon'ble Court as sought by it repeatedly in the present case only to cover up several violations already committed by it many of which are explained above. I say that in support of above contention, I also rely upon MA 282 of 1993 (**Ex A**



Pg 1071) filed by the Custodian before this Hon'ble Court in which he had prayed for the relief that he could address letters to all benami shareholders and call upon them to establish how they became holders of the benami shares and if they failed to reply or were unable to establish how they became holder of the benami shares then he could proceed to recover the said shares. That similarly if the Custodian finds that any benami shareholder has sold the benami shares then the Custodian can call upon such persons to demand a full explanation of the source of the shares and upon their failure to explain then they handover the amounts representing the value of the shares to the Custodian to be then dealt with as this Hon'ble Court would deem fit. I say that the reliefs prayed for by the Custodian came to be granted by this Hon'ble Court by an order dated 11.01.1994 passed in MA 282 of 1993, a copy of which is enclosed at **Exhibit N**. I say that through the above order this Hon'ble Court empowered the Custodian and/or CBI and/or Income Tax department by giving them authority to make all enquiries as they consider necessary and call for information and/or give directions as set out in prayer clauses a(ii) and a(iii) of the application.

40. I say that in the present case the Custodian addressed a letter to Hero Honda Motors Ltd. on 28.09.1999 (**Ex D Pg 927**) and also forwarded a truncated copy of the affidavit of the IT department dated 10.09.1999 (**Ex D Pg 929**) disclosing benami shares of Jobalias. I say that instead of seeking any attachment order from this Hon'ble Court MCS Ltd. the STA of Hero Honda Motors Ltd. has acted upon it and complied with the above letter dated 28.09.1999 and the affidavit of the IT department. I say that in view of the above order of this Hon'ble Court dated 11.01.1994 in MA 282 of 1993, it is no longer open to Hero Honda Motors Ltd. and to the Jobalias to challenge the attachment and recovery of subject benami shares. In fact the Jobalias have not adduced an iota of evidence and barring Jobalias being Respondent



Nos.5, 10 and 11 the other Jobalias have not even opposed the present application and therefore reliefs prayed for by me are bound to be granted. I say that the Custodian has taken completely contrary stand in his affidavit-in-reply dated 26.03.2024 then the stand taken by him in several prior proceedings relating to benami shares including MP 99 of 1998 filed by him before this Hon'ble Court.

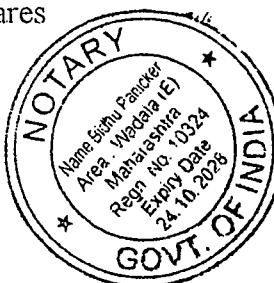
41. I say that besides above, evidence has also emerged through the proceedings in MP 99 of 1998 about usurping of other benami shares by Jobalias including encashing of dividends on benami shareholdings. I say that on going through the proceedings in MP 99 of 1998 I came across an affidavit dated 01.10.1999 filed by Larsen & Toubro Ltd., a copy of which is enclosed at **Exhibit O**. I say that in Exhibit D to the above affidavit Larsen & Toubro Ltd. has enclosed a copy of its letter dated 24.11.1998 addressed by it to Shri Nilesh D. Jobalia stating that he had sold benami shares of Larsen & Toubro Ltd. out of which 400 shares stood in Folio No.N77705 (50 shares) and Folio No.N77706 (350 shares). It was stated that the shares were possibly sold before discovery of the name of Shri Nilesh D Jobalia as the benami shareholder. The company called upon Shri Nilesh D. Jobalia to surrender dividends of Rs.12,400/- encashed by him for the years 1992-93 upto 1997-98 and a copy of this letter was also marked to the Custodian but he does not seem to have taken any steps to cause recovery of attached shares from Shri Nilesh D Jobalia. I say that this instance further establishes my allegations against Custodian that he has deliberately not recovered even those attached benami shares whose facts were informed to him and despite the fact that the benami shareholders had illegally sold the shares in the market. I say that besides above, the Custodian has also filed an affidavit on 22.07.1994 in MA 297 of 1994, a copy of which is enclosed at **Exhibit P**. I say that at the relevant time in case of other benami shareholders, the Custodian had gone as far as to even trace out encashment of dividends by several benami



shareholders and placed the details of the same before this Hon'ble Court through Exhibit 2 and in which the Custodian has disclosed the facts of encashment of dividends of Gujarat State Fertilizers Co. Ltd. (**GSFC**) by Jayesh D Jobalia, Kalpana Jobalia, Nirav D Jobalia and Alpa Jobalia. I say that the Custodian has made the following averments in Para 12 of the above affidavit.

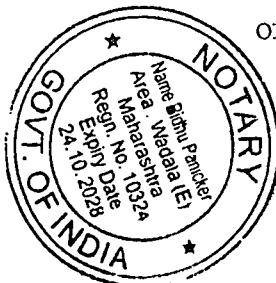
Para 12: "Steps have been taken to collate the total information thus obtained in relation to such Benami shares. Such collation is taking time as the information disclosed is discrepant. Whilst the total number of Benami shares held in ACC according to the Income Tax department was 5,15,429 the number of shares declared by Harshad Mehta to be only 1,95,379. Similar discrepancies are to be found in respect of the shares of other companies as per particulars set out in a statement annexed hereto and marked Exhibit 1. The shares of Sesa Goa held in benami names as intimated by Income Tax to be 1,70,450 while the company has intimated it to be 2,63,290 and Harshad Mehta has informed Court that he has 1,94,785 shares." (emphasis supplied)

42. I say that therefore at all times the Custodian knew that vast recovery of attached benami shares were yet to be traced, reported to this Hon'ble Court and recovered by him and only therefore this Hon'ble Court has time and again issued directions on Custodian to trace and recover every attached shares and accruals from third parties and even permitted issue of duplicate shares where the benami shares were not in possession of the Custodian. I say that the Custodian was fully empowered by this Hon'ble Court for tracing and causing recovery of every attached benami shares but yet he has deliberately given up their recovery. I say that recently on going through the site of IEPF I have discovered vast quantities of attached benami shares



and/or their accruals which have been transferred by several companies to the IEPF. I say that this has happened only because of gross failure of Custodian in recovering all benami shares and accruals on them. I say that despite this Hon'ble Court laying down the law in its order dated 18.08.2016 in MA 24 of 2016 in MA 244 of 2003 that the companies cannot transfer any attached shares and accruals to IEPF and despite this Hon'ble Court directing Custodian to recover all attached shares and accruals from IEPF but yet the Custodian is not taking any steps in regard to recovery of these attached properties and which is obviously encouraging the benami shareholders to secure release of the same from the IEPF as already done by Shri Nirav D. Jobalia and other benami shareholders as per particulars already given by the company in their letter dated 23.06.2021 (**Ex JJ Pg 611**).

43. I say that from what is set out above it becomes obvious that Hero Honda Motors Ltd. has deliberately suppressed and withheld the crucial evidence of its aforesaid affidavit dated 06.07.1999 filed in MP 99 of 1998 as the same demolishes the defence now adopted by it to cover up several violations consciously committed by it. I say that Hero MotoCorp Ltd. was regularly acting as per the instructions of the Custodian and even effecting "**stop transfer**" of shares. It rejected transfer of 200 shares sold by Jobalias and also recovered 212 shares illegally transferred by it to SBI Capital Markets Ltd. I say that only for the first time from the year 2020 the company has consciously adopted a false stand that no order of attachment has been passed by this Hon'ble Court in respect of shares of Jobalias. I say that the subject shares lying with Jobalias got simultaneously and automatically attached on 08.06.1992 when the Custodian issued a Gazette notification (Ex.A Pg.69) and in terms of law laid down by Hon'ble Supreme Court (cited supra) no separate order of attachment was necessary for attachment of shares standing in the names of Jobalias.

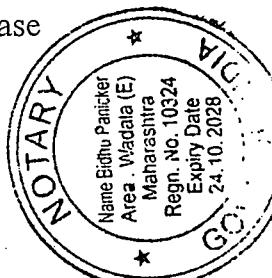


44. I say that notwithstanding above this Hon'ble Court in its order dated 08.04.2003 passed in MP 99 of 1998 had issued in Para 12 of its order the following directions:

Para 12: "*As regards the above shares whose physicals are not in possession of the Custodian, it is clarified that in the event of the concerned companies receiving physicals from persons lodging the said shares or from any other person, the concerned company shall not return the same. However, if requested, the company may give xerox copies thereof to the persons who have lodged the shares with the company for transfer. Further on receiving such physicals the concerned company will intimate the Custodian.*"(emphasis supplied)

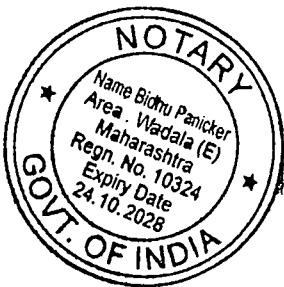
I say that in view of the above the company could not have exchanged the share certificates of Rs.10/- f.v. to Rs.2/- f.v., the company could not have dematerialized any shares belonging to Jobalias and when it received the requests from the Jobalias of any kind and more particularly for release of shares from the IEPF, the company was bound to intimate the Custodian but it has failed to do so and issued shares to Shri Nirav D. Jobalia and 3 other benamidars and thereby even violated the above express directions given by this Hon'ble Court to every company.

45. I say that therefore it becomes obvious that Hero MotoCorp Ltd. has illegally dealt with the attached benami shares and accruals thereon and thereby it has become liable to make good the subject shares and accruals and meet my claim with interest. In support of my contentions, I say and submit as under:
- The provisions of the Torts Act are peculiar as per which the assets "belonging to" notified persons get automatically attached even in the hands of third parties without passing of an order and the phrase



“belonging to” used in Sec.3(3) of the Torts Act has already been interpreted in numerous judgments of Hon’ble Supreme Court, the relevant extracts of which have already been cited earlier.

- b. That the attachment u/s 3(3) of the Torts Act does not beg for any separate order from this Hon’ble Court nor it requires the notified persons to prove the ownership. The phrase “belonging to” has been given an extremely wide meaning to cover right, title and interest of a notified person.
- c. That under the Torts Act the onus is on the parties holding the attached property to come forward, disclose and handover the attached property failing which he has to suffer all the costs and consequences thereof.
- d. If such third party disputes the right, title and interest of a notified person he yet has to come before this Hon’ble Court to secure an order in view of exclusive Civil jurisdiction of this Hon’ble Court u/s 9A of the Torts Act.
- e. If third party sells attached property without prior approval of this Hon’ble Court the transaction would be illegal and *void ab initio* and no right, title and interest will ever pass under such a transaction. In the present case, the benami shares of Jobalias remain to be attached u/s 3(3) of Torts Act.
- f. That Hero Honda Motors Ltd. were given numerous opportunities by the IT department, by the Custodian and even this Hon’ble Court to disclose the details of all the benami shareholders but it has failed to do so.
- g. That Hero MotoCorp Ltd. was put to notice by the Custodian through his letter dated 28.09.1999 and provided the affidavit of the IT department dated 10.09.1999 wherein the names of Jobalias were disclosed.



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- h. After treating the subject shares as attached property and rejecting transfer of 200 shares sold by Jobalias Hero MotoCorp Ltd. could thereafter not deal with the subject shares without permission of this Hon'ble Court.
- i. That when Custodian advised Hero MotoCorp Ltd. under his letter dated 09.10.1999 that 8325 shares of the company were missing and directed the company not to deal with the said shares, the company rightly rejected 50 shares of Shri Jayesh Jobalia without obtaining any order of this Hon'ble Court. Thus, the company fully knew the provisions of the Torts Act.
- j. Transfer of shares and dividends of Jobalias by Hero MotoCorp Ltd. to IEPF violated Sec.3(4), 9A and 13 of the Torts Act and the law laid down by this Hon'ble Court through several of its judgments.
- k. That Hero MotoCorp Ltd. has acted illegally and in total collusion with Shri Nirav D. Jobalia for securing release of shares and dividends from IEPF. It also violated order of this Hon'ble Court dated 18.08.2016 in MA 24 of 2016 in MA 244 of 2003 besides violating Sec.3(4), 9A and 13 of the Torts Act.
- l. That Hero MotoCorp Ltd. also violated SEBI Regulations governing them as STA as in a dispute between me and Jobalias it has to act neutral.
- m. That Hero MotoCorp Ltd. has also committed the offence of perjury by filing 2 affidavits before this Hon'ble Court wherein it has consciously made false and misleading averments besides playing a fraud on this Hon'ble Court by suppression of material facts and evidence in its possession and by acting in collusion with Jobalias and Custodian.

I say that by above illegal and contumacious conduct Hero MotoCorp Ltd. has already incurred a liability to make good the subject shares with all the



accruals thereon and to meet my claim for interest on dividends along with the Jobalias on a joint and several basis.

46. I say that besides above, the company has brazenly violated the law laid down by this Hon'ble Court under order dated 18.08.2016 passed in MA 24 of 2016 (**Ex. D Pg 96**). I say that it can be seen from the above order that the notified entities are not expected to play any role for recovery of their attached properties from IEPF. I say that binding law had been laid down Paras 12, 13, 14 and 16 of the above order which are reproduced below:

Para 12 : “... ... *These notified parties were incapable of personally claiming these amounts. There was a legal bar against the amount being collected or appropriated by the notified parties.*” (emphasis supplied)

Para 13 : “*It was contended by the Learned Additional Solicitor General that there is no provision that enables the amount to be returned but the notified parties were incapable of claiming these amounts owing to their disability upon their notification which entails automatic attachment of the assets. The funds, therefore, stood attached in the hands of respondent nos. 2 to 11. The fact of attachment was publicly notified and all concerned including respondent nos. 2 to 11 were expected to be aware of the fact that the Maturity Proceed had been attached. It was the bounden duty of all these entities i.e. respondent nos. 2 to 11 to have approached the Custodian and sought clarification if they were in any doubt as to the effect of the promulgation of the ordinance, the notification of parties and the Act.*

(emphasis supplied)

Para 14: “*In the circumstances, the said respondent ought not to have paid over the Maturity Proceeds to respondent no. 1 but should have entrusted the*



same with the Custodian. It has been repeatedly emphasized that debtors must find the creditors and the respondent nos.2 to 11 were bound to approach the Custodian if they were in doubt and seek its clarifications as to the fate of the maturity proceeds. This not having been done, resulting in the amounts being paid over to the Fund, the first Respondent cannot now be heard to say that the Maturity Proceeds which stood attached upon notification cannot be paid over to the Custodian." (emphasis supplied)

Para 16 : "... ... In the circumstances, the Maturity Proceeds stood attached upon notification of the parties concerned and the respondent nos. 2 to 11 were bound to approach the Custodian to seek appropriate directions if in doubt and in the facts of this case the said amount could not have been utilized by the Fund for any of the purposes set out in section 205-C. For the aforesaid reasons, the application is required to be allowed." (emphasis supplied)

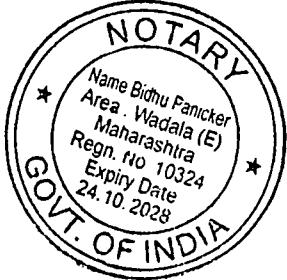
I say that even the above order of this Hon'ble Court does not require the notified persons to establish their title or obtain any order of attachment.

47. I say that besides above the company has been extremely negligent as it has not acted diligently by completely ignoring several suspicious circumstances surrounding the shareholdings of Jobalias as can be seen from the following facts:
- Shares were lodged for transfer by Jobalias on the same address and at the same time and they got registered on the same date i.e. 11.09.1992.
 - Names of Jobalias as benami shareholders were declared in about 19 cases by Shri Harshad Mehta in his affidavit dated 25.02.1994 filed in MA 194 of 1993.



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- c. Name of Shri Nilesh D. Jobalia was declared as benami shareholder in the company holding 800 shares having the same address and the same time of lodgement of shares.
- d. That none of the Jobalias including Shri Nilesh D. Jobalia objected to their names being declared as benami shareholders nor they denied having lent their names for registration of shares in 19 companies. There was heavy preponderance of possibility of even the subject shares being benami.
- e. That the Jobalias were not encashing dividends nor they were dematerialising the subject shares for more than 2 decades. For several years they did not oppose transfer of shares and dividends to IEPF and till date other than Shri Nirav D. Jobalia the above Jobalias except Kalpana D. Jobalia has yet not made any claim on the subject shares.
- f. That when the company rejected transfer of 200 shares lodged for transfer there was no protest by Smt Alpa Jobalia and Shri Jayesh D. Jobalia.
- g. That the IT department filed an affidavit on 10.09.1999 in MP 99 of 1998 disclosing the benami shareholdings of Jobalias in Hero Honda Motors Ltd. This was done after carrying thorough investigation by it.
- h. That previously on the basis of applications filed by the IT department the Special Court had already passed orders for recovery of vast quantities of benami shares on the basis of disclosures made by the IT department which in turn were made after causing enquiries and thorough investigation and this Hon'ble Court had complimented its efforts.
- i. That the Custodian had also endorsed the disclosure of Jobalias as benami shareholders and by letter dated 28.09.1999 not only forwarded the affidavit filed by the IT department with further instructions given to the company.



- j. That Custodian had addressed several letters to the company atleast from 1994 onwards instructing the company not to deal with the attached property without prior approval of this Hon'ble Court.
- k. That Hero Honda Motors Ltd. had already filed 2 affidavits in MP 99 of 1998 on 06.07.1999 and 08.12.1999 wherein it provided the status of the subject shares and Smt Alpa N. Jobalia had sold a part of the shares.
- l. That MCS Ltd. rejected transfer of 200 shares in 1999 as sold by Smt Alpa N. Jobalia and Shri Jayesh D. Jobalia.
- m. That previously shares sold by Bipin D. Modi and other benamidars wrongly transferred by the company were retrieved back by it from SBI Capital Markets Ltd.
- n. That the company had strongly opposed the application filed by one Shri Ketan Mathuradas Chatwani and filed 2 affidavits before this Hon'ble Court being affidavit-in-reply dated 02.04.2011 in MA 217 of 2010 (**Ex W Pg 302**) and affidavit-in-rejoinder dated 21.09.2011 in MA 217 of 2010. The company called upon Shri Ketan Mathuradas Chatwani to produce proof of purchase and payment.
- o. That till date through numerous proceedings substantial evidence have emerged in regard to several hundred parties holding attached benami shares and numerous orders have already been passed by this Hon'ble Court to recover such benami shares. That all the companies barring Hero Honda Motors Ltd. have also assisted and complied with the orders of this Hon'ble Court.
- p. That this Hon'ble Court passed an order on 08.04.2003 in MP 99 of 1998 ordering recovery of several lakhs of benami shares in numerous companies on the basis of scheme furnished by the Custodian and since this order did not individually disclose the names of the companies or the benami shareholders it can never be asserted either by the company



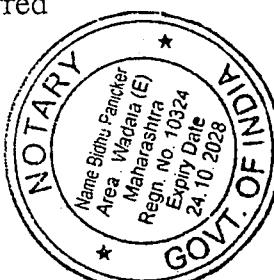
or the Jobalias that the subject shares are not forming part of the above order.

- q. That in the present case despite overwhelming evidence against Jobalias, the company is not calling upon them to produce even an iota of evidence in support of purchase of shares by them and acting partisan and in collusion with Jobalias the company is seeking an order of this Hon'ble Court from me though in law the same is not required.
 - r. Even in the present proceedings Smt Alpa N. Jobalia, has not opposed the application and even Respondent Nos.8 & 9 duly represented by legal heirs, Shri Nirav D. Jobalia has not opposed my present application. Shri Nirav D. Jobalia has filed 4 affidavits strictly representing himself only. That Respondent Nos.10 and 11 in their combined affidavit has not claimed ownership of the shares by disclosing any material facts and evidence in support of their ownership such as the particulars of purchase of shares and payment for the same.
 - s. After substantial pleadings an emergence of conclusive evidence against the Jobalias, Hero MotoCorp Ltd. continues to oppose the present application instead of supporting it only to cover up the gross violations already committed by it.
 - t. I say that in the aforesaid facts and circumstances and if Hero MotoCorp Ltd. was really acting neutral it would have shown its bona fides by calling upon Jobalias to produce proof of purchase and payment, name of the brokers, date of purchase etc. and compare the details with the Transfer Deeds that were accompanying the shares when they were transferred in the names of Jobalias.
48. I say that besides above, in view of the exclusive Civil jurisdiction of this Hon'ble Court u/s 9-A of the Torts Act it is not open to Hero MotoCorp Ltd. to decide the issue of ownership of the subject shares between the Applicant



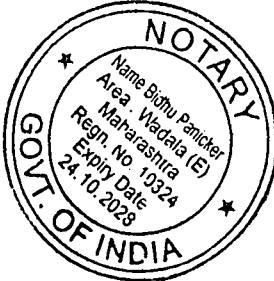
and the Jobalias nor the company could have dealt with the attached benami shares and accruals thereon without first coming before this Hon'ble Court to seek its permission. I say that the company has been repeatedly cautioned by the Custodian about the legal position obtaining in the case of notified entities and yet it has become a habitual offender and has been regularly dealing with attached assets including by transferring them to the IEPF in a number of cases discovered till date. I say that even after I brought some crucial suppressed evidence on record through my additional affidavit dated 29.12.2023, Hero MotoCorp Ltd. in their subsequent additional affidavit dated 24.06.2024 has yet chosen to suppress further crucial facts, material and evidence in its possession and some of it is already brought on record by me in the present reply. I say that in view of the above dishonest and contumacious conduct of the company this Hon'ble Court may be pleased to direct it to bring on record of the present proceedings all the facts and evidence in its possession including the entire correspondence exchanged by it with the IT department, the Custodian and the Jobalias.

49. I say that now that I have come in possession of the suppressed material and evidence held back from this Hon'ble Court I am pleased to place the following on record of the present proceedings:
- Affidavit of Hero Honda Motors Ltd. dated 08.12.1999 filed in MP 99 of 1998 pursuant to the letter addressed to it by the Custodian on 28.09.1999 and a copy of this affidavit is enclosed at **Exhibit Q**. I say that this affidavit has not been brought on record either by Hero MotoCorp Ltd. or by the Custodian in replies filed by them though both of them had legal obligation to do so. I say that it emerges from this affidavit that Smt Alpa Jobalia transferred 100 shares to Mr. Dalichand Jobalia while 50 shares have been transferred and dematted in favour of Goetz (I) Financial Ltd. I say that 937 bonus shares were issued by Hero Honda Motors Ltd. to Smt Alpa Jobalia in 1998 out of which 100 shares were sold and stands transferred



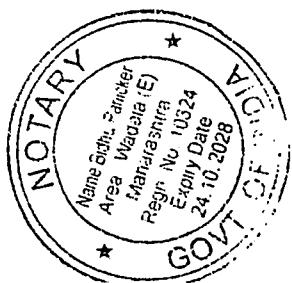
in the name of Shailesh R. Gandhi. I say that further 250 shares were sold and dematted in favour of Goetz (I) Financial Ltd. I say that 50 shares were sold and dematerialized in favour of Venugopal Berry. I say that 50 shares each were sold and transferred in the names of Hasmukh N. Desai and Kaushik R. Bhautt and 50 shares was transferred in the name of Marketix India Pvt. Ltd. and in this manner Smt Alpa Jobalia has succeeded in selling 500 attached benami shares of Hero Honda Motors Ltd.

- b. I say that besides above, 50 shares were lodged for transfer by Suraj Sanghli Financial Ltd. on 06.10.1999 but because of the letter of Custodian dated 28.09.1999 the company abiding by it refused to transfer these shares whereas it is claimed that the above 500 shares were lodged with the company for transfer prior to Custodian's letter dated 28.09.1999 and therefore it transferred the subject shares. I say that in Exhibit B to the above affidavit the company has given folio-wise details and it can be seen that atleast 50 shares were transferred in favour of Marketics India Pvt. Pvt. Ltd. on 04.10.1999 which is after Custodian's letter to the company on 28.09.1999. Thus, it is falsely averred in the affidavit that the transfer of 550 shares was effected by the company before receipt of information from the Custodian on 28.09.1999. I say that most importantly in Para 5 of the above affidavit Hero Honda Motors Ltd. has stated that it is willing to comply with order and directions of this Hon'ble Court and explain that the transfers have taken place on account of the fact that the shares were not earlier discovered as belonging to the notified entities and intimated to it. I say that the ignorance feigned by the company is untenable since 800 shares of Shri Nilesh D. Jobalia were informed to the company in 1994 itself and whereafter it could have easily ascertained and known further benami shares standing in the name of Jobalias. Since the company itself has failed to report the above benami shareholdings it cannot take advantage of its own wrong and urge that it has no intimation about the



benami shareholdings of Jobalias until it received letter from Custodian on 28.09.1999. I say that this contention of the company also contradicts the stand now taken by the company that this Hon'ble Court has not passed any order of attachment in regard to shares disclosed by Custodian in its letter dated 28.09.1999.

- c. I say that Hero MotoCorp Ltd. when it filed its affidavit-in-reply on 01.09.2023 it has deliberately withheld and suppressed its aforesaid affidavit dated 08.12.1999 filed in MP 99 of 1998 since the stand now taken is completely contrary to its affidavit dated 08.12.1999. I say that most importantly in its above affidavit dated 08.12.1999 it has not sought any order of attachment from this Hon'ble Court in respect to the subject shares but has in fact unconditionally offered itself for compliance. I say that in fact even before this Hon'ble Court passed its order in MP 99 of 1998 on 08.04.2003, MCS Ltd had already started acting upon the directions given by Custodian on 28.09.1999 and within 3 months rejected transfer of 200 shares as sold by Jobalias (**Ex E Pg 933 to Ex H Pg 945**). I say that since it has already started treating the subject shares as attached property and rejected the above transfers, there was thereafter no question of it asking for or awaiting any order of attachment by this Hon'ble Court.
- d. I say that only after I filed my additional affidavit on 29.12.2023 wherein I brought on record the letter of Custodian dated 28.09.1999 and affidavit of IT department of September 1999 and the 4 letters of MCS rejecting transfer of shares under Exhibit E, F, G and H (Pgs. 933-948) that the Hero MotoCorp Ltd. in its affidavit dated 24.06.2024 have now conveniently brought on record its aforesaid affidavit dated 08.12.1999 filed in MP 99 of 1998. I say that from the above it becomes obvious that once the efforts of Hero MotoCorp Ltd. to withhold and suppress the evidence failed, it brought the above affidavit on record but at the same time has chosen to



withhold and suppress other crucial material and evidence hoping that they will not get discovered by me.

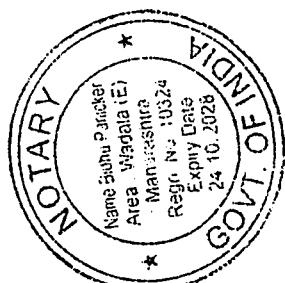
I shall now deal with the contents of the affidavit-in-reply filed by Smt Kalpana N. Jobalia in the light of facts and evidence set out above.

50. At the outset, I deny several baseless allegations made by the Respondent particularly against Shri Ashwin Mehta, my Advocate and relative. I say that the same are denied for the following reasons:
 - a. That the subject shares came to be discovered by me and reported to Hero MotoCorp Ltd. and the Custodian and IEPF simultaneously by my letter dated 27.11.2020 (**Ex AA Pg 470**). I reported 9,370 shares in the name of Smt Kalpana N. Jobalia and 6,620 shares in the name of Shri Jayesh D. Jobalia (**Pg.478**). I say that thereafter letters were addressed by me to all the three on 14.01.2021 (**Ex DD Pg 511**) and 23.03.2021 (**Ex GG Pg 585**). I say that since no steps were taken by the Custodian I addressed a letter to him on 11.05.2021 (**Ex HH Pg 602**). I say that therefore no sooner the benami shares were discovered the same were put on record at the first instance itself and therefore no allegation can be made against Shri Ashwin Mehta or me that we wanted to privately settle and recover the attached shares and accruals from Jobalias for my private benefit.
 - b. I say that first letter was addressed by the Custodian to company only on 19.05.2021 (**Ex II Pg 610**) i.e. after 6 months and without making any claim for recovery of the benami shares. The Custodian did not cite his crucial letter dated 28.09.1999 addressed in MP 99 of 1998 even though the company had taken the stand in its replies that there was no order passed covering the subject shares. I say that thereafter the company by its letter dated 23.06.2021 (**Ex JJ Pg 611**) confirmed release of attached

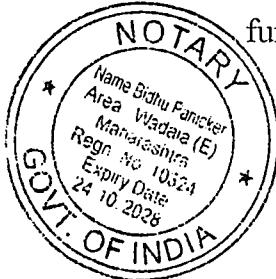


shares to Jobalias and others and therefore I addressed a letter to Custodian on 10.07.2021 (**Ex LL Pg 619**) calling upon him to recover the subject shares. I once again addressed a letter to the company and the Custodian on 04.09.2021 (**Ex MM Pg 624**) making a grievance that the company had not disclosed the facts of the claim made by Smt Kalpana Jobalia and in Para 14 of my letter conveyed that the company should advise her to approach this Hon'ble Court (**Pg 629**). The company was also requested to call upon Smt Kalpana Jobalia the proof of purchase and payment. I say that the above letter was replied to by the company on 08.09.2021 (**Ex NN Pg 648**). I say that I addressed one more letter to Custodian on 30.09.2021 (**Ex QQ Pg 651**) to cause recovery of the attached shares. I say that the above clear correspondence establishes that until then I had no plans to ask Shri Ashwin Mehta to meet any of the Jobalias.

- c. I have narrated the above facts to state that I was vigorously pursuing recovery of entire lot of 36,295 benami shares not only covering all the Jobalias but even others and placed everything on record of the Custodian, company and the IEPF. I was aggrieved all along that the Custodian was deliberately not taking any steps for recovering the attached shares and it became evident to me that he was deliberately not causing recovery of attached shares even after being informed by the company that the benami shareholders were securing release of shares from IEPF by acting in collusion with Hero MotoCorp Ltd. I say that the Custodian was not even taking steps to recover the attached shares standing in the names of Mehtas which were illegally transferred by the company to IEPF and which were immediately recoverable by the Custodian to comply with the order of this Hon'ble Court dated 18.08.2016 in MA 24 of 2016 in MA 244 of 2003.



- d. In the aforesaid circumstances I was compelled to take a decision that I will have to take steps to recover both the attached shares of Mehtas and attached benami shares of Jobalias. I say that it was only then decided to call upon Jobalias to handover the attached benami shares as had been recovered by my husband from Jobalias who handed over such attached benami shares in 19 companies. I say that I am within my rights to pursue recovery of any attached property belonging to me and on the issue of my *locus* I relied upon precedent set by my husband in effecting vast recovery of benami shares and also relied upon the law laid down by Hon'ble Supreme Court in L.S. Synthetics case. I say that such recovery was being caused after complete intimation to the Custodian, the company and the IEPF. I have duly set out facts relating to the meeting with Shri Nirav D. Jobalia in Para 14 of my application and also disclosed in the present proceedings that Smt Kalpana Jobalia had consented to return the subject shares. I say that only because Hero MotoCorp Ltd. changed its stand and rejected the application of Smt Kalpana Jobalia through their letter dated 04.07.2023 (**Ex P Pg 959**) addressed by Kfin Technologies and when the same was made available by Smt Kalpana Jobalia that I decided to join Smt Kalpana Jobalia and late Shri Jayesh D. Jobalia as party Respondents.
- e. I say that thereafter on 02.02.2024 I filed IA 2 of 2024 in the present application to seek the relief of joining Respondent Nos.10 and 11 as party Respondents. I say that in Para 2 of my application I have clearly stated that Smt Kalpana Jobalia had agreed to transfer all the shares of Hero MotoCorp Ltd. to Custodian for and on behalf of the Applicant but because the company has rejected their application for issue of shares to them the Applicant decided to join them as party Respondents to avoid further proceedings.

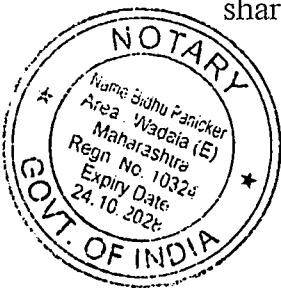


- f. I say that in amended Paras 44(a) and (b) I have stated that Smt Kalpana Jobalia has earlier conveyed to the Applicant and agreed that she is ready and willing to handover the attached benami shares with the accruals and therefore they were not joined as party Respondents in the present application. However, when Kfin Technologies by their letter dated 04.07.2023 rejected the application of Smt Kalpana Jobalia relying upon the present proceedings the Applicant therefore joined Respondent Nos.10 and 11 to the present application.
- g. I say that even in my affidavit-in-rejoinder dated 03.06.2024 to the affidavit-in-reply of the Custodian in Para 36 (**Pg 1064**) I have duly explained the efforts made by me by calling upon Shri Nirav D. Jobalia and Smt Kalpana Jobalia to handover attached benami shares. I have once again confirmed that I received positive response from Smt Kalpana Jobalia who agreed to handover the shares after they are released to her. I say that from the above it can be seen that I have consistently stated that Smt Kalpana Jobalia has committed to Shri Ashwin Mehta that she will handover the attached benami shares as soon as they are received from the company and in view of the above, there is no question of Shri Ashwin Mehta issuing any threats to Smt Kalpana Jobalia or her family members or in any manner pressurising them and therefore I put her to strict proof thereof. I say that there has never been such an occasion to issue any threats much less any serious threats once Smt Kalpana Jobalia and her son Shri Ishaan Jobalia had consented to handover the attached shares with the accruals thereon.
- h. I say that while Shri Ashwin Mehta had met Shri Ishaan Jobalia and his mother Smt Kalpana Jobalia to call upon them to handover the benami shares belonging to Mehtas in the same manner as the Jobalias had earlier handed over to Shri Harshad Mehta vast quantities of attached benami shares in 19 companies and the meetings took place in extremely cordial



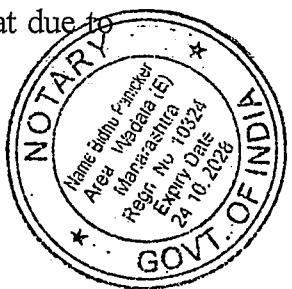
environment. I say that these meetings were conducted in the presence of close relative of the Jobalias viz. Smt Payal Magiya of Mumbai who was at the relevant time already assisting Smt Kalpana Jobalia and Shri Ishaan Jobalia to claim the shares from the company. I say that Smt Payal Magiya got involved with the request of Smt Kalpana Jobalia.

- i. I say that Shri Nirav D. Jobalia acting dishonestly was first to back out of his commitment to handover the shares since he had already sold the attached shares. I say that however both Shri Ishaan Jobalia and Smt Kalpana Jobalia conveyed to Shri Ashwin Mehta that they were not in agreement with the stand taken by Shri Nirav D. Jobalia though he was already pressurising them against handing over of the attached shares. I say that all the meetings and talks that have taken place between Shri Ashwin Mehta, Shri Ishaan Jobalia, Smt Kalpana Jobalia and Smt Payal Magiya were all very cordial.
 - j. I say that the allegations about threat and pressure are cooked up and false to her own knowledge and it is apparent that Smt Kalpana Jobalia has now changed her stand and become hostile only under some pressure and incorrect legal advice and this could be exerted most likely by Shri Nirav D. Jobalia.
51. I say that thus all the allegations made by Smt Kalpana Jobalia against Shri Ashwin Mehta are denied and she is put to strict proof thereof. I say that it is apparent that she has filed her reply and changed her stand possibly under deep influence of Shri Nirav D Jobalia. I say that it can also be seen from the reply filed by Smt Kalpana Jobalia that she has not asserted and made any claim of ownership on the subject shares. I say that she has not made any assertion about purchase of the subject shares or ever making any payment for the same. I say that it is also falsely stated by her that the subject shares were found at their premises only in the year 2020 though the shares



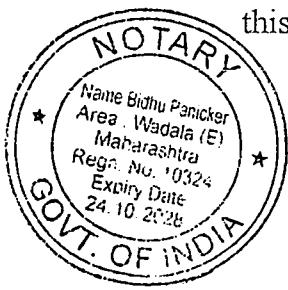
have come to be delivered post transfer anytime after 11.09.1992 when the base shares were registered. I say that thereafter the company issued bonus shares in 1995 and 1998 and also split the face value of the shares and dividends were regularly issued to them. I say that therefore the shares could never have been discovered by Smt Kalpana Jobalia in the year 2020. I say that this year is stated only because Smt Kalpana Jobalia does not want to narrate the true facts governing the shares from 1992 onwards upto the year 2020. I say that therefore Smt Kalpana Jobalia has not come clean before this Hon'ble Court and does not want to even disclose how the said shares have been acquired or came to be registered in her name and in the name of her husband. I say that Smt Kalpana Jobalia has also not narrated any facts about handing over of vast quantities of benami shares to Shri Harshad Mehta as are listed in Exhibit F to my application.

52. I say that admittedly these Jobalias have handed over attached benami shares in about 19 companies but while doing so they have withheld some quality shares and details of some of them are already brought on record of the present reply. I say that me and my family with persistent and ceaseless efforts have been tracing and recovering every attached property including those which are not recovered by the Custodian and now such attached shares with accruals thereon have found their way into IEPF only because of gross mismanagement of our attached assets by the Custodian. I say that we have a right to take corrective steps by unearthing such suppressed cases of pending recovery since the value of such attached unrecovered shares runs into several crores and there are many such cases.
53. I say that whenever we recover the unrecovered assets, the same invariably exposes the Custodian and also third parties who have already usurped our attached assets and when the claims are made the parties holding the attached properties already usurped by them adopt hostile stand and try to discredit us by making baseless and personal allegations. I say that due to



passage of several years the parties who have usurped the attached assets are already in a frame of mind that their facts are buried and no claims for recovery would be lodged against them. I say that we have a right to seek return and recovery of our assets and we make our efforts within the four corners of law. I say that obviously because the Jobalias have now been exposed and virtually caught red-handed that there is lot of heart burn and disquiet in their family and instead of proving the ownership of the subject shares which is not possible for them to do so they have chosen to discredit me and Shri Ashwin Mehta by making baseless allegations.

54. I say that notwithstanding above, I will be able to establish that it is Shri Ishaan Jobalia on behalf of his mother who have been regularly contacting Shri Ashwin Mehta and sending his greetings and warm wishes over WhatsApp messages during the same period of alleged threats and this will completely belie the baseless allegations made by Smt Kalpana Jobalia. I say that it is obvious that such allegations are now made by Smt Kalpana Jobalia against Shri Ashwin Mehta only as an afterthought and perhaps on the advice of Shri Nirav D Jobalia who earlier backed out of his commitment made to handover the attached shares with accruals thereon. I say that the above allegations are made about Shri Ashwin Mehta only to escape from the consequences since in my additional affidavit dated 29.12.2023 I have brought on record the facts and evidence relating to sale of 50 attached shares made by Shri Jayesh Jobalia which attempt failed and a criminal complaint came to be filed against him and Smt Alpa N. Jobalia before the Bharuch Police and the same are disclosed in my above affidavit (**Ex I Pg 949 to Ex O Pg 958**). I say that Smt Kalpana Jobalia and her son Shri Ishaan Jobalia are bound to be aware about the criminal case instituted against Shri Jayesh D Jobalia before the Bharuch Police and the same pertained to the share of Hero Honda Motors Ltd. but conveniently she has not dealt with this issue at all in her otherwise verbose reply. I say that besides above,



nothing should be deemed to be admitted by me unless it is specifically stated by me.

55. I say that in the reply filed by Smt Kalpana Jobalia she has not only made baseless allegations but her averments are argumentative and repetitive besides being completely irrelevant and violative of the provisions of the Torts Act as also the law laid down thereunder. I say that she has made averments against settled laws and the same are also contrary to several precedents already set by this Hon'ble Court. I say that in order not to repetitively deal with such verbose averments on a para-wise basis I am briefly rejoicing with the affidavit by stating as under:
- i. I say that u/s 3(3) of the Torts Act the properties belonging to notified persons gets simultaneously and automatically attached upon their notification u/s 3(2) of the Torts Act and such attached property then becomes liable to be dealt with only by the Custodian as per orders of this Hon'ble Court u/s 3(4) of the Torts Act (**Ex H Pg 116**).
 - ii. I say that under the Torts Act there is no requirement for any order to be passed by this Hon'ble Court for attaching an asset as the attachment takes place simultaneously and automatically upon notification of a person on and from the date of notification and the law in this regard is already very well settled by Hon'ble Supreme Court in T.B. Ruia's case. I say that even this Hon'ble Court has also passed several orders interpreting Sec. 3(3) of the Torts Act and the simultaneous attachment of assets thereunder and I crave leave of this Hon'ble Court to refer to and rely upon them when produced (**Ex H Pg 116**).
 - iii. I say that it is also settled law that the sweep of the above attachment u/s 3(3) even covers monies and assets which are lying in the hands of third parties so long as the property is "**belonging to**" a notified person. I say that the phrase "**belonging to**" used in Sec.3(3) of the Torts Act



have also been interpreted by Hon'ble Supreme Court in several of its judgments the relevant extracts of which are enclosed at **Exhibit R**.

- iv. I say that under the Torts Act the *onus* lies on third party holding the attached property to report and handover such attached property to the Custodian or else face all the costs and consequences (**Ex J Pg 134**) (**Ex K Pg 138**).
- v. That if any third party who is holding the attached asset claims that it belongs to such party then such party has to file a claim before this Hon'ble Court and establish the same in accordance with law. I say that in respect of several types of transactions this Hon'ble Court has devised certification schemes for third parties to make a claim and establish their ownership but in the present case the Jobalias were required to file their claim before this Hon'ble Court but the same is now time-barred. In further support of the above, I also rely upon the judgment of Hon'ble Supreme Court in the case of Harshad Shantilal Mehta vs. Custodian reported as **(1998) 5 SCC 1** wherein in para 41 the following law is laid down:

Para 41: "*In view of the interpretation which we have put on Section 11 of the Special Court Act and Section 3(3) of the Special Court Act, the challenge to the constitutional validity of Section 11 read with Section 3(3) does not survive. If, according to any of the banks or financial institutions, any of the properties attached belongs to the bank or financial institution concerned, it is open to that bank or financial institution to file a claim before the Special Court in that connection and establish its right to the property attached or any part thereof in accordance with law. Obviously, until such a claim is determined, the property attached cannot be sold or distributed under Section 11.*"
 (emphasis supplied)

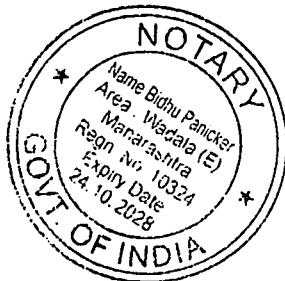


- vi. I say that even otherwise the *onus* is squarely on the Jobalias to establish their ownership on the subject shares since in 19 cases previously they have handed over attached benami shares to Shri Harshad Mehta as per particulars provided at **Ex. F (Pgs.103-104)** of my application. I say that the Jobalias have already been declared as benamidars of Shri Harshad Mehta.
- vii. I say that besides above Sec.3(3) and Sec.13 of the Torts Act contains *non-obstante* clauses because of which the parties holding the attached properties cannot resist, deny or contest the attachment or the handing over of the attached property to Custodian for and on behalf of notified entities. I say that therefore this is a fit case where this Hon'ble Court should institute an inquiry against the Jobalias, Hero MotoCorp Ltd. and the Custodian since all of them have acted in collusion with each other and illegally dealt with attached shares and accruals (**Ex M Pg 259**).
- viii. I say that Smt Kalpana Jobalia has not explained the purchase and acquisition of the shares and merely made vague averments in Para 4.1 of the reply that Respondent No.10 had found physical share certificates in the year 2020 and further averred in Para 7.27 that the said subject shares were purchased by the Jobalias and are not attached assets.
- ix. I say that in fact Shri Jayesh Jobalia is reported to have sold the above 50 shares on 08.10.1999 @ Rs.1129.85 and he had obtained Rs.56,492.50 from the complainant by cheque No.461400 drawn on Bank of India, Bharuch Branch all of which material facts are conveniently suppressed by Smt Kalpana Jobalia. It emerges from the criminal complaint itself (**Ex I Pg 949-951**) that the Jobalias knew that the shares sold by them were rejected for transfer on the ground that



they belong to Shri Harshad Mehta and the complainant had alleged the offence of criminal breach of trust, fraud and cheating.

- x. I say that both the accused persons in the above criminal case viz. Smt Alpa N. Jobalia and Shri Jayesh D. Jobalia had represented that the said shares have been cleared by them in person at the Bombay Stock Exchange and also in the Special Court and therefore the Bharuch Police sought from the Custodian complete information and true status and whether any clearance was obtained by the Jobalias. These facts are narrated in the letter addressed by DSP to the Office of Custodian (**Ex J Pgs 952-953**).
- xi. I say that the vast quantities of benami shares disclosed by Shri Harshad Mehta through his affidavits dated 25.02.1994 and 09.08.1994 in MA 194 of 1993 and which included shares standing in the names of Jobalias have been declared as attached property without any direction to HSM to prove the ownership of the said shares by producing Contract Notes, proof of payment and delivery.
- xii. I say that notwithstanding and without prejudice to above, Mehtas have placed before the 3 firms of Chartered Accountants appointed by this Hon'ble Court complete details and evidence in respect of purchase of shares made by them including in Hero Honda Motors Ltd. and the transactions are duly reflected in their books of accounts covering the period of 01.04.1990 to 08.06.1992.



56. I say that in view of what is stated above, the reliefs prayed for by me may kindly be granted by this Hon'ble Court in the interest of justice.

Solemnly affirmed at Mumbai)

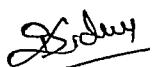
this 23rd day of October 2024)

Before me,

J. H. Mehta
(Jyoti H. Mehta)
Applicant


(Ashwin S. Mehta)
Advocate for Applicant

BEFORE ME


BIDHU PANICKER
B.Com, LL.B.
ADVOCATE HIGH COURT
NOTARY (Govt. of India)
Res: 303, Sandeep Apt., Plot No. A/197,
Sector-20, Near Balaji Temple,
Nerul (W), Navi Mumbai, Maharashtra

23 OCT 2024



VERIFICATION

I, Jyoti H. Mehta, Applicant abovenamed Hindu, Adult, Indian Inhabitant, residing at 32, Madhuli, Dr. Annie Besant Road, Worli, Mumbai 400 018, do hereby declare that what is stated in the foregoing Affidavit in reply in Para Nos. 1 to 56 is true to my own knowledge.

Solemnly declared at Mumbai)

dated this 23rd October 2024)

Muz
(ASHWIN S. MEHTA)
Advocate for Applicant

Seen original Plan and No.
ABNPM8233B

J. H. Mehta

(JYOTI H. MEHTA)
Applicant

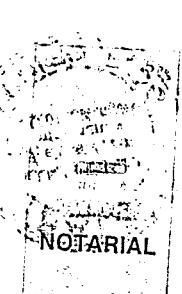
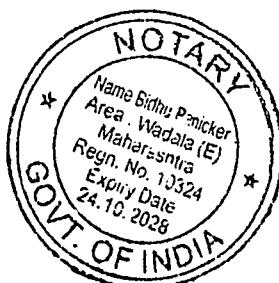
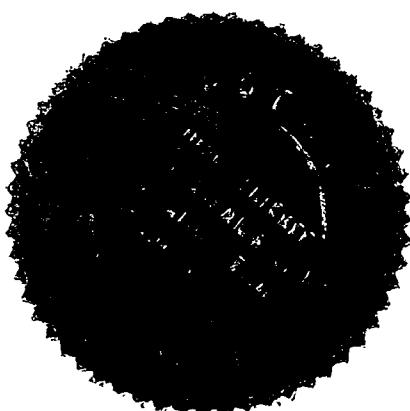
BEFORE ME

Sidney

BIDHU PANICKER
B.Com. LL.B.
ADVOCATE HIGH COURT
NOTARY (Govt. of India)
Res: 303, Sandeep Apt., Plot No. A/197,
Sector-20, Near Balaji Temple,
Nerul (W), Navi Mumbai, Maharashtra.

Notary Reg. Sr. No. 5515/2024
In Book No. IV

23 OCT 2024



1785

**ASHWIN S MEHTA****Advocate Bombay High Court**

32 Madhuli, Dr Annie Besant Road, Worli, Mumbai 400 018.
Office No.022 66519000, Mobile No.9819917118, E-mail: asm55@yahoo.com

IN THE SPECIAL COURT (TRIAL OF OFFENCES RELATING TO
TRANSACTIONS IN SECURITIES), ACT, 1992 AT MUMBAI

**INTERIM APPLICATION NO. 2 OF 2024
IN
MISC. APPLICATION NO. 10 OF 2023**

SMT JYOTI H MEHTA
V/s
CUSTODIAN & ORS.

..APPLICANT
..RESPONDENTS

To
The Officer on Special Duty,
Hon'ble Special Court,
Mumbai.

Sir,

BE PLEASED to take on file the **INTERIM APPLICATION FILED BY
SMT. JYOTI H MEHTA** I am pleased to forward you the soft copy of the
aforesaid **INTERIM APPLICATION**

**"CERTIFIED THAT THE SOFT COPY FILED HEREWITH IS A REPLICA
OF THE HARD COPY FILED".**

Dated this 15th day of February, 2024.

Yours truly,

Ashwin S Mehta
(Ashwin S Mehta)
Advocate for Applicant

Encl : As above

TRUE COPY

Ashwin S Mehta
Advocate For Plaintiff / Defendant / Applicant

OL

ASHWIN S. MEHTA**Advocate Bombay High Court**

32, Madhuli, Dr. Annie Besant Road, Worli, Mumbai – 400 018.
 Office No. 022 66519000, Mobile No. 9819917118, E-mail asm55@yahoo.com

Date: 05.02.2024

To,

1. SHILPA BHATE ASSOCIATES

Advocate for Custodian Respondent No. 1
 217, 2nd Floor, Rex Chamber,
 W.H. Marg, Ballard Estate,
 Mumbai 400 001.

Email: shilpabhatelegal@gmail.com

2. JADEJA & SATIA

Advocate for Respondent No. 2 & 3
 1st Floor, Mistry Mansion,
 107, M G Road, Fort,
 Mumbai – 400 001.

3. CHAIRMAN, INVESTOR EDUCATION & PROTECTION FUND (IEPF)

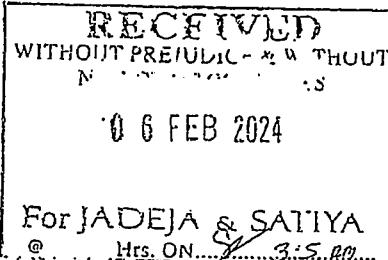
Respondent No. 4
 having its office at Ground
 Floor, Jeevan Vihar Building, 3, Sansad
 Marg, New Delhi – 110 001.

4. LATE NILESH D. JOBALIA**ALPA N. JOBALIA****ADITI N. JOBALIA**

Respondents No.6 is represented by

Legal Heirs of 6.1 & 6.2
 residing at C/o. Bella Electronics,
 S/6, Sevashram Shopping Centre, 5,
 Bati Bharuch 392001.

SHILPA BHATE & ASSOCIATES *Delhi*
 217, 2nd Floor, REX Chamber,
 W. H. Marg, Ballard Estate,
 Mumbai - 400 091.

*6/02/24**3:44*

EM140262245IN IVR:697714026221
 SF WORLI S.D <400018>
 Counter Nos.1,06/02/2024,14:31
 To:CHAIRMAN ,INVESTOR EDU. AH
 PIN:110001, New Delhi GPO
 From:ASHWIN S. H.MADHULI APTS.
 Wt:86gms
 Amt:70.80(Cash)Tax:10.60
 <Track on www.indiapost.gov.in>
 <Dial 18002444868> <Wear Masks, Stay Safe>

IA (L) w/o. 5/2024
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 Counter Nos.1,06/02/2024,14:31
 To:ALPA N. JOBALI SEVASHRAM SHOPPI
 PIN:392001, Bharuch HO
 From:ASHWIN S. H.MADHULI APTS.
 Wt:82gms
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 <Dial 18002444868> <Wear Masks, Stay Safe>

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SP MORLI S.O (400018)
Counter No:1.06/02/2024.14:31
To:ALPA N. JORALI, SEVASHRAM SHOPPI
PIN:392001, Bharuch HO
From:ASHWIN S. H. MADHULI APTS.
Uts:84ems
Amt:47.20(Cash) Tax:7.20
(Track on www.indiapost.gov.in)
(Dial 18002664949) (Near Masks, Stay Safe)

5. ALPA N. JOBALIA

Respondent No. 7

Residing at C/9. Bella Electronics,
S/6 Sevashram Shopping Centre,
5 Bati Bharuch 392001

6. JEHANGIR KHAJOTIA

Advocate for Respondent No. 5, 8.1 & 9.1
3rd Floor, Room No. 16, Radha Bhavan,
Nagindas Master Road, Mumbai - 400 023.

Dear Sirs,

REF: BEFORE THE SPECIAL COURT
INTERIM APPLICATION (L) NO. 8 OF 2024
IN
MISC. APPLICATION NO. 10 OF 2023

SMT. JYOTI H MEHTA ...APPLICANT
 V/s
 THE CUSTODIAN & ORS. ...RESPONDENTS

I am concerned for **INTERIM APPLICATION** in the above Matter.

Please find enclosed herewith Copy of the **INTERIM APPLICATION (L) No. 8** of 2024 IN MA No. 10 of 2023 Filed before the Hon'ble Special Court by way of service upon you.

Please note that the above Application is being produced for hearing before Hon'ble Mr. Justice N J Jamadar on 9th February, 2024 at 10.30 am or soon thereafter when you may remain present if you so desire.

Thanking You
 Yours truly,

(Ashwin S Mehta)
 Advocate for Applicant

Encl: as above

RECEIVED
EM140265352IN TIR:69771402653
SP MORLI S.O (400018)
Counter No:1.16/02/2024.16:43
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PIN:360001, Bhavnagar HO
From:ASHWIN S MEHTA, MORLI
Uts:92ems
Amt:47.20(Cash) Tax:7.20
(Track on www.indiapost.gov.in)
(Dial 18002664949) (Near Masks, Stay Safe)

BEFORE THE SPECIAL COURT (TRIAL OF
OFFENCES RELATING TO TRANSACTIONS
IN SECURITIES) ACT, 1992
INTERIM APPLICATION NO. 2 OF 2024
IN
MISC APPLICATION NO. 10 OF 2023

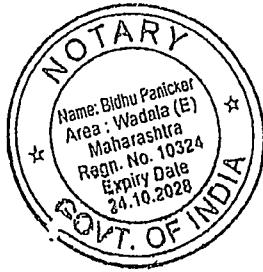
Smt Jyoti H Mehta .. Applicant

Vs

The Custodian & Ors. .. Respondents

INDEX

Sr. No.	Particulars	Page No.
1	INTERIM APPLICATION IN MISC APPLICATION NO. 10 OF 2023	01 -06
2	Memorandum of registered address	07
3	List of documents relied upon by the Applicant	08
4	Vakalatnama	09 – 11
5	Draft Amendments	12 – 22
6	Docket	



BEFORE THE SPECIAL COURT (TRIAL OF
OFFENCES RELATING TO TRANSACTIONS
IN SECURITIES) ACT, 1992
INTERIM APPLICATION NO. 2 OF 2024
IN
MISC APPLICATION NO. 10 OF 2023

S - IN THE MATTER OF

Smt Jyoti H Mehta)
As sole legal heir of late Harshad S Mehta residing)
at 32, Madhuli, Dr. Annie Besant Road, Worli,)
Mumbai 400 018.) ...APPLICANT

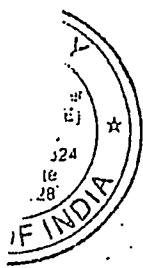
Versus

1. The Custodian having their Office at)
221 Nariman Bhavan, 10th Floor,)
Nariman Point, Mumbai 400 021.) (original R.N.O.1) S
2. Hero MotoCorp Ltd. having its office)
at the Grand Plaza, Plot No.2,)
Nelson Mandela Road, Vasant Kunj)
Phase II, New Delhi – 110 070.) (original R.N.O.2) D
3. KFin Technologies Pvt. Ltd.)
having its office at Selenium, Tower B,)
Plot Nos.31 and 32, Financial District,)
Nanakramguda, Serlingampally Mandal,)
Hyderabad 500 032.) (original R.N.O.3) S
4. Chairman, Investor Education & Protection)
Fund (IEPF) having its office at Ground)

- Floor, Jeevan Vihar Building, 3, Sansad Marg, New Delhi – 110 001.
5. Nirav D. Jobalia residing at C/o. Bella Electronics, 5/6 Sevashram Shopping Centre, 5 Bati Bharuch 392001 (as per the records of the Company).
- Permanent Address
- D-404, Annapurna Complex 4th Floor, Opp Pritam Society-1 Maktampur Road, Kasak Bharuch, Gujarat 392001 (as per the records of the Company).
6. Late Nilesh D. Jobalia
- 6.1 Alpa N. Jobalia
- 6.2 Aditi N. Jobalia
- Respondents No.6 is represented by Legal Heirs of 6.1 & 6.2 residing at C/o. Bella Electronics, S/6, Sevashram Shopping Centre, 5, Bati Bharuch 392001
7. Alpa N. Jobalia
- Residing at C/o. Bella Electronics, S/6 Sevashram Shopping Centre, 5 Bati Bharuch 392001
8. Late Dalichand Jhoothalal Jobalia
- 8.1 Shri Nirav D. Jobalia
- Respondents No.8 is represented by

-) (Original R.No.4) *28*
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-) (Original R.No.5) *28*
-) (Original R.No.6)
-) (Original R.No.6.1)
-) (Original R.No.6.2) *28*
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-) (Original R.No.7) *28*
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-)
-) (Original R.No.8)
-) (Original R.No.8.1)
-)





sole Legal Heir Respondent No.8.1)
residing at Flat No.B-801,)
Arihant Avenue-C, Jamnagar Road,)
Ghanteshwar, Rajkot, Gujarat 360006.)
9. Late Smitaben Dalichand Jobalia) (Original R.NO.9) <i>SS</i>
9.1 Shri Nirav D. Jobalia) (Original R.No.901)
Respondents No.9 is represented by)
sole Legal Heir Respondent No.9.1)
residing at Flat No.B-801, Arihant)
Avenue-C, Jamnagar Road, Ghanteshwar,)
Rajkot, Gujarat 360006.) ... RESPONDENTS

To

**THE HON'BLE CHIEF JUSTICE AND OTHER HON'BLE PUSINE
JUDGES OF HON'BLE HIGH COURT OF JUSDICATURE AT
MUMBAI.**

Application on behalf of the
Applicant under Section 9A(4) of
Torts Act read with Order 1. Rule
10 of the C.P.C.

MOST RESPECTFULLY SHEWETH

1. The Applicant has filed the present application to seek the relief of amendment in the application previously filed by her being MA 10 of 2023. The Applicant states that these amendments have been necessitated by discovery of facts and evidence after filing of the aforesaid MA 10 of 2023 as also on account of stand taken by Respondent No.2. The amendments are absolutely necessary for proper and effective adjudication of the above application filed by her and the same would also save multiplicity of proceedings involving recovery of attached asset. The details of proposed amendments are set out hereinafter.

2. The Proposed Respondent No.10 is late Shri Jayesh Jobalia who is represented by his wife, Smt Kalpana Jobalia acting for and on behalf of Respondent No.10. Respondent No.11 is Smt. Kalpana Jobalia who is proposed to be joined as party Respondent on her own behalf. These Respondents are holding the attached shares of Hero MotoCorp Ltd. as per the disclosures made by the said company under their letter dated 23.06.2021 which is forming part of Exhibit JJ of the application. The above Respondents are proposed to be joined as parties in order to cause recovery of shares of Hero MotoCorp Ltd. illegally transferred by the company and its STA to IEPF. These Respondents have agreed to transfer of all shares of Hero MotoCorp Ltd. standing in their names to Custodian for and on behalf of the Applicants but since Hero MotoCorp Ltd. has rejected their application for issue of shares to them in view of the pendency of the present proceedings, the Applicant is now seeking to join them as party Respondents to cause recovery from them of the attached shares and accruals under the directions of this Hon'ble Court. In support of above contentions, reliance is placed on letter dated 04.07.2023 addressed by KfinTech to Smt Kalpana Jobalia which is forming part of Exhibit P of Applicant's additional affidavit dated 29.12.2023.



3. That it is proposed to amend the address of Respondent No.7, Alpa Jobalia as mentioned in the cause title to Plot No.1305, B-403, Shiva Blessing-1, Nr-B Division, Ghogha Circle, Bhavnagar, Gujarat 364001. The new address of Respondent No.7 has been obtained by the Applicant by causing enquiries in social circles because Respondent No.5 refused to co-operate and provide the address of Respondent No.7.

4. No prejudice will be caused to the parties if the proposed Respondents are heard in this Misc. Application.

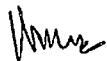
The Applicant states that in view of what is stated above, the Applicant humbly prays to this Hon'ble Court to be pleased to:



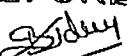
- a) Grant the present application seeking amendment in MA 10 of 2023 in terms of annexed Schedule.
- b) Condone the delay if any in filing of the present application

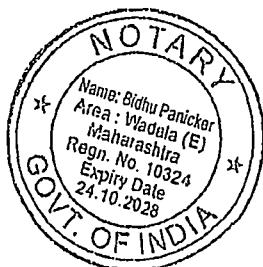
Solemnly affirmed at Mumbai)

Dated this 2nd day of February 2024)


(ASHWIN S. MEHTA)
 Advocate for the Applicant
 32, Madhuli Apartments,
 Dr. Annie Besant Road,
 Worli, Mumbai 400 018
 Code No.I22110
 Regd. OS No.17189


(JYOTI H. MEHTA)
 Applicant

BEFORE ME

BIDHU PANICKER
 B.Com. LL.B.
 ADVOCATE HIGH COURT
 NOTARY (Govt. of India)
 Res: 303, Sandeep Aot., Plot No. A/197,
 Sector-20, Near Balaji Temple,
 Nerul (W), Navi Mumbai, Maharashtra.



VERIFICATION

I, Jyoti H. Mehta, the Applicant abovenamed, adult Indian inhabitant, residing at 32, Madhuli Apartments, Dr. Annie Besant Road, Worli, Mumbai 400 018, do hereby declare that what is stated in foregoing Para Nos.1 to ___ is true to my knowledge and I believe the same to be true.

Solemnly declared at Mumbai)
Dated this 2nd day of February 2024)

Mary
 (ASHWIN S. MEHTA)
 Advocate for the Applicant
 32, Madhuli Apartments,
 Dr. Annie Besant Road,
 Worli, Mumbai 400 018
 Code No.I22110
 Regd. OS No.17189
 Email: asm55@yahoo.com
 Mob: 9819917118
 Seen Original Aadhar Card
 No. 854900447746

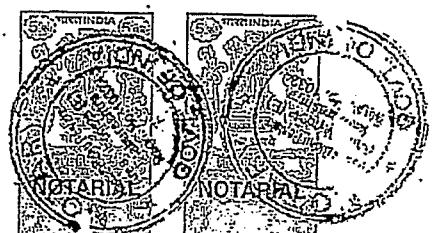
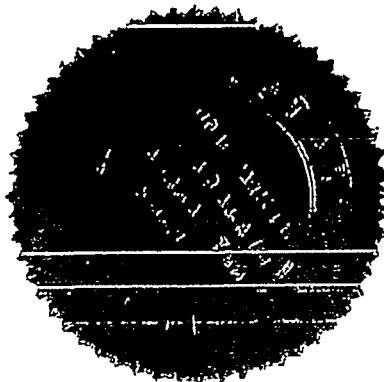
J H. Mehta
 (JYOTI H. MEHTA)
 Applicant

BEFORE ME

Bidhu
 BIDHU PANICKER
 B.Com. LL.B.
 ADVOCATE HIGH COURT
 NOTARY (Govt. of India)
 Res: 303, Sandeep Apt., Plot No. A/197,
 Sector-20, Near Balaji Temple,
 Nerul (W), Navi Mumbai, Maharashtra.

Notary Reg. Sr. No. 605/2024
 In Book No. I

- 2 FEB 2024



1795

BEFORE THE SPECIAL COURT (TRIAL OF
OFFENCES RELATING TO TRANSACTIONS
IN SECURITIES) ACT, 1992
INTERIM APPLICATION NO. 2 OF 2024
IN
MISC APPLICATION NO. 10 OF 2023

Smt Jyoti H Mehta .. Applicant

Vs

The Custodian & Ors. .. Respondents

MEMORANDUM OF REGISTERED ADDRESS

32, Madhuli Apartments,
Dr. Annie Besant Road,
Worli, Mumbai 400 018.

WMS
(ASHWIN S. MEHTA)
Advocate for the Applicant
32, Madhuli Apartments,
Dr. Annie Besant Road,
Worli, Mumbai 400 018
Code No.I22110 Regd. OS No.17189
Email: asm55@yahoo.com Mob: 9819917118

1796

**BEFORE THE SPECIAL COURT (TRIAL OF
OFFENCES RELATING TO TRANSACTIONS
IN SECURITIES) ACT, 1992**

**INTERIM APPLICATION NO. 2 OF 2024
IN
MISC APPLICATION NO. 10 OF 2023**

Smt Jyoti H Mehta .. Applicant

Vs

The Custodian & Ors. .. Respondents

LIST OF DOCUMENTS RELIED UPON BY THE APPLICANT

1. Exhibits annexed to the application
2. Other relevant correspondence prior to the application



(ASHWIN S. MEHTA)
Advocate for the Applicant
32, Madhuli Apartments,
Dr. Annie Besant Road,
Worli, Mumbai 400 018
Code No.I22110 Regd OS No.17189
Email: asm55@yahoo.com Mob: 9819917118

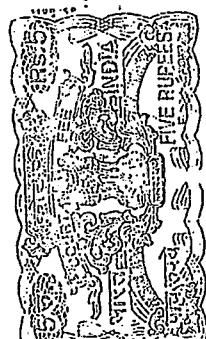
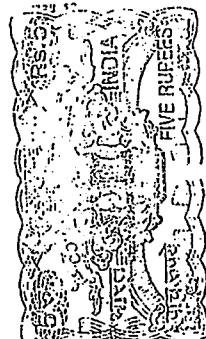
BEFORE THE SPECIAL COURT (TRIAL OF
 OFFENCES RELATING TO TRANSACTIONS
 IN SECURITIES) ACT, 1992
 INTERIM APPLICATION NO. 2 OF 2024
 IN
 MISC APPLICATION NO. 10 OF 2023

IN THE MATTER OF

Smt Jyoti H Mehta)
 As sole legal heir of late Harshad S Mehta residing)
 at 32, Madhuli, Dr. Annie Besant Road, Worli,)
 Mumbai 400 018.) ...APPLICANT

Versus

1. The Custodian having their Office at)
 221 Nariman Bhavan, 10th Floor,)
 Nariman Point, Mumbai 400 021.)
2. Hero MotoCorp Ltd. having its office)
 at the Grand Plaza, Plot No.2,)
 Nelson Mandela Road, Vasant Kunj)
 Phase II, New Delhi – 110 070.)
3. KFin Technologies Pvt. Ltd.)
 having its office at Selenium, Tower B,)
 Plot Nos.31 and 32, Financial District,)
 Nanakramguda, Serlingampally Mandal,)
 Hyderabad 500 032.)
4. Chairman, Investor Education & Protection)



Fund (IEPF) having its office at Ground Floor, Jeevan Vihar Building, 3, Sansad Marg, New Delhi - 110 001.

5. Nirav D. Jobalia residing at C/o. Bella Electronics, 5/6 Sevashram Shopping Centre, 5 Bati Bharuch 392001 (as per the records of the Company).

Permanent Address

D-404, Annapurna Complex 4th Floor, Opp Pritam Society-1 Maktampur Road, Kasak Bharuch, Gujarat 392001 (as per the records of the Company).

6. Late Nilesh D. Jobalia

6.1 Alpa N. Jobalia

6.2 Aditi N. Jobalia

Respondents No.6 is represented by Legal Heirs of 6.1 & 6.2

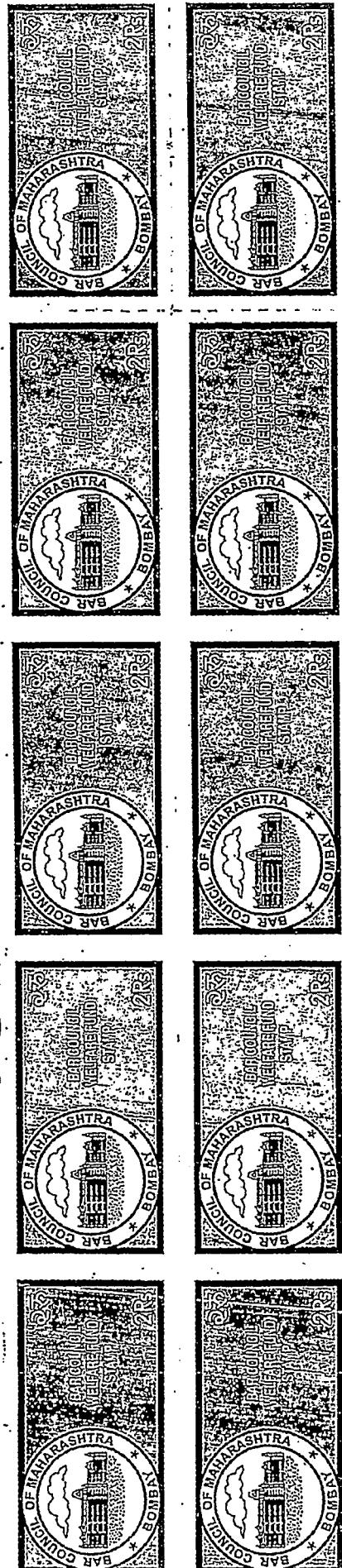
residing at C/o. Bella Electronics, S/6, Sevashram Shopping Centre, 5, Bati Bharuch 392001

7. Alpa N. Jobalia

Residing at C/9. Bella Electronics, S/6 Sevashram Shopping Centre, 5 Bati Bharuch 392001

8. Late Dalichand Jhothalal Jobalia

8.1 Shri Nirav D. Jobalia



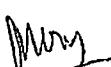
Respondents No.8 is represented by)
 sole Legal Heir Respondent No.8.1)
 residing at Flat No.B-801,)
 Arihant Avenue-C, Jamnagar Road,)
 Ghanteshwar, Rajkot, Gujarat 360006.)

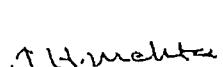
 9 Late Smitaben Dalichand Jobalia)
 9.1 Shri Nirav D. Jobalia)
 Respondents No.9 is represented by)
 sole Legal Heir Respondent No.9.1)
 residing at Flat No.B-801, Arihant)
 Avenue-C, Jamnagar Road, Ghanteshwar,)
 Rajkot, Gujarat 360006.) ... RESPONDENTS

VAKALATNAMA

I, Jyoti H. Mehta, the Applicant in the above matter do hereby appoint Shri Ashwin S. Mehta, Advocate, High Court to act, appear and plead for and on behalf of me in the above matter.

In witness whereof I have set my hands to this writing on this 2nd day of February, 2024.


 (ASHWIN S. MEHTA)
 Advocate for the Applicant
 32, Madhuli Apartments,
 Dr. Annie Besant Road,
 Worli, Mumbai 400 018
 Code No.I22110 Regd. OS No.17189
 Email: asm55@yahoo.com Mob: 9819917118


 (JYOTI H. MEHTA)
 Applicant

1800

SCHEDULE

(IN MA 10 OF 2023)

To delete the existing Address of Respondent No.7
and read the same as:

Plot No.1305, B-403, Shiva Blessing – 1, Nr B Division,
Ghogha Circle, Bhavnagar, Gujarat 364001

ADD RESPONDENT NO. 10 & 11 AFTER RESPONDENT NO. 9

No. 10 Late Shri Jayesh Jobalia
Represented by his wife
Kalpana Jobalia
Flat No - B - 801, Arihant Avenue - C,
Jamnagar Road, Ghanteshvar,
Rajkot, Gujarat - 360006

No. 11 Smt Kalpana Jobalia
Flat No - B - 801, Arihant Avenue - C,
Jamnagar Road, Ghanteshvar,
Rajkot, Gujarat – 360006

To amend prayers (a), (b) and (c) as under:

- a. Direct Respondent Nos.2, 3 and 4 to transfer all the shares and accruals standing in the names of Respondent Nos.5 to 11 in Respondent No.2 company to the Custodian for and on behalf of the estate of late Shri Harshad Mehta by declaring to be his attached property u/s 3(3) of the Torts Act.
- b. Direct Respondent Nos.5 to 11 to handover to the Custodian on behalf of

late Shri Harshad Mehta all benami shares and accruals received by them in all the companies and including in Respondent No.2 company and direct Respondent Nos.5 to 9 to pay interest @ 18% p.a. for enjoying any attached dividends leviable from the date of receipt of such dividends till its payment to the Custodian.

- c. Direct Respondent No.2 to make good the attached shares and accruals of its company released by it to Respondent Nos.5 to 11 together with interest @ 18% p.a. on the dividends paid by it after the Applicant addressed the letter to it on 27.11.2020 annexed at Exhibit AA.

ADD FOLLOWING PARAS AFTER PARA 44

44(a). The Applicant states that Respondent No.10 is late Shri Jayesh Jobalia who is represented by his wife Smt Kalpana Jobalia. Respondent No.11 is Smt Kalpana Jobalia. The Applicant states that these Respondents reside at the address given in the cause title. The Applicant states that Smt Kalpana Jobalia sought release of shares with accruals in Respondent No.2 company which have come to be transferred to IEPF and even sought issue of duplicate share certificates. The Applicant states that Smt Kalpana Jobalia has earlier conveyed to the Applicant and agreed that she is ready and willing to handover the attached benami shares in Respondent No.2 company with accruals to the Applicant and therefore they were not joined as party Respondents to the present Application. The Applicant states that however, thereafter KfinTech has addressed a letter to Respondent No.11 on 04.07.2023 to reject her application on the ground that the Applicant has made a claim for recovery of benami shares standing in their names and conveyed that the matter is *sub judice* and forming part of the present proceedings.

44(b). The Applicant states that in view of the above both the above Respondents

are now joined as party Respondents in the present proceedings to enable the Applicant to seek recovery of attached benami shares and accruals of Respondent No.2 company from them under a direction of this Hon'ble Court and so as to avoid filing a separate recovery proceedings against them. The Applicant has adduced evidence to establish that both the above Respondents have been holding attached shares of Hero MotoCorp Ltd. and for causing recovery of the same with accruals thereon they are now joined as party Respondents in the present Application. The Applicant humbly prays that this Hon'ble Court may be pleased to grant the relief prayed for by her against these 2 Respondents.

44(c). The Applicant states that from the facts and evidence which have been discovered by the Applicant during the course of the present proceedings and which have been brought on record by the Applicant by filing an additional affidavit on 29.12.2023 it gets conclusively established that Respondent Nos.2 and 3 have consciously violated Sections 3(3), 3(4), 9-A and 13 of the Torts Act by dealing with attached benami shares standing in the names of Jobalias viz. Nirav D. Jobalia, Nilesh D. Jobalia, Alpa N. Jobalia, Jayesh Jobalia and Kalpana Jobalia without seeking prior permission of this Hon'ble Court. In support of above contentions the Applicant relies upon proceedings in MP 99 of 1998 where Respondent No.2 was joined by the Custodian as Respondent No.42 and therefore what has transpired there is binding upon them. That Respondent No.2 was expressly informed by the Custodian about the affidavit filed by the department declaring the above persons as benami shareholders in the said company.

44(d). The Applicant states that in the said proceedings in MP 99 of 1998 Respondent No.2 was clearly informed by the Custodian and also given an opportunity to give its say about the status of benami shares standing in the names of all the Jobalias as disclosed by Additional Affidavit filed by the Income Tax Department. The Applicant states that by a letter dated 28.09.1999 the Custodian

informed Hero MotoCorp Ltd. of further benami shares detected by the Income Tax Department in the names of Jobalias and forwarded the copy of the affidavit filed by it in September 1999 in which the particulars of benami shares being 750 shares in the name of Alpana N Jobalia, 750 shares in the name of Kalpana N Jobalia and 800 shares in the name of Nirav D Jobalia were disclosed together with their complete details including the folio numbers.

44(e). The Applicant states that through his above letter the Custodian called upon Respondent No.2 to verify and confirm that the said shares continue to stand in the folios and names of the holders as disclosed by the I.T. Department. Respondent No.2 was also requested to take note of the details furnished by the I.T. Department and make its submissions as regards the correctness before the Hon'ble Court and furnish their reply to the Custodian. That despite above, Respondent No. 2 did not take any steps for transfer of the above shares with accruals thereon to the Custodian though earlier when Shri Harshad Mehta disclosed through his Affidavit dated 25.02.1994 filed in MA 94 of 1993 wherein the shares of Shri Nilesh D Jobalia were declared the company forwarded the shares and accruals to the Custodian. The Applicant states that ever since 1992 Respondent No.2 has been aware about notification of several entities and need to make compliance with the provisions of the Torts Act and had also participated in numerous proceedings before this Hon'ble Court so much so that it had even filed Applications before this Hon'ble Court such as MP 99 of 1998 the facts relating to which are already narrated by the Applicant in her Additional Affidavit filed on 29.12.2023. The Applicant states that besides above Respondent No.2 was also informed of the sale of its shares made by Alpa N. Jobalia in regard to which a criminal case was instituted against Alpa Jobalia and which proceedings were also informed to Respondent No.2. That when the said shares were lodged for transfer with Respondent No.2, it did not transfer the same on the ground that the said shares were already declared to be benami attached property of Harshad

S. Mehta.

44(f). The Applicant states that despite being put to notice and being a party to the proceedings in MP 99 of 1998 and even after being informed about sale of benami shares by Alpa N. Jobalia as explained above, Respondent No.2 has consciously and deliberately dealt with the attached benami shares and accruals thereon standing in the names of Jobalias and thereby it has grossly violated Sections 3(3), 3(4) and 9A of the Torts Act in the following manner:

- (i) By failing to transfer the attached shares with accruals thereon to the Custodian on behalf of Harshad Mehta from 1999 onwards till date.
- (ii) By failing to come before this Hon'ble Court to seek its order for dealing with the attached assets as required u/s 3(4) of the Torts Act.
- (iii) By failing to reply to the Custodian's aforecited letter dated 28.09.1999 and by not placing any facts and status of the subject shares before this Hon'ble Court in proceedings in MP 99 of 1998.
- (iv) By transferring the attached shares and dividends to IEPF in violation of the above provisions of the Torts Act as also the law laid down by this Hon'ble Court under its order dated 18.08.2016 in MA 24 of 2016 in MA 244 of 2003 titled as Custodian Vs IEPF.
- (v) By illegally entertaining the requests of Shri Nirav D. Jobalia for transfer of attached shares and dividends to him so as to confer huge benefit on him and to enable him to usurp the attached property belonging to Mehtas.
- (vi) By illegally resisting through several letters the attachment and recovery of the attached shares standing in the names of Jobalias and by falsely stating that the said shares are not benami shares and that no order has been passed by this Hon'ble Court in regard to the subject shares.
- (vii) By committing the offence of perjury by deliberately and consciously

filings a false and misleading Affidavit-in-reply on oath in the present proceedings on 01.09.2023 and by suppressing and withholding from this Hon'ble Court crucial and material facts and evidence arising out of and during the pendency of proceedings in MP 99 of 1998 as cited and explained before.

44(g). The Applicant states that in terms of law laid down by this Hon'ble Court in its following judgments Respondent No.2 and its STA has rendered it liable to make good the attached shares with accruals thereon both on joint and several basis along with with Shri Nirav D Jobalia who has already usurped the attached shares belonging to Mehtas and sold them.

- (i) A.K. Menon Custodian vs. Uttam Galva Steels Ltd. being an order dated 21.06.1993 passed in MA 40 of 1993.
- (ii) A.K. Menon Custodian vs. SPIC Ltd. being an order dated 19.10.1993 passed in MA 184 of 1993.
- (iii) Custodian vs. Suresh Chandak being orders dated 21.12.2017, 02.02.2018, 08.02.2018, 09.02.2018, 13.02.2018 and 15.03.2018 in MA 89 of 2016 in the case of Custodian vs. Suresh D. Chandak.
- (iv) Jyoti Mehta & Ors. vs. The Custodian & Ors being an order dated 12.01.2024 passed in MA 22 of 2021.

44(h). The Applicant states that the above list of judgments is not exhaustive and so far as judgments cited at (a), (b) and (c) above they have already attained finality and therefore become binding on the Respondents. The Applicant states that in terms of the above judgments Respondent No.2 is jointly and severally liable along with Nirav D Jobalia to make good the shares claimed by the Applicant with all accruals on them and also to pay interest @ 18% p.a. on the dividends which fell due on the attached shares but which was not paid by

Respondent No.2. That Respondent No.2 has become liable to pay the interest on the unpaid dividends and which dividends fell due for payment both in terms of the provisions of the Torts Act as also in terms of Section 207 of the Indian Companies Act. The Applicant states that accordingly she has sought the reliefs against Respondent No.2 for recovery of attached benami shares with accruals thereon as also for recovery of interest on the unpaid dividends as claimed in view of its patently illegal and contumacious conduct in several proceedings before this Hon'ble Court including in the present case.

44(i). The Applicant states that to cover up the violations committed by it Respondent No.2 has addressed letters to the Applicant has also filed their affidavit-in-reply in the present proceedings on 01.09.2023 which contains false averments and which are false to its own knowledge and they are even contrary to the facts and evidence in its possession. That Respondent No.2 is guilty of suppressing and withholding from this Hon'ble Court material facts and evidence already lying in its possession. The Applicant states that Respondent No.2 has consciously acted illegally and it continues to do so till date in order to deny recovery of attached property from it and to evade its liability and therefore deserves to be proceeded against very strictly by this Hon'ble Court. The Applicant states that even previously Respondent No. 2 has grossly violated the same provisions of the Torts Act and has transferred dividends running into crores in respect of shares which were standing in the names of Smt Rasila Mehta, Smt Rina Mehta and Shri Harshad Mehta. The Applicant states that this Respondent has also transferred shares to IEPF standing registered in the name of Shri Harshad Mehta and Smt Pratima Mehta and therefore it can be said that Respondent No. 2 is a habitual offender regularly violating the provisions of the Torts Act by dealing with the attached properties belonging to Mehtas without seeking permission from this Hon'ble Court.

44(j). The Applicant states that Respondent No. 2 is also guilty of the offence of perjury which is committed by it by filing its affidavit-in-reply on 01.09.2023 which contains several false averments which are consciously made against the records and evidence in its possession only in order to mislead this Hon'ble Court and to deny the Applicant the benefit of recovery of her attached property and evade its own liability to make good the attached property. The Applicant states that Respondent No.2 has consciously committed above violations to confer huge monetary benefits on to Jobalias and particularly onto Nirav D. Jobalia at the cost of interest of the Applicant and her family members. The Applicant states that therefore Respondent No.2 and its STA, Respondent No.3 have become liable to make good the attached shares together with all accruals on them as belonging to the Applicant and as claimed against Respondent Nos.5 to 11 together with interest on unpaid dividends which fell due on the shares @ 18% p.a. payable from the date when they fell due till the date it is paid to the Custodian on Applicant's behalf.

44(k). The Applicant states that the Custodian has deliberately failed to recover attached benami shares of Respondent No.2 company standing in the names of Respondent Nos.5 to 11 despite knowing that the Income Tax department had filed an additional affidavit in September 1999 in MP 98 of 1999 wherein it confirmed that 3 members of Jobalia family viz. Alpa N. Jobalia, Kalpana N. Jobalia and Nirav D. Jobalia were also holding base benami 750, 750 and 800 shares respectively and for which the Custodian had already addressed a letter to Respondent No.2 on 28.09.1999. The Applicant states that this Hon'ble Court has directed the Custodian to trace and recover all the benami shares with accruals and even proceed against parties who had sold the shares but in the present case after informing Respondent No.2 on 28.09.1999 the Custodian has thereafter failed to recover the subject shares and accruals and which has then enabled Respondent No.2 and Jobalias to illegally deal with the attached property.

44(l). The Applicant states that the Custodian when he was put to notice by the Applicant about transfer of shares standing in the name of Jobalias to IEPF, yet the Custodian has deliberately failed even after being informed of the above facts to recover the attached shares and accruals thereon nor the Custodian informed Respondent No.2 about the aforesaid Income Tax affidavit and his own letter dated 28.09.1999 as addressed to Respondent No.2. The Custodian did not contest the false stand taken by Respondent No.2 nor has he filed any proceedings before this Hon'ble Court to take the orders of recovery against Respondent No.2, IEPF and Jobalias which conduct conclusively establishes that in every case involving Mehtas he is deliberately not recovering their attached assets from third parties and in fact also preventing their recovery wherever the Applicant seeks the same. The Custodian has failed to act only in order to cover up his own failures from 1999 onwards till date. The Applicant states that even in the present proceedings the Custodian has deliberately failed to place on record of this Hon'ble Court the crucial facts and evidence in his possession which can lead to the recovery of the attached property being his aforesited letter dated 28.09.1999, copy of affidavit filed by the Income Tax department in September 1999 and the facts relating to the proceedings in MA 99 of 1998 and orders passed therein. The Custodian has also suppressed from this Hon'ble Court substantial facts and evidence in his possession about the criminal proceedings instituted against Smt Alpa Jobalia by Bharuch Police.

44(m) The Applicant is aggrieved that in each and every case in recent period the Custodian has been acting as an adversary to prevent recovery of attached assets belonging to Mehtas despite knowing that it is his primary statutory duty to recover each and every attached asset and also to comply with the orders passed by this Hon'ble Court directing him to recover the attached assets. The Applicant states that the Custodian in the present case has deliberately failed to act even

after the Applicant informed him of the pending recovery from Jobalias and IEPF. The Custodian was put to notice by the Applicant as copies of all letters addressed by her to Respondent No.2 and IEPF were marked by her to the Custodian and which made it obligatory for him to then take firm action against Respondent No.2 and Jobalias.

44(n). The Applicant states that by now it is conclusively established through numerous proceedings filed by the Applicant before this Hon'ble Court that the Custodian is deliberately not recovering the attached properties belonging to Mehtas to impoverish their asset base and to confer huge monetary benefits on to parties who are seeking to illegally usurp the attached properties belonging to Mehtas. The Applicant states that the Custodian had been acting *mala fide* and he is governed by several ulterior objects and therefore even in the present case has become liable to make good the attached assets of the Applicant with interest as claimed. The Applicant states that despite being a "State" within the meaning of Article 12 of the Constitution the Custodian has been acting illegally, unfairly and discriminating against the Applicant by abandoning his statutory duty of recovering the attached property. The Applicant states that this is a fit case therefore to make the Custodian liable to make good the attached property not only because of his deliberate failure to recover it but also because of his positive actions of preventing recovery of the same by the Applicant. The Applicant states that such patently illegal acts of Custodian are not covered under the immunity granted to him u/s 12 of the Torts Act.

44(o). The Applicant states that in view of the aforesaid contentions the Applicant is desirous of adding certain prayers in her application which are set out below:

- (c1) Direct Respondent No.1, 2 to make good the attached benami shares together with all accruals thereon found to be benami in Respondent No.2

company which stood registered in the names of Respondent Nos.5 to 7, 10 and 11 and further direct payment of interest @ 18% p.a. on unpaid dividends on joint and several basis along with Respondent Nos.5 to 9 and transfer the same to the Custodian for and on behalf of late Shri Harshad S. Mehta.

(c2) Take appropriate steps against Respondent Nos.1 and 2 for their patently illegal and contumacious conduct and against Respondent No.2 for consciously committing the offence of perjury.

*(MS)
9/2/2024
(Ashvin Mehta for Applicant)*

1811

LODGING NO. 812024.
LODGED ON. 02/02/2024.

BEFORE THE SPECIAL COURT
(TRIAL OF OFFENCES RELATING
TO TRANSACTIONS IN
SECURITIES) ACT, 1992

I.A. NO. 2 OF 2024
IN

M.A. NO. 10 OF 2023

SMT JYOTI H MEHTA

.. APPLICANT

VS

THE CUSTODIAN & ORS.

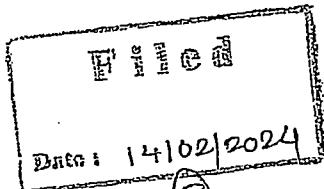
.. RESPONDENTS

all objections complied

AS
13/02/2024.

VAKALATNAMA

Dated this 2nd day of February, 2024.



File
Mulla
13.2.2024

ASHWIN S. MEHTA
Advocate for the Applicant
32, Madhuli Apartments,
Dr. Annie Besant Road,
Worli, Mumbai 400 018
Code No.I22110 Regd. OS No.17189
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9819917118.

JADEJA¹⁸¹² & SATIYA

BY HAND DELIVERY/ COURIER

H-04/2023

27 February 2024

1. **Ashwin S. Mehta**
Advocate for the Applicant
 32, Madhuli, Dr. Annie Besant Road,
 Worli, Mumbai 400 018
2. **Shilpa Bhate Associates**
Advocate for the Custodian/ Respondent No.1
 217, 2nd floor, Rex Chamber, W.H. Marg,
 Ballard Estate, Mumbai 400 001
3. **Chairman, Investor Education & Protection Fund (IEPF)**
 Ground floor, Jeevan Vihar Building,
 3, Sansad Marg, New Delhi, 110 001
4. **Jehangir M. Khajutia**
Advocate for Respondent Nos.5, 8.1 and 9.1
 Radha Bhavan, 3rd floor, Room No.16,
 Nagindas Master Road,
 Mumbai 400 023



Dear Sir/ Madam,

Re.: Before the Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992
 Interim Application (L) No.8 of 2014
 In
 Miscellaneous Application No.10 of 2023
 Jyoti H. Mehta ..Applicant
 Versus
 The Custodian & Ors. ..Respondents

We refer to prior correspondence in connection with the captioned matter.

Please find enclosed a copy of the Affidavit in Reply dated 26.02.2024 on behalf of Respondent No.2 in the captioned matter, as and by way of service upon you/ your client.

Kindly acknowledge receipt.

For JADEJA & SATIYA

Partner
 Advocates for Respondent No.2

Encl. a/a.

TRUE COPY

For JADEJA & SATIYA, Advocates for Respondent No.2

BEFORE THE SPECIAL COURT (TRIAL OF
 OFFENCES RELATING TO TRANSACTIONS IN
 SECURITIES) ACT, 1992
 INTERIM APPLICATION (L) NO.8 of 2024
 IN
 MISC. APPLICATION NO.10 OF 2023

Smt. Jyoti H. Mehta ..Applicant

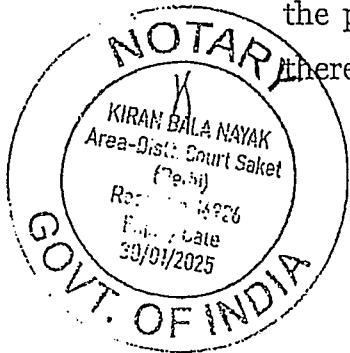
Versus

The Custodian & Ors. ..Respondents

AFFIDAVIT IN REPLY ON BEHALF OF
RESPONDENT NO.2

I, Samar Bhatia of New Delhi, an adult, Indian inhabitant, DGM-Secretarial of Respondent No.2 abovenamed, having my office at The Grand Plaza, Plot No.2, Nelson Mandela Road, Vasant Kunj, Phase-2, New Delhi 110 070, do hereby solemnly affirm and state as under:

1. I am conversant with the facts and circumstances of the present case. Vide Board Resolution dated 01.12.2020, I have been duly authorized to make the present Affidavit for and on behalf of Respondent No.2. I have read a copy of the Interim Application dated 02.02.2024 ("Interim Application") and am making the present Affidavit in Reply ("Reply") in response thereto. I say that no part of the Interim Application



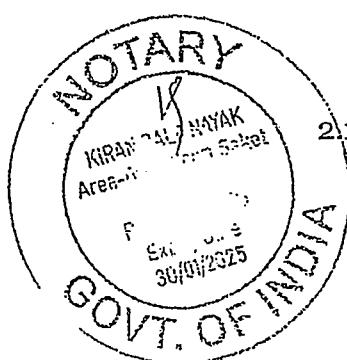
should be deemed to have been admitted by me (unless specifically admitted herein) merely for the want of traverse. To the extent that the averments in the Interim Application are inconsistent and/or contrary to the present Reply, the same be treated as set out herein and denied.

2. At the outset, I say and submit that the Interim Application is thoroughly misconceived and an abuse of the process of this Hon'ble Court and ought to be dismissed for the following reasons:

2.1. Falsehood:

2.1.1. I say that the Applicant's contention that the present amendments have been necessitated only on account of discovery of new facts and evidence which have come to light pursuant to filing of the captioned Miscellaneous Application is completely false and bogus.

2.1.2. Admittedly, the Applicant has filed the present Miscellaneous Application seeking recovery of 36295 shares of Respondent No.2, which the Applicant claims to be benami shares of Harshad Mehta *albeit* standing in the names of various members of the Jobalia family, which includes Jayesh Jobalia and/or



Kalpana Jobalia. This has always been to the knowledge of the Applicant and has certainly not come to light pursuant to "*discovery of facts and evidence*" pursuant to filing the captioned Miscellaneous Application as sought to be alleged. On this ground alone the present Interim Application ought to be dismissed.

2.1.3. I say that that the present Interim Application is nothing but a desperate attempt on part of the Applicant to increase the scope of the present Miscellaneous Application and mislead this Hon'ble Court. I submit that the case of the Applicant in the present Interim Application that the proposed amendments are necessitated on account of subsequent events is false and bogus. Whatever that is sought to be pleaded and submitted by the Applicant by way of the proposed amendments was always to the knowledge of the Applicant. In fact, I say and submit that the Miscellaneous Application itself is liable to be dismissed on account on non-joinder of proper and necessary parties being Jayesh Jobalia and/or Kalpana Jobalia.

2.1.4. I say and submit that the Applicant is conscious of the fact that no order has been



[Signature]



produced by her declaring all the Jobalias as the benami shareholders of Respondent No.2 and consequently, no case has been made out by the Applicant. Therefore, the Applicant in cahoots with Kalpana Jobalia is seeking independent release of some of the subject shares from Respondent No.3 in face of the pendency of the captioned Miscellaneous Application to obfuscate the matter at hand, mislead this Hon'ble Court and cover up the lacunae in the case set up by her in the captioned Miscellaneous Application.

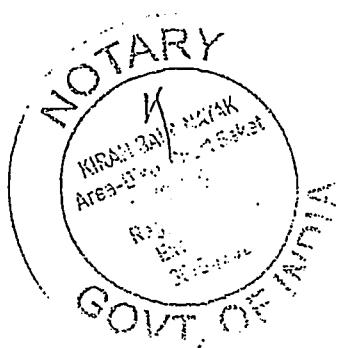
2.2. Principle of Estoppel:

2.2.1. Whilst the Applicant proceeded to make numerous members of the Jobalia family i.e. Nirav Jobalia (*Respondent No.5*), Late Niles D. Jobalia (*Respondent No.6*) represented by his legal heirs Alpa N. Jobalia (*Respondent No.6.1*) and Aditi Jobalia (*Respondent No.6.2*), Alpa N. Jobalia (*Respondent No.7*), Late Dalichand Jhootlal Jobalia (*Respondent No.8*) represented by his legal heir Nirav Jobalia (*Respondent No.8.1*) and Late Simtaben Dalichand Jobalia (*Respondent No.9*) represent by her legal heir Nirav Jobalia (*Respondent No.9.1*), as necessary parties to the Miscellaneous



Application, the Applicant consciously chose and elected not to implead Jayesh Jobalia and/or Kalpana Jobalia as party Respondents to the captioned Miscellaneous Application.

2.2.2. Admittedly, the Applicant had consciously elected not to implead Jayesh Jobalia and/or Kalpana Jobalia as party Respondents to the captioned Miscellaneous Application on account of some internal arrangement between herself and Kalpana Jobalia, pursuant to which Kalpana Jobalia had allegedly agreed to transfer Jayesh Jobalia's and her shareholding of Respondent No.2 to the Applicant. By consciously electing not to implead Jayesh Jobalia and/or Kalpana Jobalia as party Respondents to the captioned Miscellaneous Application, the Applicant has in essence forgone her right to implead Jayesh Jobalia and/or Kalpana Jobalia as party Respondents to the captioned Miscellaneous Application.



2.2.3. Admittedly, the Applicant was always aware that Jayesh Jobalia and/or Kalpana Jobalia were also alleged to be benami shareholders of Harshad Mehta holding shares of Respondent No.2 in their names. Hence, both Jayesh Jobalia and/or Kalpana

Joshi

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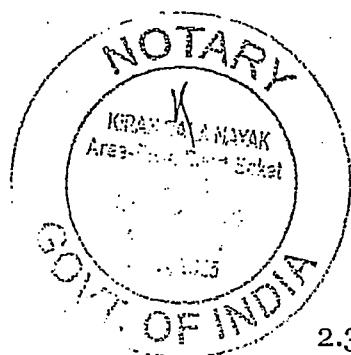
Jobalia ought to have been arrayed as party Respondents while filing the captioned Miscellaneous Application. The Applicant cannot be permitted to pick and choose who she arrays as party Respondents basis her own private internal dealings with such parties.

2.2.4. I say that the present Interim Application seeking amendments is nothing but a belated afterthought to cover up the lacunae in the Applicant's case since the internal arrangement arrived at between Kalpana Jobalia and the Applicant has been repudiated by Kalpana Jobalia.

2.2.5. Having consciously elected not to implead Jayesh Jobalia and/or Kalpana Jobalia as party Respondents to the captioned Miscellaneous Application, the Applicant is estopped from impleading them at this stage of the proceedings.

2.3. Doctrine of Waiver:

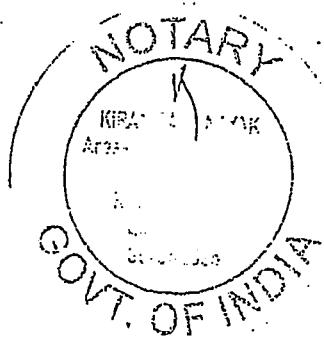
2.3.1. Having failed to add Jayesh Jobalia and/or Kalpana Jobalia party Respondents to the captioned Miscellaneous Application, the Applicant has in effect relinquished and waived her rights to implead Jayesh Jobalia



and/or Kalpana Jobalia as party Respondents to the captioned Miscellaneous Application at this stage.

2.4. Altering the cause of action:

2.4.1. I say that, by way of the present Interim Application, the Applicant is attempting to change/alter the nature of the captioned Miscellaneous Application as originally filed. I say that it is a settled principle of law that the amendment of pleadings cannot alter the nature of proceedings. I say that the Applicant by way of the present Interim Application is, *inter alia*, claiming reliefs against such parties against whom the Applicant had made a conscious decision by elimination not to proceed against. Therefore, the present Interim Application ought to be rejected on this ground alone.



3. I say and submit that neither Respondent No.2 nor Respondent No.3 have refused to transfer the shares standing in the name of Jayesh Jobalia/ Kalpana Jobalia to Kalpana Jobalia as alleged by the Applicant. A perusal of letter dated 04.07.2023 addressed by Respondent No.3 to Kalpana Jobalia makes it amply clear that Respondent No.3 merely states that in view of pendency of the present proceedings, Respondent No.3

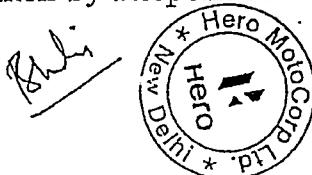
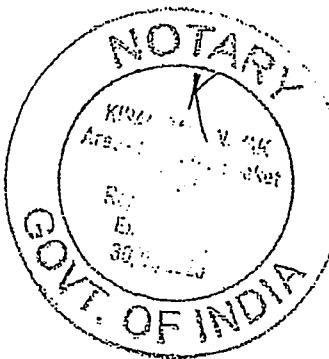
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is not a position to transfer the shares standing in the name Jayesh Jobalia/Kalpana Jobalia to Kalpana Jobalia in the absence of a specific Court order, as the shares form the subject matter of the present dispute and that Respondent No.3 will proceed to issue the once the Hon'ble Court comes to a decision about the shares under reference.

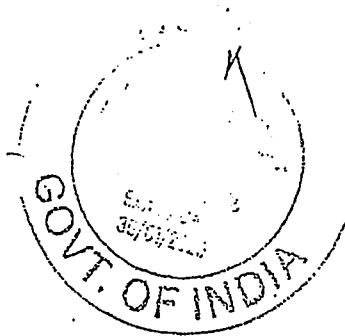
4. Without prejudice to the aforesaid, I say that the present Interim Application is not maintainable, as by way of the present Interim Application, the Applicant seeks to implead Jayesh Jobalia as a party Respondent to the captioned Miscellaneous Application, who has admittedly passed away. Thus, the Applicant seeks to implead a dead person, which is not permissible. On this ground alone, the present Interim Application ought to be rejected.

5. Without prejudice to the above, I am now dealing with the contents of the Interim Application paragraph wise.
 - 5.1. With reference to paragraph 1 of the Interim Application, I repeat and reiterate all that is stated herein above and deny all that is contrary thereto and/or inconsistent therewith. I deny that the proposed amendments have been necessitated by discovery of facts and evidence after filing of the captioned Miscellaneous Application and as also on account of stand taken by Respondent No.2. I



deny that the proposed amendments are absolutely necessary for proper and effective adjudication of the captioned Miscellaneous Application filed by the Applicant. I deny that the proposed amendment avoid multiplicity of proceedings involving recovery of attached asset.

- 5.2. With reference to paragraph 2 of the Additional Affidavit, I repeat and reiterate all that is stated herein above and deny all that is contrary thereto and/or inconsistent therewith. I deny that Jayesh Jobalia and/or Kalpana Jobalia are required to be joined as party Respondents to the captioned Miscellaneous Application. I deny that the proposed Respondents are required to be joined as parties in order to cause recovery of shares of Respondent No.2 which have allegedly been transferred by Respondents No.2 and 3 to IEPF. I deny that Respondent No.2 has illegally transferred any shares to IEPF. I say that the unpaid/unclaimed divided and shares were transferred to IEPF only in compliance of Section 205A of the Companies Act, 1956, failing which Respondent No.2 would have been liable for penalty. Therefore, I say and submit that there is no illegality in the conduct of Respondent No.2 as sought to be alleged. I deny that Respondent No.2 has rejected the application made by Kalpana



R.K.J.

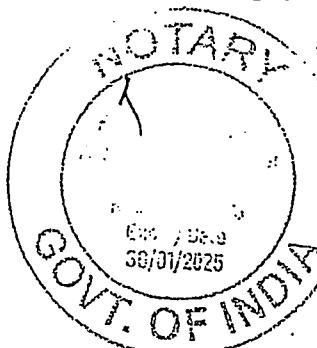


Jobalia for issue of shares. I say that a perusal of letter dated 04.07.2023 addressed by Respondent No.3 to Kalpana Jobalia makes it amply clear that Respondent No.3 merely states that, in view of pendency of the present proceedings, Respondent No.3 is not in a position to transfer the shares standing in the name Jayesh Jobalia/Kalpana Jobalia to Kalpana Jobalia in the absence of a specific Court order, as the shares form the subject matter of the present dispute and that Respondent No.3 will proceed to issue the same only once this Hon'ble Court comes to a decision about the shares under reference.

5.3. With reference to paragraph 3 of the Interim Application, the contents thereof merit no response.

5.4. With reference to paragraph 4 of the Interim Application, I repeat and reiterate all that is stated herein above and deny all that is contrary thereto and/or inconsistent therewith. I deny that no prejudice will be caused to Respondent No.2 if the proposed Respondents are added as parties to captioned Miscellaneous Application.

6. I say that no case whatsoever has been made out by the Applicant for grant of the reliefs prayed for in the Interim Application. In the aforesaid circumstances and for the



1823

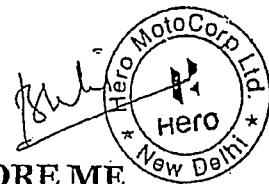
33

reasons set out hereinabove, I say that the Applicant is not entitled to any of the reliefs as sought for in the Interim Application and therefore, pray that the Interim Application be dismissed *in limine* with costs.

Solemnly affirmed at New Delhi)

This 26th day of February 2024)

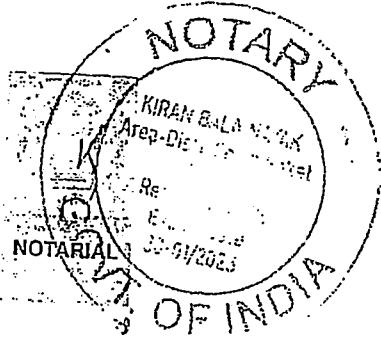
BEFORE ME



JADEJA & SATIYA

Partner

Advocates for Respondent No.2



ATTESTED
[Signature]
NOTARY PUBLIC, DELHI (INDIA)

26 FEB 2024

1824

BEFORE THE SPECIAL COURT
(TRIAL OF OFFENCES RELATING
TO TRANSACTIONS IN
SECURITIES) ACT, 1992

MISC. APPLICATION NO.10 OF 2023

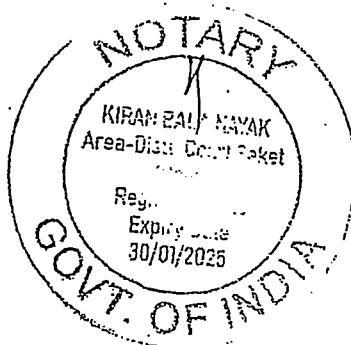
Smt. Jyoti H. Mehta ..Applicant

Versus

The Custodian & Ors. ..Respondents

ADDITIONAL AFFIDAVIT IN REPLY

Dated this 26th day of February 2024



Jadeja & Satiya
Advocates for Respondent No.2

**RELEVANT EXTRACTS OF THE AGM HELD ON 27.09.2022
DIRECTORS OF HERO MOTOCORP LTD. POWERS GRANTED**

authorization of Company officials by Board/Committee

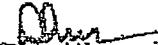
RESOLVED THAT in order to give effect to the powers of the Board/Committee, the Directors and other officials be and are hereby severally authorised to sign and execute all documents and agreements in all matters and to sign, affix stamp, verify, execute and deliver in person or by post or by electronic means or by fax or by e-mail or by telex or by facsimile or by telephone or by any other means, all documents, notices, notices of motion, notices of summons, notices of adjournment, notices of continuation, notices of adjournment sine die, notices and all other documents as may be required by the Central Government, State Government, Authority or Court of Law or Tribunal in connection with any matter and legal proceeding(s) filed by or against the Company and to do all other acts, deeds and things as may be considered necessary or incidental thereto.

Mr. S. K. Kapoor (H.M.C.L.)

RESOLVED FURTHER THAT in order to give effect to the powers of the Board/Committee, the Directors and other officials be and are hereby severally authorised to sign and execute all documents and agreements in all matters and to sign, affix stamp, verify, execute and deliver in person or by post or by electronic means or by fax or by e-mail or by telex or by facsimile or by telephone or by any other means, all documents, notices, notices of motion, notices of summons, notices of adjournment, notices of continuation, notices of adjournment sine die, notices and all other documents as may be required by the Central Government, State Government, Authority or Court of Law or Tribunal in connection with any matter and legal proceeding(s) filed by or against the Company and to do all other acts, deeds and things as may be considered necessary or incidental thereto.

RESOLVED FURTHER THAT the aforesaid powers entrusted to the Company officials shall be valid and effective unless revoked earlier by the Board/Committee and shall be exercisable till the time the persons are in employment of the Company.

Certified True Copy
For Hero MotoCorp Limited


(Dhiraaj Kapoor)

Company Secretary & Compliance Officer

Date- September 5, 2022

Hero MotoCorp Ltd.,

Regd. Office: The Grand Plaza, Plot No.2, Nelson Mandela Road,
Vasant Kunj - Phase -II, New Delhi - 110070, India
Tel. +91-11-46044220, Fax +91-11-46044399
HeroMotoCorp.com CIN: L35911DL1984PLC017354 PAN: AAACH0812J



1826

**BEFORE THE SPECIAL COURT
(TRIAL OF OFFENCES RELATING
TO TRANSACTIONS IN
SECURITIES) ACT, 1992**

MISC. APPLICATION NO.10 OF 2023

Smt. Jyoti H. Mehta ..Applicant

Versus

The Custodian & Ors. ..Respondents

ADDITIONAL AFFIDAVIT IN REPLY

Dated this 26th day of February 2024

/

**Jadeja & Satiya
Advocates for Respondent No.2**

1827

12 SPIA 2 OF 2024.doc

**IN THE SPECIAL COURT
(TRIAL OF OFFENCES RELATING TO TRANSACTIONS
IN SECURITIES) ACT, 1992**

**INTERIM APPLICATION NO.2 OF 2024
IN
MISC. APPLICATION NO.10 OF 2023**

Jyoti H. Mehta
versus
The Custodian and Ors.

... Applicant
... Respondents

Mr. Ashwin Mehta, for Applicant.
Mr. Hormaz Daruwalla, Sr. Advocate with Mr. J. Chandran i/by Ms. Shilpa Bhate, for Respondent No.1.
Mr. Kunal Mehta with Mr. Varun Satiya, Ms. Snigdha Mankar i/by Jadeja and Satiya for Respondent Nos.2 and 3.
Mr. Jehangir Khajotia for Respondent Nos.5, 8.1 and 9.1.

**CORAM: N.J.JAMADAR, J.
JUDGE, SPECIAL COURT**

DATE : 1 MARCH 2024

P.C.

1. Heard the learned Counsel for the parties.
2. This application is preferred seeking permission to amend Misc. Application No.10 of 2023 so as to implead Kalpana Jobalia as Party Respondent in her individual capacity as well in her character as a legal representative of late Jayesh Jobalia, seek further prayers and incorporate additional averments in the application.
3. Respondent Nos.2 has resisted the application by filing an affidavit in Reply. Respondent No.2 contends that the premise that the amendment has become

SSP

TRUE COPY

1/4

[Signature]
Advocate for Plaintiff, for the Applicant

necessary on account of discovery of new facts and material, is not correct and the application for amendment is also barred by principle of estoppel and doctrine of waiver. No justification is given in the application as to why the applicant is now proposing to implead Kalpana Jobalia despite having made a categorical statement that the applicant did not wish to proceed against the said Respondent.

4. Learned Counsel for Respondent No.2 canvassed submissions on the line of the contentions made in the affidavit in reply.

5. Learned Counsel for the Custodian submitted that having regard to the nature of the jurisdiction exercised by this Court, technical rules of procedure do not matter and if the presence of a party is necessary for the purpose of recovery of the attached assets, a party can be impleaded.

6. I have perused the averments in the application as well as the affidavit in reply tendered on behalf of Respondent No.2. The claim of the applicant is that the shares of Respondent No.2 which stand in the name of the members of the Jobalia Family are benami and in fact this Court has declared that the members of Jobalia family hold shares of Hero MotoCorp Ltd. - Respondent No.2, which actually stand in the name of late Harshad Mehta.

7. The principal prayer in Misc. Application No.10 of 2023 is to direct Respondent No.5 to 9.1, the members of Jobalia family to handover to the Custodian on behalf of late Harshad Mehta all benami shares and accruals received by them in all

the companies, including the Respondent No.2 - Hero MotoCorp Ltd. Directions are also sought to Respondent Nos.2, 3 and 4 to transfer all the shares and accruals held by Respondent Nos.5 to 9.1. in the Respondent No.2 Company to the Custodian for and on behalf of the estate of late Harshad Mehta by declaring them to be the attached property under Section 3 of the Special Court (Trial of Offences relating to Transactions in Securities) Act, 1992.

8. By the proposed amendment, the applicant seeks to add Kalpana Jobalia as party Respondent. It is asserted that the proposed Respondent also holds the attached shares of Hero MotoCorp Ltd.

9. In the circumstances of the case, the proposed amendment appears necessary for a just decision of the case. The presence of Kalpana Jobalia appears to be necessary for a complete and effective adjudication of the dispute. The additional averments proposed to be incorporated by way of amendment, also appear to be in the nature of elaboration of the claim in Misc. Application No.10 of 2023. The proposed amendment does not change the nature of the case originally pleaded. Nor it has the potentiality to cause prejudice to the Respondents.

10. Since the parties would have an opportunity to meet the case proposed to be set up by the applicant by way of amendment, no prejudice is likely to be caused if the amendment is allowed. I am, therefore, inclined to allow the application.

11. The applicant shall carry out necessary amendment within a period of

1830

12 SPIA 2 OF 2024.doc

one week from uploading of this order and serve a copy of the amended application on the Respondents within one week thereafter.

12. The Respondents who have already filed an affidavit in reply are at liberty to file the additional affidavit in reply to deal with the amended application within a period of three weeks thereof.

13. The Custodian is at liberty to file a composite affidavit in reply to deal with the application as amended pursuant to this order within a period of four weeks.

14. The application stands disposed.

(N.J.JAMADAR, J.)

1831

ASHWIN S. MEHTA
32 Madhuli Apartments, Dr. Annie Besant Road, Worli, Mumbai 400 018

1. Jadeja & Satiya,
1st Floor, Mistry Mension,
107, M.G. Road, Fort,
Mumbai 400 001.
Email id: @jadejasatiya.com

RECEIVED 04 October 2024
WITHOUT PREJUDICE & WITHOUT
NOTIFICATION OF THIS

14 OCT 2024

For JADEJA & SATIYA
@ ... Hrs. ON ... 10.55

2. Shilpa Bhate & Associate
Advocates for Custodian,
217, 2nd Floor, Rex Chamber,
W.H. Marg,
Ballard Estate,
Mumbai 400 001.
Email: shilpabhatelegal@gmail.com

SHILPA BHATE & ASSOCIATES *[Signature]*
217, 2nd Flr., REX Chamber *[Signature]*
W.H. Marg, Ballard Estate, *[Signature]*
Mumbai 400 001. *[Signature] 1:18*

Dear Sir/Madam,

Re: In the matter of MA 10 of 2023 being
Smt Jyoti H Mehta vs. Custodian

I am addressing this letter on behalf of my client Smt Jyoti Mehta who has asked me to address you as under:

- That in the above proceedings, your client Hero MotoCorp Ltd. has filed 2 affidavits being affidavit-in-reply on 01.09.2023 and additional affidavit on 24.06.2024 and your client Custodian has filed affidavit-in-reply on 26.03.2024.
- My client Smt Jyoti Mehta is aggrieved that your clients despite having legal obligations to do so have not brought on record the entire material and evidence in their possession on the record of Hon'ble Special Court in the above proceedings. It emerges that the crucial material and evidence which would be most relevant for adjudication of the above proceedings have been withheld and suppressed only in order to support the false case set up by your clients in their aforesaid affidavits.
- That admittedly in relation to the attached property belonging to Mehtas and even in respect of the attached shareholdings in Hero Honda Motors Ltd. held in the names of Jobalias the correspondence exchanged between the Custodian and Hero Honda Motors Ltd. and its Share Transfer Agent (STA) has not been brought on

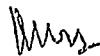
TRUE COPY

[Signature]
Advocate for Smt Jyoti H Mehta / Applicant

record which is creating impediments in recovery of attached properties of late Shri Harshad Mehta and his associate entities. Your clients are therefore requested to provide to my client the entire copies of the correspondence exchanged between the Custodian and Hero Honda Motors Ltd. and its STA so that the same can be placed before Hon'ble Special Court. Your clients are specifically called upon to provide copy of Custodian's letter dated 18.04.1994 addressed to Hero Honda Motors Ltd. which is cited in the subsequent letter dated 11.01.1995 a copy of which is enclosed at Exhibit A for ease of reference.

4. My client is entitled to the above on the ground that the same pertains to the attached property belonging to late Shri Harshad S Mehta and because by their notification Shri Harshad Mehta and his family members have not been divested of the right, title and interest in the attached property. That your client Custodian is bound to meet the request of my client so that the attached shares and accruals of Hero MotoCorp Ltd. which were required to be recovered by the Custodian standing in the names of Jobalias can atleast be recovered by my client Smt Jyoti Mehta.
5. That my client has produced in her additional affidavit dated 29.12.2023 a copy of letter dated 02.12.1999 addressed by MCS Ltd. the STA to Mr. Venugopal Bang a copy of which is enclosed at Exhibit B for ease of reference. In this regard your clients are called upon to provide to my client a copy of letter of Custodian dated 09.10.1999 cited in the above letter dated 02.12.1999 addressed in respect of purchase of 8325 shares and all other correspondence which has taken place in respect of the same. That MCS Ltd. has rejected the transfer of 50 shares standing in the name of Shri Jayesh D. Jobalia and retained the original share certificates.
6. Please note that since the matter is at an advance stage and the pleadings are required to be completed your clients are called upon to meet the above request within 72 hours upon receipt of this letter.

Yours truly,



(ASHWIN S. MEHTA)
Advocate
Encl : as above

EXHIBIT-A



ਪੰਜਾਬ ਦੀ ਕਾਰਤਿਗ | OFFICE OF THE CUSTODIAN) 6
 ਵਿਸ਼ੇਸ਼ ਚਾਹਾਲ ਦਸਤਖਤ (ਪ੍ਰਤੀਗੁਪਤ ਸੰਭਾਵਹਾਰ ਦਾ ਨਵਾਜ਼ਦੀ : THE SPECIAL COURT (Trial of offences relating to
 ਸਪਾਰਾਧ ਵਿਚਾਰਣ) ਅਧਿਨਿਯਮ, 1992.¹ transactions In Securities) Act, 1992.
 ਬੀਏਸੋ ਮੈਡਿਕ, ਵੇਂਕ ਆਂਕ ਦਾਰਾਵ ਮਨਜ਼ੂਰ, 3rd Floor, Bank of Baroda Bhawan,
 16, ਪਾਰਿਆਂਟ ਸ਼੍ਰੀ, 16, Parliament Street,
 ਨਵੀਂ ਦਿੱਲੀ-110001, NEW DELHI-110001
 ਫੋਨ : 3326836, 3327278, 3329231 | Phone : 3326836, 3327278, 3329231
 ਫੋਨ : 011-22111666, 011-22111667 | Phone : 011-22111666, 011-22111667

Read.

No. 222 / CUS/ATT/MA-53 // 94/987 (W-6)

To -The Company Secretary
HERO HONDA MOTORS LTD.
34 COMMUNITY CENTRE
BASANT LOK, VAIRAT VIHAR
NEW DELHI - PIN- 110057

Sir,

Sub: Updating list of benami shares submitted by Harshad Mehta to Special Court on 9th August 94.

Harshad S. Mehta, in his Affidavit dated 25th February 94 had submitted a list of Benami share holding in various companies which was forwarded to you, via this office letter No. 4151/Cus/Att/MA-S3 of 9/4/987-kw DATED 9TH/19th March 94.

He has now submitted an updated list of those shares to the Special Court on 7th August 94 (copy enclosed). You may kindly arrange to verify and confirm the share holdings indicated therein and discrepancies, if any, noticed may be pointed out to this office immediately.

You may also kindly arrange to note the instructions given in this office letter dated 9th/19th March 94 and furnish the additional information called for in this office letter No.285 / Cus/Att/MA-53/987 dated ~~15th~~ /18th April 94 to this office immediately in respect of shares and folios which were not listed in his earlier affidavit of 25th February 94.

Yours faithfully,

D. K. Roy Choudhury
(D. K. ROY CHOWDHURY)
OFFICER ON SPECIAL DUTY

Enclosure as above

TELE COPY

✓
W.W.-J.

1834



HERO HONDA

BHARTIEN R SHETH	137374	900
BHAVUSH H MODI	137311	750
BIPINBHAI D MODI	137312	850
CHHAYA H MODI	137313	750
DARSHANA BHUPENDRA AVALANI	136540	850
DURLABHAJI KABABHAI MODI	137314	750
HARESH SHANTILAL AVALANI	136541	750
HARESH SHANTILAL AVALANI	H136541	70
HARSHUKHLAL D MODI	137317	750
JAGDISH R SHETH	137318	100
JAYPRakash R SHETH	137377	900
KANCHANEN R MEHTA	137378	900
MACHHIDEN N MEHTA	137379	700
HEENABEN H MODI	137298	850
HEENABEN J SHETH	137320	700
HEENABEN J SHETH	137381	700
HEENABEN L MEHTA	137381	200
NILESH O. JOBALIA	137301	850
NILESH D. JOBALIA	136971	750
NILESH H MODI	H136971	50
RAJANI D. MODI	137322	750
	137323	850

1835



921

I37384
I37385
I37325
HH137325
I36542 ✓
I36543
I37326
I36541

FOLIO NO. QUANTITY SECOND HOLDER

RAJESH R SHETH	850
RAMANIKLAL V SHETH	850
REIKHABEN B MODI	700
REIKHABEN B MODI	15
REIKHABEN HARESH AVALANI	785
SARLABEN SHANTILAL AVALANI	200
SHANTABEN D MODI	750
SHANTILAL ODHAVJI AVALANI	700
Subtotal ***	20170

EXHIBIT-B

MCS LIMITED

S: VENKATESH BHAVAN, 212-A, Shahpurjali, New Delhi-110 049
Telephone 6494030 & Fax : 011-6494152MCS/HMML/129583/99
2nd December, 1999.

37

Mr. Venugopal Banerji,
C/o Ramkumar Venugopal
Masjid Manor, 2nd floor,
16 Homi-Mody Street,
Bombay 400023.

2

Re: Hero-Honda Motors Ltd - transfer of 50 shares, certificate
No. 375850 bearing dist nos. 33609293-342.

Dear Sir/Madam,

We are in receipt of the aforesaid share certificate alongwith relevant transfer deed lodged by you for transfer in your favour.

In this connection, we wish to inform you that we have received a letter No. 5343/CUS/BOM/HMG/MISSING SHARES /99 (1336-13) dated 9th October, 1999 from the OFFICE OF THE CUSTODIAN THE SPECIAL COURT (Trial of offences relating to transaction in Securities) Act, 1992 alongwith a list regarding purchase of 8325 shares by notified parties (HARSHAD MEHTA GROUP) subsequently lost by them. (copy of the letter is enclosed for your reference).

In their above letter they required from us/company the details of accrued benefits such as dividend, bonus, right paid/issued in respect of shares mentioned in aforesaid letter/list to be submitted to the special court for necessary direction. Also as per their letter all the shares held by the notified entities can be dealt with only by the Custodian as per direction of the Special Court.

Please note that the above share certificate(s) constitute the bonus shares issued by the company during the year 1998 against share certificate No 3743 which is appearing in the list sent by them.

In view of the above circumstance, we are sorry to inform you that we cannot take any action pertaining to the alleged shares and therefore we are enclosing herewith photocopies of share certificate as well as transfer deed for your further action.

Please note that the original Share are
delivered with us

Thanking you,

Yours faithfully,
For MCS LIMITED

JOHN MATHEW
MANAGER

encl: as above.

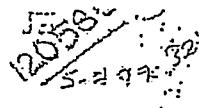
R. N. S. (NIVRAJ STEPHEN SAWANT), Dated No. 27, Serial No. 11, MCS (M.G.), All India

/ Name _____/Applicant

1837



(29/05/79)	942
16. PANDIT Registrar of Companies Mumbai, Mumbai	



Date of presentation to the Prescribed Authority

[Pursuant to section 104(1A) of the Companies Act, 1956]

FOR THE CONSIDERATION stated below the Transferor(s) named do hereby transfer to the Transferee(s) named the shares specified below subject to the conditions on which the said shares are held by the Transferor(s) and Transferee(s) do hereby agree to accept and hold the said shares subject to the conditions aforesaid.

FULL NAME OF COMPANY	NAME OF THE RECOGNISED STOCK EXCHANGE WHERE DEALT IN, IF ANY
HERO HONDA MOTORS LTD.	Tel. BOMBAY Stock Exchange

DESCRIPTION OF EQUITY/PREFERENCE SHARES		
No. in Figure 1 50	Number in Words FIFTY	Consideration (in figures) 62800/-
Consideration (in words) Sixty two thousand eight hundred		

Distinctive numbers	From 3360 9213	To 9342
Corresponding Certificate No.	875550	

TRANSFEROR(S) (SELLER(S)) PARTICULARS	
Name(s) in Full	Regd. Name(s) in Full H.H. 137757
1. <u>JAYETH D. SHOBHA</u>	Signature(s) 1. <u>Jayesh D. Jobaria</u>
2. _____	2. _____
3. _____	3. _____
4. _____	4. _____

ATTESTATION	
I hereby attest the Signature of the Transferor(s) herein mentioned	
Signature	
Name:	<u>Ashwin D. Jobaria</u>
Address/Seal	
* Please see overleaf Instructions	
Signature of Witness	
<u>M. L. B.</u>	
Name & Address of Witness	
<u>M. L. B., Chhat B.</u>	
D.T. GANDHI SERVICING CENTRE	
29, B.G. Trade Centre	
Panvel, BHRAPUR 410201.	
Pin _____	

TRANSFeree(S) (BUYER(S)) PARTICULARS	
Name(s) in Full	Signature(s)
1. <u>VENUGOPAL BANG</u>	1. <u>Venugopal Bang</u>
2. _____	2. _____
3. _____	3. _____

OCCUPATION	ADDRESS	FATHER'S/HUSBAND'S NAME
1. BUSINESS		
2. _____	11, S. N. MANDIR, ENFIELD	_____
3. _____	13, R. M. T. C. - 200	_____

Transferor(s) existing Folio If any, in some Order of Names	Value of Stamps affixed Rs. 31/-
--	--

DATED this 21 day of July One Thousand Nine Hundred 79

PLACE BOMBAY

For office use only:

Checked by _____
Signature attested by _____
Entered in Register of Transfer No. _____
Approval Date _____

Folio	Company Code
Signature of Transferor(s)	1. <u>Venugopal Bang</u>
Signature of Transferee(s)	2. _____
Signature of Stamp Distributor	3. _____

Q43

15/ 22 REGD NO 36640

HERO HONDA

HERO HONDA MOTORS LIMITED

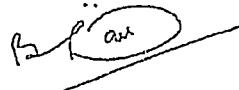
(Incorporated under the Companies Act, 1956.)
Registered Office : 34, Community Centre, Basant Lok, Vasant Vihar, New Delhi-110 057.
Dividend Entitlement Period W.E.F. 26.09.96
For the Financial Year 1998-99

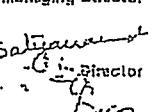
THIS IS TO CERTIFY that the person(s) named in this Certificate is/are the Registered Holder(s) of the within mentioned Share(s) bearing the distinctive number(s) herein specified in the above Company subject to the Memorandum and Articles of Association of the Company and that the amount endorsed hereon has been paid up on each such share.

EQUITY SHARES EACH OF	RUPEES TEN
AMOUNT PAID UP PER SHARE	RUPEES TEN

Regd. Folio No. HH 137757	Certificate No. 375250
Name(s) of Holder(s) JAYESH D JOSALIA	
No. of Share(s) held FIFTY	50*
Distinctive No.(s) 33609293- 33609342	

GIVEN under the Common Seal of the Company at New Delhi, This 28th Day of September 1996


 Chairman and Managing Director


 Saligumaral
 Director


 Company Secretary/Authorised Signatory

Note: No transfer of any of the Share(s) mentioned in this certificate will be registered unless accompanied by the Certificate

1839

944



Continuation of front page (Herein enter the Distinctive numbers when the space on the front page is found to be insufficient)

Distinctive Numbers	From					
	To					
Corresponding Certificate Nos.						

* INSTRUCTIONS FOR ATTESTATION :-

Attestation, where required (Name, Involution, mark, signature difference, etc.) should be done by a Magistrate, Notary Public or Special Executive Magistrate or a similar Authority holding a Public Office and authorized to use the Seal of his office or a member of a recognised Stock Exchange through whom the shares are introduced or a manager of the transferor's bank.

NOTE : Names must be rubber stamped in a straight line. Chronological order should be maintained. Broker's Clearing Number should be stated when delivery is given by a Clearing Member firm.

Name of Delivery Broker or Clearing Number	Date
D. T. Gandhi Securities Centre, SEBL Regd. No. INS-010243413	
JANMIL SECURITIES & INVESTMENT PVT. LTD	
19 OCT 1999	
C.G. NO-144 MUMBAI REGD. NO. INBO13895530	
SRIKANT G. MANTRI (SOM.) CL. No. 738/SEBI REG. No. 14100023210	
SRIKANT G. MANTRI (SOM.) CL. No. 738/SEBI REG. No. 14100023215	
A.C.S. LTD. NEW DELHI	
29 OCT 1999	
RECEIVED	

POWER OF ATTORNEY PROBATE DEATH CERTIFICATE

LETTERS OF ADMINISTRATION

Registered with the Company

No. _____ Date _____

[Signature (not initials) of Broker, Bank, Company or
Stock Exchange Clearing House]

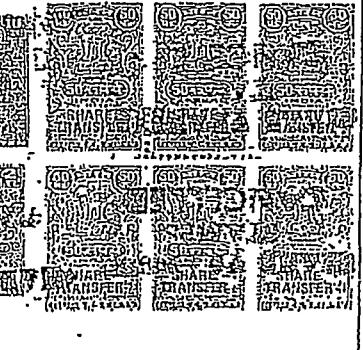
LODGED BY

FULL ADDRESS RANKUMAR VENUGOPAL
MASJID MANOR-2ND FLOOR
16, HORN MODY STREET,
BOMBAY 400 023.

SHARE CERTIFICATES TO BE RETURNED TO
(Fill in the name and address to which the
Certificates are required to be returned)

NAME & ADDRESS

SHARE TRANSFER STAMPS



* To be filled only if the documents are lodged by a person other than the Transferor

Printed for the Stock Exchange, Bombay

-A-

1840



BEFORE THE SPECIAL COURT (CONSTITUTED UNDER
SPECIAL COURT TRIAL OF OFFENCES RELATING TO
TRANSACTION IN SECURITIES) ACT 1992 AT BOMBAY

MISC. APPLICATION NO. 217 OF 2010

IN

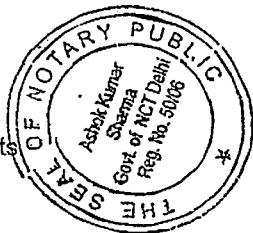
MISC. APPLICATION NO. 83 OF 2006



Ketan Mathuradas Chatwani ...Applicant

Versus

The Custodian & Ors. ...Respondents

FURTHER AFFIDAVIT OF THE RESPONDENT NO. 2 TO THE REJOINDEROF THE APPLICANT ABOVENAMED

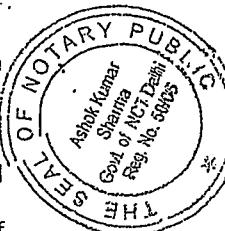
I Mayank Goel, the Senior Manager – Legal and Secretarial of Respondent No.2 having my office at 34, Community Centre, Basant Lok, Vasant Vihar, New Delhi -110 057, do hereby solemnly affirm and state as under:-

1. I say that, I have gone through the copy of Rejoinder of the Applicant alongwith the Annexures filed therewith by the Applicant and I am filing further Affidavit to the Rejoinder filed by the Applicant and I have to state as under.
2. I say that being the Sr. Manager of Respondent No. 2 Company, I am conversant with the facts of the case and I am competent and authorized to swear the present affidavit on behalf of the Respondent No. 2 and from the records of the Respondent No. 2, I submit as under.
3. At the outset, I repeat and reiterate what has been stated in my Affidavit in Reply dated 2nd April, 2011 and once again deny all the averments, allegations and contentions of the Applicant in his Rejoinder and I reaffirm the contentions of Respondent No. 2 in the aforesaid Affidavit in Reply.

TRUE COPY

Advocate Mr. P. D. Patil, M.A., LL.B., A.I.L.S.

4. I say that the Applicant in absence of being able to produce requisite documents for certification about the ownership of the title of the suit shares is merely trying to wriggle out of the same and making false and frivolous allegations against this Respondent and its officers.
5. Without prejudice to above I give the parawise reply to the Rejoinder of the Applicant as hereunder:-
- With reference to para 1 of the rejoinder, I say that it is a matter of record and needs no reply.
 - With reference to para 2 of the rejoinder, this Respondent denies the allegations and say that the respondent No. 2 company has acted in a bonafide manner and the question of illegality does not arise.
 - With reference to para 3 of the rejoinder, the contents of the same are accepted except for the fact that though the then Registrar i.e. MCS Limited. had dispatched the Bonus shares to the notified parties immediately thereafter as a prudent measure of recourse/duty of the company, the Company had written letters/reminders to the Respondent No. 17 to not to deal with the same in any manner whatsoever and return the benefits of the said shares so released, as they belong to the benami holdings of Harshad Mehta Group entities. A copy each of the said letter(s) has been annexed alongwith as Exhibit – I, II & III. I therefore say that the Respondent no. 17 was not authorized to deal with the said shares as they were benefits of the property already parted with and in view of such reminders by the Company the entire responsibility was of respondent 17 and not of the Company as alleged by the applicant. This was the originating point of the introduction of the said shares in the market channel in which the applicant is considering himself aggrieved. I say that the Respondent No.2 company in view of the embargo by the custodian did not affect the transfer of said shares and refused the

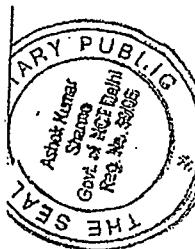


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same on their lodgment in the month of December 1996 by the Respondent no. 26. This was done so that the system of bad delivery takes care of the same and the shares reach to the seller or the introducer in the market i.e. "S K Portfolio Service" in this particular case. Further S K Portfolio should also have been impleaded as the proper and necessary party to the above Application, which the Applicant does not desire to do the same for reasons best known to him. However in case the introducer is different from the seller, then the matter solely lies between the introducer and the seller and not with the Company as alleged by the applicant. It is not clear why "Piyush B Virani" has been impleaded as the party to the above Application whereas his name does not appear anywhere on the reverse of the transfer deed lodged with the Company. I further say that the Applicant has tried to portray itself as the affected party without producing any legitimate documents of ownership of title to the suit shares. I say that incase he is the real affected party as an intermediary in the said channel, he has to prove the same before the Hon'ble Court and it is for the Hon'ble Court to decide as to how he has suffered loss due to the company in the said channel and on what account.

This Respondent puts the Applicant to strict proof as to why he has failed to approach the introducer/seller of the said shares and instead placing the entire onus on the Company for everything happened in the channel, whereas the Company does not stand anywhere in the market channel and moreover is only a proforma party to the above application. The company has never failed in its duties and transferred the said shares in the name of the Custodian.

- d. With reference to para 4 of the Rejoinder, the applicant himself admits that he has received the shares from the market but has not clarified from whom. It is also pertinent to note that admittedly the

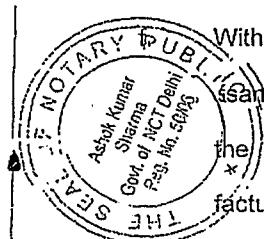


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Applicant has not produced legally acceptable evidence/ legitimate documents of ownership to the custodian like Contract notes and relevant proof as stated in the report submitted by the custodian in this Hon'ble Court. This Respondent No.2 denies the allegation of Contempt of Court as falsely alleged by the Applicant. Moreover it is the Respondent No. 17 who should not have dealt with or not introduced or sold the said shares back into the market despite having no authorization to deal with the same and having necessary direction in this regard by the Respondent No. 2 Company by way of its various letters / reminders issued to the Respondent 17. Finally the entire suffering to the applicant as alleged by him is solely on the basis of his transactions in the market and not by the company. The Hon'ble Court may direct him to follow the market mechanism or approach the seller for the recovery of his alleged loss, rather than blaming the Respondent No. 2 Company, which is just a proforma party in the said proceedings. He is unjustifiably wasting the valuable time of this Hon'ble Court and harassing the Respondent No. 2 Company and its officials by filing the Applications/Rejoinders/Letters to the Respondent No. 2 Company.

- e. With reference to para 5 of the Rejoinder, the contents are not related to the answering respondent and therefore needs not reply.



With reference to para 6 of the Rejoinder, for the sake of brevity the same is not repeated as the reply of the same has been given in the foregoing paragraphs. Further it is submitted that the only factual status was mentioned. The whole transaction being a market dealing, it is still not clear how the Company can be made responsible for the misdeeds of the applicant. Rests of the averments made by the applicant are denied.

- g. With reference to para 7, the averments made by the applicant are denied. However it is to be submitted that if the whole matter lies

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5

between custodian and the applicant and furthermore the shares were fall out of the market transactions as admitted by the applicant himself in para 4 of the Rejoinder, then the allegations made on the Company are totally baseless and unwarranted. The fact is that the suit shares stands transferred in the name of the custodian.

- h. With reference to para 8 of the Rejoinder, this Respondent denies the allegations made in the para under reply as Respondent No. 2 is not responsible for the transactions done by the Applicants in the matter.
- i. With reference to para 9, the contents are denied.
- j. With reference to para 10, it is reiterated that the necessary proof of purchase of the said suit shares has not been provided/furnished to the Custodian, as can be seen from the Report of the Custodian and therefore certification application of the Applicant is liable to be dismissed with costs.
- k. With reference to para 11, we may draw the attention of the Hon'ble Court towards the fact that the Applicant in his Misc. Application No.80 of 2006 at page no. 23 has annexed the said letter dated 09.03.1994/23.03.1994. A copy of the same is annexed as Exhibit B thereto. Further it is pertinent to mention here that the Respondent No.3 the then Registrar of the Respondent No.2 company has already transferred the said suit shares inclusive of the corporate benefits thereon on July 11, 2003 in favour of Custodian A/c. Harshad Mehta Group Benami Shares vide Folio No.HH0161169 and the said shares were further demated on 6th August, 2003.
- l. With reference to para 12, it is clarified that the company has acted in accordance with law and in a bonafide manner in refusing the transfer of shares lodged by Respondent No.26. Further with respect to transaction of the Applicant as the same does not pertain to the answering respondent therefore no reply is required. Further



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with respect to the other averments the same has already been explained hereinabove and are not repeated for the sake of brevity.

Rest of the contents are denied.

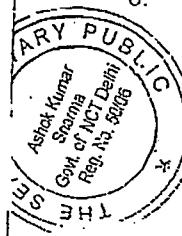
- m. With reference to para 13, it is again clarified that the Respondent No.2 Company/Respondent No.3 have acted in accordance with law and in a bonafide manner in informing the Respondent No.17 to not to deal with or introduce or sell the said shares back into the market by way of its various letter/reminders. I say that, any alleged claim in respect of suit shares of the Applicant is only against the Respondent No.17 and this Respondent is not at liable as falsely alleged. I further say that, this Respondent has not made any false statement on oath as alleged. Hence no question of perjury arises.

Rest of the contents of the para under reply is denied.

- n. With reference to para 14 of the Rejoinder, it is clarified that the company has acted in accordance with law and in a bonafide manner. However the Applicant himself was not able to satisfy the requirements of the BSE and are putting false and baseless allegations on the Company. Therefore he should be put to strict proof thereof.

- o. With reference to para 15 of the Rejoinder, I say that, the whole matter lies between custodian and the applicant and in view of the unwarranted allegations made on the Company, the question of intervention by the Respondent No.2 is fully justified. Further it is to be noted that the officials of the Respondent No.2 are fully authorized to deal with the matter related to the Company and accordingly the deponent has acted in accordance with the powers vested in him by the Company and no question of any deposition by any particular official is warranted.

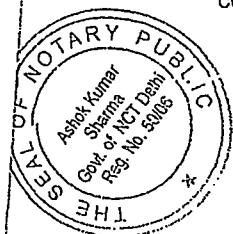
- p. With reference to para 16 to 21 of the Rejoinder refusing to transfer of the suit shares lodged by Respondent No.26 on the basis of the letter dated March 9, 1994, so that the necessary market recourse.



2

Further with respect to transaction of the applicant as the same does not pertain to the answering Respondent therefore no reply is required. Further with respect to the other averments the same has already been dealt with aforesaid paragraph and therefore are not repeated for the sake of brevity. Rest of the contents are denied. I further say that, the Respondent No.2 has acted in accordance with law. Moreover, the transaction was never routed thorough Respondent No.28, 29 and 30 and therefore the Applicant be put to strict proof for the same.

6. I humbly say and submit that, there is not cause of action against this Respondent has not in the matter of certification and therefore there is not question of granting any reliefs to the Applicant against the Respondent in the matter. I therefore humbly submit that, the above Application filed by the Applicant may be dismissed with cost.



Dated this 21st day of September, 2011

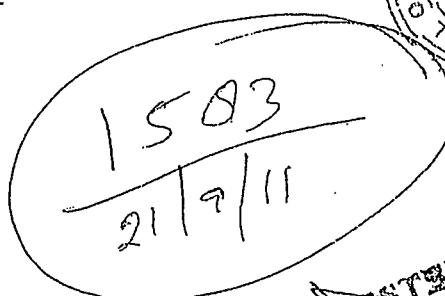
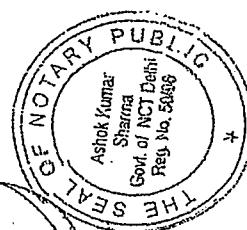
Solemnly affirmed at Delhi)

On this 21st day of September 2011)

Before me,

For Akshar Laws,

Armen H. Mehta,
(Proprietor)
Advocates for the Respondent No.2



APPROVED

Exhibit I

8



MCS Limited

SRIVENKATESH BHAVAN, 212-A, Shalimar Bagh, New Delhi-110 049
 Telephone : 011-6494030 • Telex : 031-71448 MCSD IN • Fax : 011-6494152

MC/HML/98
 March 06, 1998

Meenaben H Modi
 Jawahar Society Street No.3
 Bhavnagar Krupa Upleta
 Gujarat 360049

Unit: Hero Honda Motors Limited
 Polno No. 137320

- Subj: 1. Stop transfer advice received from the Custodian The Special
 Court (Torts)
 2. Benami holding of Harshad Mehta Group

Dear Sir,

We refer to our earlier letter dt. 18.11.96 and subsequent reminder
 dt. 20.9.97 (copies enclosed) which till date remain unanswered by you.

Once again we request you to return the benefits declared after the
 date of notification i.e. 9.6.92.

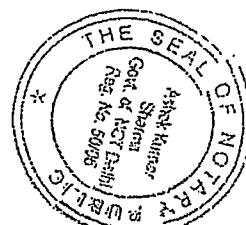
Thanking you,

Yours faithfully,
 For MCS LIMITED

Dipak
 AUTHORIZED SIGNATORY

CC: Hero Honda Motors Ltd
 New Delhi

For information only



ATTACHMENT
2/2

Exhibit-II"

9

MC/HHML/92
AUG 20.1997

Meenaben H Modi
Jawahar Society Street No.3
Hawani Krupa Upseta
Gujarat 360490

Unit: Hero Honda Motors Limited-Folio No.137320

Subill Stop transfer advise received from the Custodian (Special Court (Torts)).

Benami holding of Harshad Mehta Group

Dear Sir,

With reference to the aforesaid, we had received a letter dt.9.3.94 from the Custodian, the Special Court (Torts) whereby the holding in above folio standing in your name is claimed by the custodian as Benami property of Harshad Mehta Group and the same was communicated to you vide our letter dt.18.11.94. Despite the aforesaid letter, you are yet to return the benefits declared after the date of notification i.e. B.6.92. Vide this reminder, we again request you to return the benefits released to you which are also detailed in the annexure hereto. The same may be referred to page no. 202.

Thanking you for your early action in this regard, we remain,
Yours faithfully,
For, MCS LIMITED

Linzen PA
AUTHORIZED SIGNATORY
We are not in a position to furnish any information
regarding the legal status of the unit in the hands of
GCs, Hero Honda Motors Ltd., as we are not in possession of
any information regarding the same. We can only furnish
information as per the records available with us. We are
not in a position to furnish any information regarding
the same due to the fact that we are not in a position to furnish
any information as per the records available with us.

Very sincerely

RECORDED IN THE OFFICE OF THE
REGISTAR OF CIVIL PLEAS

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IN THE OFFICE OF THE
REGISTAR OF CIVIL PLEAS
RECORDED IN THE OFFICE OF THE
REGISTAR OF CIVIL PLEAS

ATTESTED

Public Record Office
2 W M



Exhibit III

10

MC/HHML/96
NOV 18, 1996

Meenaben H Modi
Jawahar Society Street No.3
Bhawan Krupa Upleta
Gujarat 360490

Unit: Hero Honda Motors Limited-Folio No.137328

Subject: Stop transfer advise received from the Custodian-The Special Court (Torts)

Re: Benami holding of Harshad Mehta Group

Dear Sir,

With reference to the aforesaid, we have received a letter from The Custodian, The Special Court (Torts), (copy enclosed). As per the terms of the letter, your shares in the abovementioned folio form part of the benami holding of Harshad Mehta Group entities. Since the shares are to be detained as per the orders of the Special Court, you are requested to not to deal in these shares in any manner whatsoever. Further, you have been released the benefits of the aforesaid shares declared in the year 1992-93, 1993-94, 1994-95, 1995-96. As per the claim of the Custodian, these shares are the property of Harshad Mehta Group and after his notification vest with the Custodian. Therefore, whatever benefits declared after the date of notifications, 8.6.97, vest with the Custodian. Vide this letter, we request you to return the benefits released to you in the preceding years. The details of the benefits released to you is enclosed herewith as annexure to this letter. We enclose a copy of the letter to you.

Thanking you, etc.

Yours faithfully,
For MCS LIMITED

[Signature]
AUTHORISED SIGNATORY
CC: Hero Honda Motors Ltd
New Delhi
For information only

Attest
Date: 18/11/96
Place: Mumbai
Signature: [Signature]

ATTESTED
G. D. Patel
21

1850

IN THE HIGH COURT OF JUDICATURE
AT BOMBAY

ORDINARY ORIGINAL CIVIL
JURISDICTION

MISC. APPLICATION NO. 188 OF 2000

Ketan Mathurdas Chatwani

...Applicant

Versus

The Custodian & Ors

...Respondent

FURTHER AFFIDAVIT OF THE
RESPONDENT NO. 2 TO THE
REJOINDER OF THE
APPLICANT ABOVENAMED

Dated this 21st day of September 2011

AKSHAR LAWS,
Advocates for the Respondent No.2
3AB, Lentin Chambers.
4th Floor, 36, Dalai Street,
Fort,
Mumbai- 400 023.

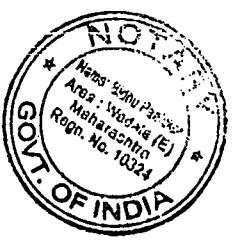


Chart showing prayers made by the Applicant in MA 106 to 113 of 2007.

Sr. No.	MA No. & Parties	Prayers made by Applicants
	MA 106 of 2007 Smt. Jyoti H. Mehta VS. FFSL &Ors	<p>a. Be pleased to direct the Respondent No.2 (Custodian) to file complete status report in respect of the shares of (1) Great Eastern Shipping Co. Ltd, (2) Reliance Industries Ltd, and (3) Sesa Goa Ltd as cited in the application disclosing the documents and facts about their registration and recovery of all accrued benefits thereon from Respondent No.1 (FFSL) in favour of the Applicant's late husband Shri Harshad S Mehta.</p> <p>b. Be pleased to direct the Respondent No.2 (Custodian) to cause recovery of all the accrued benefits received by the Respondent No.2 (Custodian) on the shares handed over by late Shri Harshad S Mehta as described in the present application and comply with the orders of this Hon'ble Court in MA No.332 of 2003.</p> <p>c. Be pleased to direct the Respondent No.2 (Custodian) to charge interest @ 18% p.a. on monies utilized by Respondent No.1 (FFSL) on account of benefits received on the shares cited in the present application until the actual date of payment of interest.</p> <p>d. Be pleased to direct the Respondent No.2 (Custodian) to disclose whether the said shares together with accrued benefits thereon are forming part of the asset and liability chart in M.P No.41 of 1999 and are forming part of the asset base in the report No. 15 dated 30.06.2006 filed by the Respondent No.2 for distribution of the assets of late Shri Harshad S Mehta.</p> <p>e. Be pleased to direct Respondent No.1 (FFSL) to disclose whether they are recipients of any accrued benefits on the shares disclosed and handed over by late Shri Harshad S Mehta in his letter dated 26.10.1994 and if so, to direct them to handover the same to the Respondent No.2 (Custodian) on behalf of the Applicant's late husband Shri Harshad S Mehta.</p> <p>f. Be pleased to direct the Respondent Nos 3 to 5 (GESCO, RIL, SESA Goa Ltd.) to make complete disclosure about the benefits given in respect of shares in respect of three companies cited in the present application and place all data, documents and record pertaining to the same before this Hon'ble Court.</p> <p>g. Be pleased to direct the Respondent No.2 (Custodian) to grant complete inspection to the Applicant and meet all the requests made by the Applicant in regard to the queries on assets and liabilities of the Applicant's late husband Shri Harshad S Mehta as and when a request is made to that effect by the Applicant.</p> <p>h. Be pleased to direct the Respondent No.2 (Custodian) to keep the Applicant informed on a regular basis by endorsing copies of each and every communication which pertains to the asset and liability of the Applicant's late husband Shri Harshad S Mehta.</p> <p>i. Be pleased to direct the Respondent No.2 (Custodian) to take urgent steps for recovery of all the benefits of rights, bonus shares on the said rights shares as well as bonus shares issued by Respondent No.5 (SESA Goa Ltd) company and get them transferred into the account designated by this Hon'ble Court for this purpose to enable the Applicant to avail the ensuing open offer of shares.</p> <p>j. Any other just and equitable orders are passed in the interest of justice.</p>

2	MA 107 of 2007 Smt. Jyoti H. Mehta V/s. HitenDalal&Ors	<p>a. Be pleased to direct the Respondent No.2 (Custodian) to file complete status report in respect of the shares of Reliance Industries Ltd as cited in the application disclosing the documents and facts about their registration and recovery of all accrued benefits thereon from Respondent No.1 (HitenDalal) in favour of the Applicant's late husband Shri Harshad S Mehta.</p> <p>b. Be pleased to direct the Respondent No.2 to cause recovery of all the accrued benefits received by the Respondent No.2 on the shares handed over by late Shri Harshad S Mehta as described in the present application and comply with the orders of this Hon'ble Court in M.A No.332 of 2003.</p> <p>c. Be pleased to direct Respondent No.2 to charge interest @ 18% p.a. on monies utilized by Respondent No.1 on account of benefits received on the shares cited in the present application until the actual date of payment of interest.</p> <p>d. Be pleased to direct the Respondent No.2 to disclose whether the said shares together with accrued benefits thereon are forming part of the asset and liability chart in M.P No.41 of 1999 and are forming part of the asset base in the report No. 15 dated 30.06.2006 filed by the Respondent No.2 for distribution of the assets of late Shri Harshad S Mehta.</p> <p>e. Be pleased to direct Respondent No.1 to disclose whether they are recipients of any accrued benefits on the shares disclosed and handed over by late Shri Harshad S Mehta in his letter dated 26.10.1994 and if so, to direct them to handover the same to the Respondent No.2 on behalf of the Applicant's late husband Shri Harshad S Mehta.</p> <p>f. Be pleased to direct the Respondent No.3 (RIL) to make complete disclosure about the benefits given in respect of shares in respect of its company cited in the present application and place all data, documents and record pertaining to the same before this Hon'ble Court.</p> <p>g. Be pleased to direct the Respondent No.2 to grant complete inspection to the Applicant and meet all the requests made by the Applicant in regard to the queries on assets and liabilities of the Applicant's late husband Shri Harshad S Mehta as and when a request is made to that effect by the Applicant.</p> <p>h. Be pleased to direct the Respondent No.2 to keep the Applicant informed on a regular basis by endorsing copies of each and every communication which pertains to the asset and liability of the Applicant's late husband Shri Harshad S Mehta.</p> <p>i. Any other just and equitable orders are passed in the interest of justice.</p>
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3	MA 108 of 2007 Smt. Jyoti H. Mehta Vs. DMPL &Ors	<p>a. Be pleased to direct the Respondent No.2 (Custodian) to file complete status report in respect of the shares of (1) Associated Cement Co, Ltd, and (2) Reliance Industries Ltd, as cited in the application disclosing the documents and facts about their registration and recovery of all accrued benefits thereon from Respondent No.1 (DMPL) in favour of the Applicant's late husband Shri Harshad S Mehta</p> <p>b. Be pleased to direct the Respondent No.2 to cause recovery of all the accrued benefits received by the Respondent No.2 on the shares handed over by late Shri Harshad S Mehta as described in the present applicationand comply with the orders of this Hon'ble Court in M.A No.332 of 2003.</p> <p>c. Be pleased to direct Respondent No.2 to charge interest @ 18% p.a. on monies utilized by Respondent No.1 on account of benefits received on the shares cited in the present application until the actual date of payment of interest.</p> <p>d. Be pleased to direct the Respondent No.2 to disclose whether the said shares together with accrued benefits thereon are forming part of the asset and liability chart in M.P No.41 of 1999 and are forming part of the asset base in the report No. 15 dated 30.06.2006 filed by the Respondent No.2 for distribution of the assets of late Shri Harshad S Mehta.</p> <p>e. Be pleased to direct Respondent No.1 to disclose whether they are recipients of any accrued benefits on the shares disclosed and handed over by late Shri Harshad S Mehta in his letter dated 26.10.1994 and if so, to direct them to handover the same to the Respondent No.2 on behalf of the Applicant's late husband Shri Harshad S Mehta.</p> <p>f. Be pleased to direct the Respondent Nos.3 (ACC) and 4 (RIL)to make complete disclosure about the benefits given in respect of shares in respect of two companies cited in the present application and place all data, documents and record pertaining to the same before this Hon'ble Court.</p> <p>g. Be pleased to direct the Respondent No.2 to grant complete inspection to the Applicant and meet all the requests made by the Applicant in regard to the queries on assets and liabilities of the Applicant's late husbandShri Harshad S Mehta as and when a request is made to that effect by the Applicant.</p> <p>h. Be pleased to direct the Respondent No2 to keep the Applicant informed on a regular basis by endorsing copies of each and every communication which pertains to the asset and liability of the Applicant's late husband Shri Harshad S Mehta.</p> <p>i. Any other just and equitable orders are passed in the interest of justice.</p>
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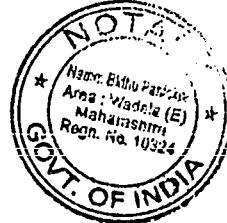
4	MA 109 of 2007 Smt. Jyoti H. Mehta V/s. Pallavseth&Ors.	<p>a. Be pleased to direct the Respondent No.2 (Custodian) to file complete status report in respect of the shares of Sesa Goa Ltd as cited in the application disclosing the documents and facts about their registration and recovery of all accrued benefits thereon from Respondent No.1 (Pallav Seth) in favour of the Applicant's late husband Shri Harshad S Mehta.</p> <p>b. Be pleased to direct the Respondent No.2 to cause recovery of all the accrued benefits received by the Respondent No.2 on the shares handed over by late Shri Harshad S Mehta as described in the present application and comply with the orders of this Hon'ble Court in M.A No.332 of 2003.</p> <p>c. Be pleased to direct Respondent No.2 to charge interest @ 18% p.a. on monies utilized by Respondent No.1 on account of benefits received on the shares cited in the present application until the actual date of payment of interest.</p> <p>d. Be pleased to direct the Respondent No.2 to disclose whether the said shares together with accrued benefits thereon are forming part of the asset and liability chart in M.P No.41 of 1999 and are forming part of the asset base in the report No. 15 dated 30.06.2006 filed by the Respondent No.2 for distribution of the assets of late Shri Harshad S Mehta.</p> <p>e. Be pleased to direct Respondent No.1 to disclose whether they are recipients of any accrued benefits on the shares disclosed and handed over by late Shri Harshad S Mehta in his letter dated 26.10.1994 and if so, to direct them to handover the same to the Respondent No.2 on behalf of the Applicant's late husband Shri Harshad S Mehta.</p> <p>f. Be pleased to direct the Respondent No.3 to make complete disclosure about the benefits given in respect of shares in respect of its company cited in the present application and place all data, documents and record pertaining to the same before this Hon'ble Court.</p> <p>g. Be pleased to direct the Respondent No.2 to grant complete inspection to the Applicant and meet all the requests made by the Applicant in regard to the queries on assets and liabilities of the Applicant's late husband Shri Harshad S Mehta as and when a request is made to that effect by the Applicant.</p> <p>h. Be pleased to direct the Respondent No.2 to keep the Applicant informed on a regular basis by endorsing copies of each and every communication which pertains to the asset and liability of the Applicant's late husband Shri Harshad S Mehta.</p> <p>i. Be pleased to direct the Respondent No.2 to take urgent steps for recovery of all the benefits of rights, bonus shares on the said rights shares as well as bonus shares issued by Respondent No.3 (Sesa Goa) company and get them transferred into the account designated by this Hon'ble Court for this purpose to enable the Applicant to avail the ensuing open offer of shares.</p> <p>j. Any other just and equitable orders are passed in the interest of justice.</p>
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5	MA 110 of 2007 Smt. Jyoti H. Mehta Vs. SESA Goa Ltd&Ors	<p>a. Be pleased to direct the Respondent No.1 (Sesa Goa Ltd) to disclose the status in respect of the above rights shares kept in abeyance and also clarify whether 4,48,980 shares disclosed in M.A No.53 of 1994 includes the bonus shares issued in the ratio of 1:1 in the year 1993 by the Respondent No.1 company.</p> <p>b. Be pleased to direct the Respondent No.2 (Custodian) to give status report to this Hon'ble Court as to the steps taken by them in respect of subscription to the rights issue of shares kept in abeyance by this Hon'ble Court and in causing recovery of all accrued benefits both prior to the said rights issue and post the rights issue of shares as disclosed by the Applicant in her letter dated 26.02.2007 being Exhibit C to the present application.</p> <p>c. Be pleased to direct the Respondent No.2 to cause complete recovery of the attached assets and take steps to subscribe to the rights shares in the event no steps have been taken by the Respondent No.2.</p> <p>d. Be pleased to sanction release of an amount of Rs.44,39,800/- towards subscription of 44,898 shares out of the separate account maintained in the name and style of Custodian A/c - HMG - Benami shares maintained at State Bank of Mysore.</p> <p>e. Be pleased to direct Respondent Nos.1 to allot the shares upon subscription and thereafter to grant all the accruals on the said rights shares inclusive of bonus shares issued by the company in the year 2004.</p> <p>f. Be pleased to direct the Respondent No.2 to disclose whether the said Sesa Goa shares together with accrued benefits thereon are forming part of the asset and liability chart in M.P No.41 of 1999 and are forming part of the asset base in the report No. 15 dated 30.06.2006 filed by the Respondent No.2 for distribution of the assets of late Shri Harshad S Mehta.</p> <p>g. Be pleased to direct the Respondent No.2 to grant complete inspection to the Applicant and meet all the requests made by the Applicant in regard to the queries on assets and liabilities of the Applicant's late husband Shri Harshad S Mehta as and when a request is made to that effect by the Applicant.</p> <p>h. Be pleased to direct the Respondent No.2 to keep the Applicant informed on a regular basis by endorsing copies of each and every communication which pertains to the asset and liability of the Applicant's late husband Shri Harshad S Mehta.</p> <p>i. Be pleased to direct the Respondent No.2 to take urgent steps for recovery of all the benefits of rights, bonus shares on the said rights shares as well as bonus shares issued by Respondent No.1 company and get them transferred into the account designated by this Hon'ble Court for this purpose to enable the Applicant to avail the ensuing open offer of shares.</p> <p>i. Any other just and equitable orders be passed in the interest of justice</p>
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6	MA 111 of 2007 Smt. Jyoti H. Mehta V/s Custodian &Ors	<p>a. Be pleased to direct Respondent No.1 (Custodian) to file complete status report in respect of unregistered shares handed over by late Shri Harshad S Mehta vide his letter dated 31.01.1995 disclosing facts about registration of shares and recovery of accrued benefits thereon and provide to the Applicant, the particulars of all data, documents and material relating to such registration and recovery of accrued benefits on these shares.</p> <p>b. Be pleased to direct the Respondent No.1 to file a status report on the compliance by all the companies in meeting with prayer (g) made in their M.P Nos.114 of 1995 to M.P.No.158 of 1995 and furnish to the Applicant, copies of correspondence exchanged with them in this regard.</p> <p>c. Be pleased to direct the Respondent No.1 to disclose whether the said shares together with accrued benefits thereon are forming part of the asset and liability chart in M.P No.41 of 1999 and are forming part of the asset base in the report No.15 dated 30.06.2006 filed by the Respondent for distribution of the assets of late Shri Harshad S Mehta.</p> <p>d. Be pleased to direct the Respondent No.1 to grant complete inspection to the Applicant and meet all the requests made by the Applicant in regard to the queries on assets and liabilities of the Applicant's late husband Shri Harshad S Mehta as and when a request is made to that effect by the Applicant.</p> <p>e. Be pleased to direct the Respondent No.1 to keep the Applicant informed on a regular basis by endorsing copies of each and every communication which pertains to the asset and liability of the Applicant's late husband Shri Harshad S Mehta.</p> <p>f. Any other just and equitable orders are passed in the interest of justice</p>
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7	MA 112 of 2007 Smt. Jyoti H. Mehta Vs. Custodian &Ors	<p>a. Be pleased to direct the Respondent No.1 (Custodian) to furnish to the Applicant complete details, data and documents of recovery caused by the Respondent No.1 in compliance of the Order dated 12.11.2003 in the said M.A No.332 of 2003.</p> <p>b. Be pleased to direct the Respondent No.1 to file status report on the compliance of order dated 12.11.2003 in the said M.A No.F^vof 2003 specifically regarding the directions given by it in para 3 of its Order.</p> <p>c. Be pleased to direct the Respondent No.1 to disclose whether the said shares together with accrued benefits thereon are forming part of the asset and liability chart in M.P No.41 of 1999 and are forming part of the asset base in the report No.15 dated 30.06.2006 filed by the Respondent No.1 for distribution of the assets of late Shri Harshad S Mehta.</p> <p>d. Be pleased to direct the Respondent No.1 to grant complete inspection to the Applicant and meet all the requests made by the Applicant in regard to the queries on assets and liabilities of the Applicant's late husband Shri Harshad S Mehta as and when a request is made to that effect by the Applicant.</p> <p>e. Be pleased to direct the Respondent No.1 to keep the Applicant informed on a regular basis by endorsing copies of each and every communication which pertains to the asset and liability of the Applicant's late husband Shri Harshad S Mehta.</p> <p>f. Any other just and equitable orders are passed in the interest of justice.</p>
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8	MA 113 of 2007 Smt. Jyoti H. Mehta V/s. Custodian &Ors	<p>a. Be pleased to direct the Respondent No.1 (Custodian) to furnish to the Applicant complete details, data and documents of recovery caused by the Respondent No.1 in compliance of the Order dated 13.03.1997 in the said M.A No.424 of 1994 and other Miscellaneous Applications and Petitions.</p> <p>b. Be pleased to direct the Respondent No.1 to file status report on the compliance of order dated 13.03.1997 in the said M.A No.424 of 1994 specifically regarding the directions given by it in para 6 of its Order.</p> <p>c. Be pleased to direct the Respondent No.1 to disclose whether the said shares together with accrued benefits thereon are forming part of the asset and liability chart in M.P No.41 of 1999 and are forming part of the asset base in the report No.15 dated 30.06.2006 filed by the Respondent No.1 for distribution of the assets of late Shri Harshad S Mehta.</p> <p>d. Be pleased to direct the Respondent No.1 to grant complete inspection to the Applicant and meet all the requests made by the Applicant in regard to the queries on assets and liabilities of the Applicant's late husband Shri Harshad S Mehta as and when a request is made to that effect by the Applicant.</p> <p>e. Be pleased to direct the Respondent No.1 to keep the Applicant informed on a regular basis by endorsing copies' of each and every communication which pertains to the asset and liability of the Applicant's late husband Shri Harshad S Mehta.</p> <p>f. Any other just and equitable orders are passed in the interest of justice.</p>
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BEFORE THE SPECIAL COURT CONSTITUTED UNDER THE
SPECIAL COURT (TRIAL FOR OFFENCES RELATING TO
TRANSACTIONS IN SECURITIES) ACT, 1992
MISC. APPLICATION NO. 13 OF 2007

SMT JYOTI H MEHTA

..APPLICANT

V/s

THE CUSTODIAN & ORS

..RESPONDENTS

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TRUE COPY

Wmz

Advocate For Plaintiff / Respondent / Applicant

SC 1415107

1

BEFORE THE SPECIAL COURT CONSTITUTED UNDER THE
 SPECIAL COURT (TRIAL FOR OFFENCES RELATING TO
 TRANSACTIONS IN SECURITIES) ACT, 1992
 MISC. APPLICATION NO. 113 OF 2007

SMT JYOTI H MEHTA)
 Aged : Adult, Indian Inhabitant,)
 R/o 32 Madhuli, Dr Annie Besant Road,)
 Worli, Mumbai 400 018.)..APPLICANT

V/s

1. THE CUSTODIAN,)
 Having its Office at 10th Floor,)
 221 Nariman Bhavan, Nariman Point,)
 Mumbai 400 021.)
2. The Commissioner of Income Tax,)
 Central Circle II, Aayakar Bhavan,)
 New Marine Lines, Mumbai 400 020)
3. State Bank of India,)
 Having its Regd. Office at State Bank)
 Bhuvan, Madame Cama Road,)
 Mumbai 400 020.)
4. Standard Chartered Bank,)
 Having its Branch Office at M G Road,)
 Fort, Mumbai 400 023.)
5. State Bank of Saurashtra,)
 Having its Regd. Office at S A Brelvi Rd,)
 Fort, Mumbai 400 023.)

S&B
14/15/70/2

2

6. SBI Capital Markets Ltd,)
Having its Regd Office at 202)
Maker Tower F, Cuffe Parade,)
Mumbai 400 005.)..RESPONDENTS

TO

THE HON'BLE CHIEF JUSTICE AND
THE OTHER HON'BLE JUDGES OF
THIS HON'BLE COURT AT BOMBAY

HUMBLE APPLICATION OF THE
APPLICANT ABOVE NAMED

MOST RESPECTFULLY SHEWETH

1. The Applicant is the legal heir of late Shri Harshad S Mehta who was notified on 08.06.1992. The Applicant is also a notified entity in her individual capacity. The Applicant has claimed interest in the estate of late Shri Harshad S Mehta out of the three legal heirs, others being Smt Rasila S Mehta – mother and Shri Aatur Mehta – son, who have disclaimed any interest in the estate of late Shri Harshad S Mehta by filing affidavits in several proceedings before this Hon'ble Court to that effect. The Respondent No.1 is the Custodian appointed under Section 3 of the Special Courts Act and is managing the assets of both late Shri Harshad S Mehta and the Applicant. The Respondent No.2 is the revenue who has claimed large amounts of tax dues from the Applicant's late husband Shri Harshad S Mehta. The Respondent Nos.3 to 6 are the decree holders against the Applicant's late husband Shri Harshad S Mehta. The Applicant states that therefore Respondent Nos.2 to 6 are necessary and proper parties to the present application as they would be vitally interested in the recovery and augmentation of the asset base of Applicant's husband late Shri Harshad S Mehta.

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2. The Applicant states that she had addressed a letter dated 05.06.2006 followed by a letter dated 26.02.2007 inter alia seeking details of recovery of assets as directed by this Hon'ble Court in several matters. The Applicant is pleased to enclose copies of the above cited two letters at Exhibit A colly. The Applicant states that in her second letter dated 26.02.2007, she specifically sought particulars of compliance of the order dated 13.03.1997 of this Hon'ble Court in M.A No.424 of 1994 pertaining to alleged benami shares which were listed in Exhibit A and Exhibit B of the said application. By an Order dated 13.03.1997, Hon'ble Justice Shri S N Variava had directed in Para 6 of his order as under :-

"The Custodian has in his possession a large number of shares. The Custodian to now adopt necessary steps to recover possession of balance shares from the benamidars, if they can be found. If the benamidars cannot be found, the Custodian to apply for duplicate shares from the concerned companies."

3. The Applicant states that through the above letter of 26.02.2007, she sought particulars of recovery caused by the Respondent No.1 since the Applicant had no information regarding the same nor the records of late Shri Harshad S Mehta disclosed any particulars of recovery of assets in compliance of above orders. The Applicant also sought information of all the documents and facts pertaining to compliance of the above order. The Applicant intimated that the value of shares to be so recovered would run into hundreds of crores.
4. The Applicant states that Respondent No.1 had also made a grievance before this Hon'ble Court in several applications about the delay in disclosure of unregistered shares by Applicant's late husband. The Applicant is pleased to produce

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the relevant paragraph of the pleadings which is enclosed at Exhibit B to the present proceedings. In MP No. 138/1995

5. The Applicant states that the Respondent No.1 had thus shown great care and concern in making the above pleadings to the effect that because of the delay of 2 ½ years in disclosure of shares, benefits by way of bonus, rights, dividends amounting to crores arising out of the said shares have been lost. It was further contended by Respondent No.1 that the Applicant's late husband should be held responsible for the said loss and benefits. The Applicant states that in fact, Respondent No.1 had gone as far as to say that the Applicant's late husband had committed offences under I.P.C of dishonestly concealing attached property for more than 2 ½ years.
6. The Applicant is aggrieved that the Respondent No.1 has not responded to any of the above cited two letters and thereby deprived the Applicant the information which she is entitled to. The Applicant states that the Respondent No.1 has also failed to offer inspection which he is duty bound to more so since the Applicant is required to contest the asset and liability picture being given by Respondent No.1 in vital proceedings before this Hon'ble Court.
7. The Applicant states that there are several other similar instances which could potentially lead to recovery of shares amounting to hundreds of crores. The Applicant is pleased to enclose as and by way of a sample at Exhibit C a list of some letters briefly describing the subject matter and the likely value of recovery. The Applicant states that in all these cases, the Respondent No.1 has not responded despite repeated reminders. The Applicant states that there are several lapses on the part of the Respondent No.1 in managing the assets of the Applicant and other notified entities and that when these lapses are pointed out or details of compliance of the orders of

~~SCB
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this Hon'ble Court are sought for, they are neither being furnished nor the letters are being responded to. Thus the Respondent No.1 is snow balling and suppressing the records and facts. The Applicant humbly submits that there are numerous cases where even this Hon'ble Court has been kept in dark about the compliance of its orders.

8. The Applicant submits that there are no checks on Respondent No.1 on the aspect of compliance. There are numerous orders of this Hon'ble Court which are not complied with for years together, even say for more than ten years. The Applicant states that this would defeat the very purpose for which Shri Harshad S Mehta has been notified and this Hon'ble Court has been set up. The Applicant states that therefore it is imperative that this Hon'ble Court directs Respondent No.1 to periodically file compliance and status report on various orders of this Hon'ble Court. The Applicant humbly submits that it is also absolutely necessary that the Respondent No.1 is directed to grant inspection and make available all the material, documents and records as it pertains to the notified entities in the matter of their assets and liabilities.

9. The Applicant states that this is also necessary since the notified entity is required to make statutory compliance and draw the books of accounts, file Returns of income, pay taxes and defend his / her legal interests. The Applicant states that Respondent No.1 is in exclusive possession of all the documents regarding the assets and incomes being generated on the assets, and if the same are not made available to the notified entities, it would not be possible for them to make statutory compliance and to defend their legal interests.

10. The Applicant states that by an Order dated 19.04.1995 in M.A No.585 of 1994, this Hon'ble Court has held that the Respondent No.1 is not a representative assessee and it is the

~~CCW/14/15/10/1~~

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obligation of the notified entities to make statutory compliance. The Applicant states that even in this view of the matter, it is the bounden duty of the Respondent No.1 to make available to the Applicant, the particulars, data, documents and records pertaining to her assets and incomes earned thereon.

11. The Applicant states that any failure on the part of the Respondent No.1 in discharging this obligation would expose the Applicant to several penal consequences which would include levying of interest and penalties. The Applicant states that thus on account of the conduct of Respondent No.1, it would be the Applicant who would suffer. The Applicant states that even in this view of the matter, Respondent No.1 ought to be directed to furnish to the Applicant every detail, data, documents and record pertaining to the Applicant's assets and the incomes earned thereon.
12. The Applicant submits that she has joined the decree holders and creditors of the Applicant's late husband Shri Harshad S Mehta to the present application as any failure in recovery of the assets directly affects their interests. The Applicant states that if they are not made a party, they would not be able to secure any facts as every recovery of asset is in their interest.
13. The Applicant states that being reduced to a position where facts are not being furnished to the Applicant which she is entitled to, the Applicant has been constrained to file the present application seeking disclosure of facts and documents from Respondent No.1.
14. The Applicant states that Respondent No.1 having made a grievance about the delay in disclosure of shares was duty bound to act promptly and efficiently and safeguard the interests of the Applicant's late husband by causing recovery of all the shares and accrued benefits thereon on the shares from their

~~SSP
14/5/07~~

2

erstwhile owners. The Applicant states that it was also the bounden duty of Respondent No.1 to file some status and progress report before this Hon'ble Court giving an account of compliance of order of this Hon'ble Court and confirming that tracing and recovery of every asset belonging to the Applicant's late husband has been done by them. The Applicant states that even this Hon'ble Court has been kept in the dark by Respondent No.1 by not filing any such status or progress report of compliance.

15. The Applicant states that the Respondent No.1 has filed before this Hon'ble Court M.P No.41 of 1999 seeking sale of the only residence of the Applicant's late husband and in justification of the same, the Respondent No.1 has furnished the Asset and Liability chart of the Applicant's late husband on 01.03.2006 which has been updated thereafter. Similarly, Respondent No.1 has also filed before this Hon'ble Court a report seeking final distribution to the creditors of the Applicant's late husband under Section 11 of the Special Courts Act on 30.06.2006 being Report No.15 of 2006, Both the above matters are pending adjudication before this Hon'ble Court. The Applicant apprehends that Respondent No.1 has not included the above cited shares and the accrued benefits thereon in the asset position of the Applicant's husband or any of the notified entities, and therefore the Applicant addressed various letters as cited in Exhibit C. The Applicant therefore prays for a direction from this Hon'ble Court to Respondent No.1 to make a full disclosure whether the above shares and the accrued benefits thereon have been recovered and whether they are forming part of the asset base of Applicant's husband so that this Hon'ble Court can effectively adjudicate in the above cited proceedings pending before this Hon'ble Court.
16. The Applicant states that in the event the Respondent No.1 has not caused any recovery of the above attached assets in favour

of the Applicant's husband, then in that event, the Applicant prays to this Hon'ble Court to direct Respondent No.1 to comply with the order of this Hon'ble Court and cause complete recovery of shares and accrued benefits thereon.

17. The Applicant clarifies that as disclosed by her husband in his affidavits earlier which formed part of the proceedings, the concerned shares belong to various family members and corporate entities promoted by the family members of her late husband. The Applicant states that in fact, some of the notified entities have made claims on M/s Harshad S Mehta, the brokerage firm of the Applicant's late husband in respect of non-performance of certain contracts claiming delivery of shares not received by them from M/s Harshad S Mehta.
18. In the circumstances stated above, the Applicant most respectfully prays that this Hon'ble Court may :-
 - a. Be pleased to direct the Respondent No.1 to furnish to the Applicant complete details, data and documents of recovery caused by the Respondent No.1 in compliance of the Order dated 13.03.1997 in the said M.A No.424 of 1994 and other Miscellaneous Applications and Petitions.
 - b. Be pleased to direct the Respondent No.1 to file status report on the compliance of order dated 13.03.1997 in the said M.A No.424 of 1994. specifically regarding the directions given by it in para 6 of its Order.
 - c. Be pleased to direct the Respondent No.1 to disclose whether the said shares together with accrued benefits thereon are forming part of the asset and liability chart in M.P No.41 of 1999 and are forming part of the asset base in the report No.15 dated 30.06.2006 filed by the

SSA
14/5/07

9

Respondent No.1 for distribution of the assets of late Shri Harshad S Mehta.

- d. Be pleased to direct the Respondent No.1 to grant complete inspection to the Applicant and meet all the requests made by the Applicant in regard to the queries on assets and liabilities of the Applicant's late husband Shri Harshad S Mehta as and when a request is made to that effect by the Applicant.
- e. Be pleased to direct the Respondent No.1 to keep the Applicant informed on a regular basis by endorsing copies of each and every communication which pertains to the asset and liability of the Applicant's late husband Shri Harshad S Mehta.
- f. Any other just and equitable orders are passed in the interest of justice.

Bombay

Dated 14/05/2007

For. M.G. M.P. Vashi & ASSO.
K. Desai
Adv. for Applicant.

J.H. Mehta
Before me
SSA
14/5/07
Associate
Special Court, Bombay

~~SST
14(1)(b)~~

10

VERIFICATION

I Mrs Jyoti H Mehta, Adult, Indian Inhabitant, residing at 32, Madhuli, Dr. Annie Besant Road, Worli, Mumbai, 400 018 do hereby solemnly declare that what is stated in the foregoing application is true to my own knowledge and belief.

Solemnly declared at Mumbai

Dated this 14 day of , 2007

J.H.Mehta

Before me

For M/s M P Vashi & Associates

M.P.Vashi
(Mukesh Vashi)
Adv. for Applicant

Associate
Special Court, Bombay,

*Smt.
Tulsi*

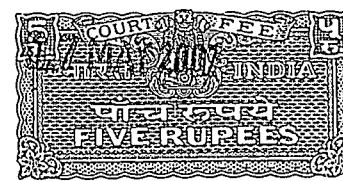
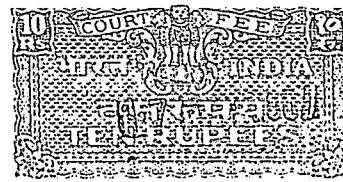
II

BEFORE THE SPECIAL COURT CONSTITUTED UNDER THE
 SPECIAL COURT (TRIAL FOR OFFENCES RELATING TO
 TRANSACTIONS IN SECURITIES) ACT, 1992
 MISC. APPLICATION NO. OF 2007

SMT JYOTI H MEHTA)
 Aged : Adult, Indian Inhabitant,)
 R/o 32 Madhuli, Dr Annie Besant Road,)
 Worli, Mumbai 400 018.)..APPLICANT

V/s

1. THE CUSTODIAN,)
 Having its Office at 10th Floor,)
 221 Nariman Bhavan, Nariman Point,)
 Mumbai 400 021.)
2. The Commissioner of Income Tax,)
 Central Circle II, Aayakar Bhavan,)
 New Marine Lines, Mumbai 400 020)
3. State Bank of India,)
 Having its Regd. Office at State Bank)
 Bhuvan, Madame Cama Road,)
 Mumbai 400 020.)
4. Standard Chartered Bank,)
 Having its Branch Office at M G Road,)
 Fort, Mumbai 400 023.)
5. State Bank of Saurashtra,)
 Having its Regd. Office at S A Brelvi Rd,)
 Fort, Mumbai 400 023.)



12

6. SBI Capital Markets Ltd,)
 Having its Regd Office at 202)
 Maker Tower F, Cuffe Parade,)
 Mumbai 400 005.)..RESPONDENTS

To,
 The Officer on Special Duty
 Special Court
 Mumbai

V A K A L A T N A M A

I, Jyoti H. Mehta, Applicant in the above matter do hereby appoint M/s.
 M.P. Vashi & Associates., Advocate, High Court to act, appear and plead
 on our behalf in the above matter.

In witness whereof we have set our hands to this writings on this 14th day
 of May. 2007

Accepted
 For M/s. M.P. Vashi & Associates.

(Mukesh Vashi)
 Advocate for Applicant
 Jalaram Jyot Building,
 Janmabhumi Street,
 Fort, Mumbai 400 001.

Jyoti H. Mehta
 Applicant

13

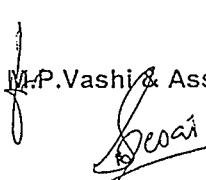
BEFORE THE SPECIAL COURT CONSTITUTED UNDER THE
SPECIAL COURT (TRIAL FOR OFFENCES RELATING TO
TRANSACTIONS IN SECURITIES) ACT, 1992
MISC. APPLICATION NO. OF 2007

Smt Jyoti H Mehta ..Applicant
V/s
The Custodian & Ors ..Respondents

MEMORANDUM OF REGISTERED ADDRESS

M.P.VASHI & ASSOCIATES
JALARAM JYOT BLDG. 2ND FLOOR
JANMABHOOMI STREET, FORT,
MUMBAI 400 001

For M.P.Vashi & Associates


(MUKESH.VASHI)
Advocate for the Applicant

14

BEFORE THE SPECIAL COURT CONSTITUTED UNDER THE
SPECIAL COURT (TRIAL FOR OFFENCES RELATING TO
TRANSACTIONS IN SECURITIES) ACT, 1992
MISC. APPLICATION NO. OF 2007

Smt Jyoti H Mehta ..Applicant

V/s

The Custodian & Ors ..Respondents

LIST OF DOCUMENTS ON WHICH THE APPLICANT WILL RELY

1. Exhibits annexed to the Application.
2. Other relevant correspondence prior to the Application.

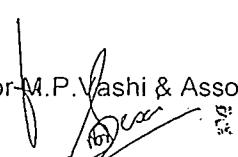
For M.P. Vashi & Associates

(M.M. Vashi)
Advocate for the Applicant.

Exhibit-A(614)15

JYOTI H MEHTA
32 Madhuli, Dr Annie Besant Road, Worli, Mumbai 400 018

5th June, 2006

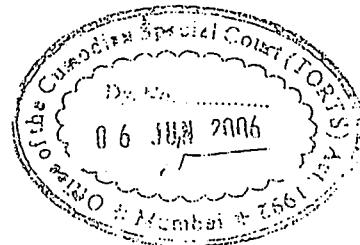
To
Shri N K Srivastava (Advisor),
The Office of Custodian,
10th Floor, Nariman Bhavan,
Nariman Point, Mumbai 400 021. IMPORTANT AND URGENT

Dear Sir,

Sub : Before the Hon'ble Supreme Court of India, Civil Appeal No.667-671 of 2004
Mr Ashwin S Mehta & Anr Versus The Custodian & Othrsw with Civil
Appeal No.671-675, 676-680 and 681 of 2004

I am writing this letter as a legal heir of late Shri Harshad S Mehta. I have to state as under :-

1. As you are aware, my late husband Shri Harshad S Mehta under cover of his letters dated October 1994 and 31.01.1995 disclosed to you the possession of unregistered shares. Copies of the above two letters are enclosed.
2. Thereafter, not only he handed over all the above shares but furnished to your office complete particulars of the same.
3. In the meanwhile, your office filed several petitions before the Hon'ble Special Court making my late husband and the concerned company and the Registrar of Companies as parties inter alia seeking disclosures about the ownership of shares and seeking relief to undertake the task of registration of shares. Your kindself sought reliefs and directions from the Hon'ble Special Court to the effect that the concerned companies should with-hold benefits on these shares such as dividends, rights, bonus issues etc. Your kindself also sought direction in your favour to trace and recover on all these shares lost benefits of bonus, rights and dividends



from the then registered share holders of the company and to engage several staff to do the tracing and to undertake recovery exercise of these benefits.

4. The Hon'ble Special Court in the entire set of petitions was pleased to pass identical orders. I am pleased to enclose a sample copy of one such Misc. Petition No.138 of 1995 including the copy of the order of Hon'ble Justice Shri S N Variava dated 06.02.1996.
5. A period of almost nine years have since elapsed and I am sure your kindself must have taken the necessary steps to recover the benefits of all such shares and complied with the orders of the Hon'ble Court. I can reasonably assume the value of such benefits to run into crores of rupees.
6. I find from the records of my late husband that he has not been kept posted of the status of recovery of lapsed benefits on such unregistered shares. This is obviously causing hardship to him in as much as it is not possible to draw his books of accounts unless all these particulars and documents relating to the same are made available to him. I fail to understand the purpose in not keeping him informed.
7. So far as the present proceedings are concerned, in the affidavit filed by yourself, you have not thrown any light in respect of recovery of benefits on the above shares. I also understand that your kindself have offered inspection of each and every material pertaining to the books of accounts as well as asset and liabilities of all notified entities. Unfortunately, no records relating to the above aspect i.e. progress and status and documents relating to recovery of lapsed benefits have been offered till date. In absence of such an inspection, it is not possible for me to rebut computation of his asset base as arrived at by you. There is not a whisper about the same in your entire affidavit, both for what was filed in the year 2003 and your latest affidavit dated 01.03.2006. May I therefore request you to kindly make available to me complete particulars, data, records and documents and the status of recovery of lapsed benefits on the above shares at the earliest and oblige.

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You are aware that notified entities have already deputed their representatives in your office alongwith a xerox machine to obtain copies of all the relevant data and documents, and therefore you would be put to least inconvenience by offering the above inspection of documents.

8. You would also appreciate that even otherwise, I am entitled to these particulars since the onus of making statutory compliance and drawing the books of accounts and determining the income of my late husband lies on him and his heirs if they so choose. Besides this, he had already disclosed to you that these shares do not belong to him and therefore the account of the benefits on the same will also be required to be given to their owners as it gets determined and such claim in that regard is received.
9. In case any recovery is still pending, then kindly let me know the status of the same and inform me as to how you have treated this issue in your affidavit as to whether you have shown it as a part of his receivables or his contingent assets.
10. Kindly acknowledge receipt of this letter and let me know as to when you propose to offer inspection so that I can make arrangements accordingly.

Yours faithfully,

Jyoti Mehta

(Jyoti H Mehta)
Legal Heir of Harshad S Mehta

Encl : As above

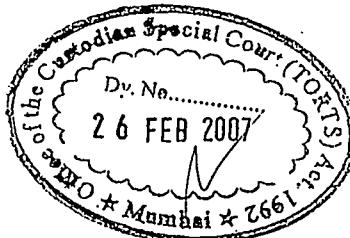
K3

O/c

HARSHAD S MEHTA
32 Madhuli, Dr Annie Besant Road, Worli, Mumbai 400 018

26th Feb, 2007

To
Shri N K Srivastava,
Advisor,
Office of the Custodian,
10th Floor, Nariman Bhavan,
Nariman Point,
Mumbai 400 021.



Dear Sir,

Sub : Proceeding before the Hon'ble Special Court in connection to Misc. Petition No.41 of 1999 in the case of Custodian V/s Harshad S Mehta & Ors
Misc.Petition No.114 of 1995 to No.158 of 1995
Misc.Application No.194 of 1993, No. 53 of 1994, Nos. 92 and 93 of 1994, and No.424 of 1994 in Misc Application No.297 of 1994 in the case of Asst.Collector of Income Tax V/s Custodian

1. I am addressing this letter as the legal heir of late Shri Harshad S Mehta. You are requested to refer to the Order dated 13.03.1997 passed by Hon'ble Justice S N Variava in above referred several applications preferred by the revenue. These applications pertain to alleged benami shares claimed by them to be belonging to Shri Harshad S Mehta and other notified entities in his family. The Hon'ble Judge Shri S N Variava passed a common order, a copy of which is annexed at Annexure A for your reference.
2. Your attention is drawn to Para 5 of the order where the Hon'ble Judge has been pleased to declare that all the shares listed in Exhibits A and B to Misc. Application No.424 of 1994 are attached properties. In Para 6 of the order, the Hon'ble Judge has been pleased to hold as under :-

"The Custodian has in his possession a large number of shares. The Custodian to now adopt necessary steps to recover possession of balance shares from the benamidars, if they can be found. If the benamidars cannot be found, the Custodian to apply for duplicate shares from the concerned companies."

3. In this regard, I wish to say and submit as under :-

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Q.

- a. That your office would have obviously complied with the above order of the Hon'ble Special Court and caused recovery and taken possession of the balance shares together with all accrued benefits on the same. As directed by the Hon'ble Special Court, you would also have obtained duplicate shares from the concerned companies wherever the shares or parties are not located. However, I do not find in our records any intimation from your office giving any status or facts or particulars of compliance of the above order of the recovery of shares caused by your office. As already held by the Hon'ble Special Court, the above constitutes the attached assets belonging to Shri Harshad S Mehta and his other related entities. I also do not find disclosure of above assets in the assets of my late husband and I understand that the same is also not reflected in the assets of any of the other notified entities including me.
- b. You are therefore requested to kindly offer for inspection all the documents and facts pertaining to compliance of the above order and recovery of shares caused by your office. The same obviously will have a material bearing on the petition pending before the Hon'ble Special Court regarding sale of our residence where asset and liability of each of the notified entity has to be arrived at as per the directions of the Hon'ble Supreme Court of India.
4. I also do not find any proceedings before the Hon'ble Special Court where you have made any disclosure about compliance of the above cited order and recovery caused by your office. Thus even the Hon'ble Special Court is not aware about the facts of recovery and about facts of compliance with the orders of Hon'ble Special court. You may therefore kindly make available the status report on the recovery caused separately by a report or statement furnishing particulars where the recovery is caused or while it is yet to be caused or has remained to be caused.
5. Since there is no intimation to me nor there are any proceedings before the Hon'ble Special Court, I apprehend that your office would have failed to comply with the order of Hon'ble Special Court since otherwise you would have kept me well as the Hon'ble Special Court informed about the compliance of the order of Hon'ble Special Court. As such, my apprehension has a very valid basis. You are therefore requested to kindly update me with the factual status on the subject.
- 6: In case you have failed to comply with the above order of Hon'ble Special Court, I call upon you to take every possible step to cause recovery of the above shares as the value of the same would run into hundreds of crores. The recovery and compliance of the above order of Hon'ble Special court

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is therefore absolutely essential. The same would be in the interest of other creditors of my late husband. You are therefore requested to do the needful urgently and oblige.

7. Last but not the least, my apprehension is also fortified by the fact that your office has not offered for inspection any material disclosing the recovery caused by your office in compliance of the above order of the Hon'ble Special Court. You are therefore requested to urgently arrange for inspection of the material disclosing recovery of shares caused by your office sotat the proceedings in Misc. Petition No.41 of 1999 does not get delayed..
8. Please note that you have been taking a factually incorrect stand that inspection of each and every material has been offered to notified entities. Your Advocate on record has also made factually incorrect statement in their letter dated 14.02.2007 addressed to my Advocate on record M/s M P Vashi & Associates. To the above extent, even the Hon'ble Special Court is being misled by your Counsel. I therefore call upon you to not with-hold from me as well as the Hon'ble Special Court the facts pertaining to compliance of the above order since a period of ten years have already passed since then. The time for distribution is approaching and any further delay in compliance with the above order of Hon'ble Special Court would create a situation where recovery may get jeopardized. It is therefore absolutely essential that urgent steps are taken.
9. As you are aware, the proceedings in Misc.Petition No.41 of 1999 are at a very advanced stage and even therefore it is absolutely essential for me to secure not only inspection from you but also complete particulars of each and every asset that ought to be taken in the asset and liability picture of Shri Harshad S Mehta as well as other notified entities. Even in this view of the matter, you are called upon to arrange for inspection urgently on any working day convenient to you and oblige. Please note that any failure on your part will constrain me to raise the issue before the Hon'ble Special Court either in the present proceedings or by filing a specific application as I may be legally advised.

Thanking you,

Yours faithfully,

J H Mehta.

(Jyoti H Mehta)

Legal heir of late Shri Harshad S Mehta

Encl : As above

W

CC : Smt Rekha Gupta, Office of the Custodian, 3rd Floor, Bank of Baroda Bhavan, 16 Parliament Street, New Delhi 110 001

Kindly direct your office to grant inspection to us in the above vital matter as the same pertains to assets whose value runs into hundreds of crores and which can have a material bearing on the asset and liability position of the notified entities.

CC : M/s Pravin Mehta And Mithi & Co, Oricon House, 4th Floor, 12/14 K Dubash Marg, Mumbai 400 023.

This is with reference to your letter dated 14.02.2007 wherein it has been falsely stated that your clients have given inspection of the above material. The above instance completely disproves your contention.

CC: Mukesh Vashi & Associates, Jalaram Jyot Building, 2nd Floor, Janmabhoomi Marg, Fort, Mumbai 400 023.

For information

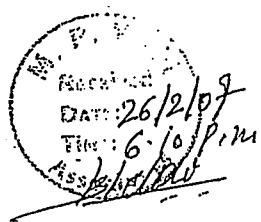


EXHIBIT -- C

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A LIST OF LETTERS ADDRESSED TO CUSTODIAN WHICH HAVE NOT BEEN
RESPONDED AND VALUE OF ASSETS TO BE RECOVERED

SR. NO	DATE	NAME OF THE ENTITY	PARTICULARS OF ASSETS	VALUE OF ASSETS IN RS.CRORES
1	17.10.06	HSM	112100 SHARES OF RELIANCE INDUS.LTD	33.07 *
	19.2.07		FAIR GROWTH FINANCIAL SERVICES LTD	
			HSM LETTER DT.26.10.1994	
2	26.10.06	HSM	71300 SHARES OF GREAT EASTERN SHIPPING	6.85 *
			FAIRGROWTH FINANCIAL SETRVICES LTD	
			HSM LETTER DT.26.10.1994	
3	26.10.06	HSM	15700 SHARES OF SESA GOA	7.86 *
	19.2.07		FAIRGROWTH FINANCIAL SERVICES LTD	
	13.3.07		HSM LETTER DT.26.10.1994	
4	22.7.06	HSM	PAYMENT TO SBI	
	18.9.06		RS.590.53 CRORES	
	27.10.06			
5	30.10.06	HSM	RECOVERY OF LAPSED BENEFITS	200 APPX
			HSM LETTER DT.31.1.1995	
6	12.2.07	HSM	TO VYAS AND VYAS	
			ASKING FOR LETTER OF SBI DT.26.7.05	
7	17.10.06	HSM	20660 SHARES OF ACC	57.11 *
	19.2.07		DHANRAJ MILLS LTD - M.A.332/2003 DATED	
	13.3.07		12.11.2003 AND 19.3.2004	
8	21.2.07	HSM	RECOVERY OF BENEFITS IN RESPECT OF UNREGISTERD SHARES AND CUSTODIAN A/C BENAMI SHARES	200 APPX
9	22.2.07	HSM	RECOVERY OF LAPSED BENEFITS UNDER ORDER DT.7.2.96 IN M.A.114 /1995	200 APPX *
10	26.2.07	HSM	RECOVERY OF SHARES UNDER ORDER DATED 13.3.1997 IN M.A. 424/1994	200 APPX
11	26.2.07	HSM	RECOVERY OF SHARES UNDER ORDER DT.1.3.2003 IN M.A.332/2003	50 APPX
12	09.06.06	HSM	CUSTODIAN GOVT OF INDIA A/C RELIANCE SHARES 22 LAKH SHARES	300 APPX
			CUSTODIAN GOVT OF INDIA A/C RELIANCE SHARES 22 LAKH SHARES - CURRENT VALUE	484 APPX

GRAND TOTAL

1438.89 APPX

* THE CLAIM IS IN SHARES AND THE CURRENT MONETARY VALUE WILL BE MUCH MORE

TRUE COPY

 Advocate (H. Desai) Respondent/Applicant

1882

Locating No. 113

IN THE SPECIAL COURT (TRIAL
OF OFFENCES RELATING TO
TRANSACTIONS IN SECURITIES)
ACT, 1992 AT MUMBAI

MISC.APPLN NO. 113 OF 2007

SMT JYOTI H MEHTA
..APPLICANT
V/s
THE CUSTODIAN & ORS.
..RESPONDENTS

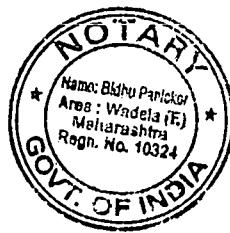
MISC. APPLICATION 113
Dated this 14th day of May 2007.

M/s M P Vashi & Associates
Advocate for Applicant
Jalaram Jyot Building
Janmabhoomi Marg,
Fort
Mumbai 400 023.

STATUS REPORT OF THE CUSTODIAN IN
MISC. APPLICATION NO. 113 OF 2007

Jyoti Mehta V/s Custodian & Ors.

The above Application was filed by Smt. Jyoti S. Mehta duly praying for reliefs as under:



- a Be pleased to direct Respondent No. 1 to furnish complete details, data and documents of recovery caused by the Respondent No. 1 in compliance of the Order dated 13.03.1997 in the said Misc. Application No. 424 of 1994 and other Misc. Applications and Misc. Petitions..
- b Be pleased to direct the Respondent No. 1 to file a status report in compliance of the Order dated 13.03.1997 in the said Misc. Application No. 424 of 1994, specifically regarding the directions given by it in para 6 of its Order.
- c Be pleased to direct the Respondent No. 1 to disclose whether the said shares together with accrued benefits thereon are forming part of the assets and liability chart in Misc. Application 41 of 1999 and are forming part of the asset base in the Report No. 15 dated 30.06.2006, filed by the Respondent No. 1 for distribution of the assets of late Shri Harshad S. Mehta.
- d Be pleased to direct the Respondent No. 1 to grant complete inspection to the to the Applicant and meet all the request by the Applicant in regard to the querries on

TRUE COPY

[Signature]

Advocate for Plaintiff in the above Application

assets and liabilities of the Applicant's late Husband Shri Harshad S. Mehta as and when a request is made to that effect by the Applicant.

- e Be pleased to direct the Respondent No. 1 to keep the Applicant informed on a regular basis by endorsing copies of each and every communication which pertains to the assets and liability of the Applicant's late Husband Shri Harshad S. Mehta.
- f Any other just and equitable orders are passed in the interest of justice.

The Relief prayed for by Smt. Jyoti H. Mehta relates to Benami shares of various companies handed over by Late Shri Harshad S. Mehta and by the Income Tax Department.

Pursuant to receipt of above shares Custodian had filed Misc. Petition bearing No. Misc. Petition No. 99 of 1998, duly praying for transfer of shares in favour of 'Custodian A/c-Harshad Mehta Group Benami Shares' belonging to late Shri Harshad S. Mehta alongwith accruals such as Rights, Bonus, Dividend etc.

By an Order dated 8th April 2003, the Hon'ble Special Court granted the prayers in terms of Prayer Clause (a), (b), (c), (d), (e), f(iii), f(iv) and (g). A copy of the said order in Misc. Petition No. 99 of 1998 is annexed as Exhibit 'A'.

Pursuant the Order passed by the Hon'ble Special Court Custodian had lodged the Benami Shares belonging to Harshad Mehta Group with the Companies.

Custodian had obtained orders of this Hon'ble Special Court for transfer of these shares into 'Custodian A/c-Harshad Mehta Group Benami Shares' and transferred 1,59,84,731 shares, including accruals by way of Bonus/Split/Demerger etc. The sale proceeds of these shares amounting to about Rs.307 Crores stands credited to the account of 'Harshad Mehta Group Benami Shares' and these forms part of Assets Liability statement of Harshad S. Mehta apart from above Custodian had also obtained accruals by way of dividend on these Benami shares and the same also stands credited to 'Harshad Mehta Group Benami Shares'.

Based on the information received from the company, Custodian had addressed letters to the recipients of accruals to handover the accruals received by them. A copy of one such letter is annexed as Exhibit 'B'. Similar letters are issued to all the beneficiaries to hand over the accruals on the said Benami shares. Similar efforts are in progress and recovery as and when effected are being communicated to the legal heirs of late Shri Harshad S. Mehta by way of endorsement.

Even after sale of shares from above account the entities belonging to Harshad Mehta Group had taken inspection of documents and obtained photocopy of the same from the Office of the Custodian. A list of files for which inspection were taken and photocopies were

obtained by the entities of Harshad Mehta Group is annexed as Exhibit C.

From the above it could be seen that Custodian had taken appropriate measures for transfer of shares in favour of 'Custodian A/c-Harshad Mehta Group Benami Shares'. It is reiterated that because of the efforts made by the Custodian an amount of about Rs.307 Crores is credited to the account of Harshad S. Mehta by way of sale proceeds and same is credited to 'Custodian A/c-Harshad Mehta Group Benami Shares'. In view of the forgoing the present Application filed by Smt. Jyoti H. Mehta seeking inspection of documents, seeking copies of correspondence with regard to assets liabilities of Late Shri Harshad S. Mehta need to be dismissed as the inspection had already been provided by the Office of the Custodian and the copies of correspondence with regard to increase and decrease in assets and increase and decrease liabilities are already been endorsed by the Custodian to the notified party concerned.

Dated - 19. 6.08

Sd - ***

1887

M.P. VASHI & ASSOCIATES

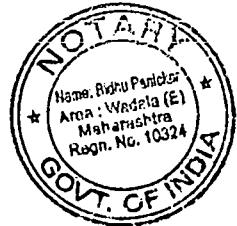
M.P. VASHI B.A., LL.B.

V.M. VASHI B.Com., LL.B.

Mrs. RITA K. DESAI B.A., LL.B.

ADVOCATES - HIGH COURT

V.S.L. : 'ALANKAR'
 1, SWAMI NITYANAND MARG,
 ANDHERI (E), MUMBAI - 400 069.
 PHONE : 2684 19 06



OFFICE :

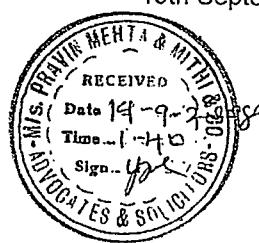
- 1) JALARAM JYOTI BLDG., 2nd FL
JANMABHOOMI STREET, FOR
MUMBAI - 400 001.
Phone : 2283 38 11, 2284 47 57
(Between 5-00 P.M. & 7-00 P.M.)
- 2) 13, SHRINATH BHUVAN,
27, PICKET CROSS ROAD,
MUMBAI - 400 002.
Phone : 5681 19 09, 2206 12 71
(Between 2-00 P.M. & 3-00 P.M.)

Date :

19th September 2008

To,

- 1) M/s. Pravin Mehta and Mithi & Co.
Advocates, Solicitors & Notary,
4th Floor, Oricon House,
12/14, K.Dubash Marg,
Mumbai-400 023.



Dear Sirs,

REF: BEFORE THE SPECIAL COURT
MISC.APPLICATION NO.113 OF 2007

We are sending herewith copy of affidavit in reply filed by Smt.Jyoti H Mehta by way of service upon you.

Kindly acknowledge the receipt of the same.

Yours truly,
For M.P.Vashi & Associates.

(Mukesh Vashi)
Advocate for the Applicant
Encl: as above

TRUE COPY

Advocate For Plaintiff / Mukesh Vashi / M.P.Vashi

IN THE SPECIAL COURT (TRIAL OF OFFENCES RELATING TO
TRANSACTIONS IN SECURITIES) ACT, 1992
.AT MUMBAI
MISC APPLICATION NO.113 OF 2007

Smt Jyoti H Mehta ..Applicant
V/s ..Respondents
The Custodian & Ors

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A	Prayers made in M.P.No. 99 of 1998	10
B	List of cases where the Custodian failed to comply with the orders of the Court	11

IN THE SPECIAL COURT (TRIAL OF OFFENCES RELATING TO
TRANSACTIONS IN SECURITIES) ACT, 1992
AT MUMBAI
MISC APPLICATION NO.113 OF 2007

Smt Jyoti H Mehta ..Applicant
V/s
The Custodian & Ors ..Respondents

AFFIDAVIT IN REPLY OF THE APPLICANT

I, Smt Jyoti H Mehta, ~~legal heir of late Shri Harshad S Mehta~~, do hereby solemnly affirm and state as under.

2. I have gone through the copy of the status report filed by the Custodian pursuant to the directions of this Hon'ble Court and in response thereto, and as and by way of affidavit in reply, I have to say and submit as under. I say that nothing should be deemed to have been admitted unless the same has been specifically dealt with by me. I also reserve my right to file a detailed affidavit in future, if so required.

3. At the outset, I am aggrieved that the report filed by the Custodian is incomplete and lacks in material particulars. I have filed the present application seeking disclosure and particulars of recovery of shares and lapsed benefits caused by the

2

Custodian over last 11 years since the time this Hon'ble Court was pleased to pass order on 13.03.1997 in M.A No.424 of 1994, a copy of which is already enclosed by me at Exhibit A to the application. The relevant paras 6 and 7 of the above Judgment are reproduced as under :-

Para 6 *The Custodian already has in his possession a large number of shares. The Custodian to now adopt necessary steps to recover possesion of the balance shares from the benamidars, if they can be found. If the benamidars cannot be found, the Custodian to apply for duplicate shares from the concerned companies.*

Para 7 *It is clarified that the Custodian, the Income Tax Department and all parties are at liberty to apply for further and other ordrs as may be necssary for the efficient working out of this Order and/or for a declaration that further and other shares are also Benami shares.*

4. I say that thus atleast from 13.03.1997, the Custodian had been empowered by this Hon'ble Court and directed to recover possession of the balance shares from the benamidars if they can be found and if the benamidars cannot be found the Custodian was directed to apply for duplicate shares from the concerned companies. This Hon'ble Court also granted liberty to the Custodian to apply for further and other orders as may be necessary for efficient working of the above order of this Hon'ble Court and for any other declaration so as to comply with the said order dated 13.03.1997.
5. I say that thereafter the Custodian filed M.P No.99 of 1998 on 03.12.1998 seeking several prayers which are listed at Exhibit A. As reported by the custodian, by an order dated 08.04.2003, this Hon'ble Court granted prayers as were contained in (a) to (e)and (f)(iii), (f)(iv) and (g). I say that in Para 3 of this order dated 08.04.2003, this Hon'ble Court was pleased to declare 60,88,232 shares as attached as benami shares. In Para 5 of the order, this Hon'ble Court was pleased to take note of the

fact that as disclosed by the Custodian out of 17,91,955 shares, 8,15,266 benami shares were not in the possession of the Custodian. This Hon'ble Court was therefore pleased to direct the concerned companies to rectify their register, cancel the existing share certificates and dematerialize the shares in Demat form into a depository account of the Custodian and the Custodian was directed to open with Stock Holding Corporation an account in the name and style of Custodian A/c Harshad Mehta Group – Benami shares.

6. I say that under Para 6 as disclosed by the Custodian, this Hon'ble Court took note that the Custodian was not in physical possession of 8,69,567 shares out of the category of unattached shares and this Hon'ble Court therefore directed the same procedure as was directed under Para 5 of its order.
7. I say that under Para 7 as disclosed by the Custodian, this Hon'ble Court took note of 9,76,689 shares being benami shares whose physical certificates were in the possession of the Custodian. This Hon'ble Court ordered rectification of the register of members on the same lines as under Para 5 and ordered dematerialization of such shares.
8. I say that under Para 8 as disclosed by the Custodian, this Hon'ble Court took note of the fact of 52,18,665 shares which were not attached but their physicals were with Custodian. Even for these shares, this Hon'ble Court was pleased to direct rectification of the register on the lines as per procedure in Para 5 of the order.
9. I say that under Para 9 as prayed for by the Custodian, this Hon'ble Court was pleased to grant the prayers (a) to (e), (f)(iii), (f)(iv) and (g). I say that under Para 10, this Hon'ble Court was pleased to direct that the above orders of dematerialization would not affect those shares which are transferred by the

benamidars to innocent third parties prior to 09.07.1999. However, this Hon'ble Court clarified that the Custodian is at liberty to trace out and recover value of the shares and accruals, if any, by adopting appropriate steps.

10. I say that in Para 13, this Hon'ble Court was pleased to direct dematting of even 29,381 shares of Gujarat Ambuja Cement where some call monies were pending and hence the Custodian was directed to pay the said call money together with interest @ 15%.
11. I say that thus several orders and directions have been passed by this Hon'ble Court under the above cited two orders and thereby the Custodian was completely empowered to cause recovery of the shares and benefits and also recover sale proceeds where the benami shares have come to be sold. I say that during last eleven years from the time the first order has been passed by this Hon'ble Court, the Custodian has never come to file on his own any progress report disclosing status of the compliance of directions of this Hon'ble Court or disclosing particulars of cases where the compliance is pending for one reason or the other. I say that thus the Custodian has failed in its duty to disclose and place before this Hon'ble Court, records of compliance as well as non compliance of the orders of this Hon'ble Court.
12. I say that in recent past several instances have come to light where the Custodian has either failed to account for shares belonging to notified entities in their asset picture and failed to comply with the orders of this Hon'ble Court because of which huge amount of recovery is pending and attached assets are still lying in third party hands. I say that in all these cases, the Custodian has voluntarily never filed any status report. I say that since such instances have come to light and my knowledge, I have been taking several initiatives to bring them to the notice

of this Hon'ble Court. In order to establish these failures and cases of non compliance and in order to recover the assets, I have been addressing several letters seeking details and documents and seeking inspection of material and records which are solely in the possession of the Custodian but not received their cooperation. I also deny the oft repeated assertions of the Custodian that the notified parties are being furnished all the information by endorsing copies of all correspondence which is only partially true as in several instances, the notified parties have not been forwarded copies of such correspondence. I also deny that I have been given inspection of all the records in possession of the Custodian regarding the assets or recoveries caused by them.

13. I say that in order that such instances do not get exposed and failures of the Office of the Custodian are not brought to the knowledge of this Hon'ble Court, the Office of the Custodian has been making false assertions that the notified parties are being given details and particulars regarding their asset base, which as stated earlier, is only partially true. The other grievance is that the Office of the Custodian whenever critical details and records are sought, does not respond to the letters addressed by me. In the present application itself, it may be noted that I had addressed letters on 05.06.2006 and a reminder on 05.02.2007 but the same have not been responded to by the Custodian which itself speaks volumes about their approach.
14. In support of my above contentions, I am pleased to enclose a sample list of cases where the Custodian has failed to account for the assets or where the Custodian has failed to comply with the orders of this Hon'ble Court at Exhibit B. It may be noted that on Page No.3 of the report itself, the Custodian has admitted that efforts are in progress and recoveries as and when effected are being communicated to the legal heirs of late Shri Harshad S Mehta. Thus according to the Custodian

himself, recoveries of monies, shares, benefits, sale proceeds as directed by this Hon'ble Court is still continuing though unfortunately the Custodian has not furnished any particulars in regard to the same.

15. I say that it may also be noticed that I filed the present application on 14.05.2007 and the Custodian after obtaining repeated adjournments, has come to file the present report only on 19.06.2008 i.e. after a period of thirteen months. I say that despite this, the report lacks in material particulars and the same cannot advance my cause.
16. I say that the Custodian has not given any status or made any disclosures of facts and particulars or given any definite statement that the orders as given under Para 6 by this Hon'ble Court on 13.03.1997 in M.A No.424 of 1994 stands complied with. This Hon'ble Court had directed the Custodian to recover possession of the shares from benamidars or apply for the duplicate shares directly from the company. In the report now filed before this Hon'ble Court, the Custodian ought to have given the company wise account of such compliance and placed facts of cases where it remains pending for any reason. I say that the report filed by the Custodian completely lacks in material particulars in absence of which, I cannot seek orders from this Hon'ble Court for directions and compliance pin pointedly in those cases where the compliance remains pending. This Hon'ble Court through such a report does not get any picture of the value of shares for which such compliance is pending. I say that when admittedly compliance and recoveries are pending, it is strange that the Custodian has filed a distribution application through report No. 15 dated 30-06-2006 wherein also it is not disclosed that there could be some assets for which recoveries are being caused. I say that therefore had it not been for the efforts now being made by me, it is quite possible that the distribution can also take place without taking



into account the entire asset base of Shri Harshad S Mehta. I say that this could lead to absurd consequences as this Hon'ble Court cannot make any equitable distribution as provided for under Section 11 of the Act so long as it does not have complete picture of the entire asset base of Shri Harshad S Mehta.

17. I say that the Custodian has failed to give any material particulars and provide status report in Para 5 regarding compliance of order dated 08-04-2003 in M.A. no. 19 of 1998 particularly the directions contained whether the Custodian has secured possession of 8,15,266 benami shares as directed by this Hon'ble Court. I say that similarly as directed in Para 6, the Custodian has also failed to disclose whether it has obtained physical possession of 8,69,567 shares. I say that the Custodian also failed to disclose as directed in Paras 7 and 8 of its Order whether 9,76,689 shares and 52,18,665 shares have been demattted and since completely or partially sold. I say that the Custodian ought to have also given a prayer wise status report as per the prayers granted in Para 9 of the aforesaid Order as were contained in prayers (a) to (e), (f)(iii), (f)(iv) and (g). I say that the Custodian has not furnished any particulars regarding tracing out and recovery of value of shares and accruals as directed in Para 9 of the aforesaid Order dated 08.04.2003 in M.A No.19 of 1998. I say that the Custodian has also failed in disclosing whether 29,381 shares of Gujarat Ambuja Cements as directed in Para 31 came to be demattted and that the Custodian has made compliance of all the orders of this Hon'ble Court.
18. I say that in view of what is stated above, this Hon'ble Court ought to appoint a firm of Chartered Accountants to examine the issue of compliance of the orders of this Hon'ble Court and file a detailed report setting out the details of cases where compliance of the orders of this Hon'ble Court are pending and recovery of shares, sale consideration, accrued benefits or cases where

sale of shares is pending, I say that such a report would expedite recovery and achieve the object of this Hon'ble Court. I say that this is also necessary since it is evident that the Custodian would not bring out facts of those cases where there is any failure on their part in making compliance and therefore an independent firm of Chartered Accountants is more likely to furnish to this Hon'ble Court an accurate picture if they are appointed by giving specific directions.

19. I say that in view of what I have stated above, the contentions of the Custodian that my application is liable to be dismissed is totally unjustified. I once again also pray that the prayers as contained in my application may kindly be granted. I also humbly submit that the Custodian may be directed to hereafter in such proceedings, file their reply on an affidavit rather than in the form of a report.

Solemnly affirmed at Mumbai

On this day of September, 2008

Before Me

For M/s M P Vashi & Associates

(Mukesh Vashi)
Advocate for the Applicant

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RECEIVED
2008 SEP 22 PM 11:30
MUMBAI HIGH COURT
REGISTRATION DEPARTMENT NO. 2
FILE NO. 1897
PART II
JYOTI H MEHTA

VERIFICATION

I, Smt Jyoti H Mehta, Adult, residing at 32 Madhuli, Dr Annie Besant Road, Worli, Mumbai 400 018., do hereby state on solemn affirmation that the contents of aforesaid paras are true and correct to the best of my knowledge and belief.

Solemnly affirmed at Mumbai
On this day of September, 2008

D e p o n e n t

For M/s M P Vashi & Associates Before Me

(Mukesh Vashi)
Advocate for the Applicant

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Ext - A

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- (a) that the said shares listed in Column N.7 of Ex-G be declared as benami shares of the Respondent No.1(a) to z) herein and therefore attached.
- (b) that the Respondent Nos.131 to 134 be permitted to carry on the certification process for a period of six months in respect of the aforesaid shares.
- (c) that all rights, bonus and dividend accruing on the aforesaid shares set out in Column Nos.6 and 7 of Ex-G herein issued after 8.6.1992 be also treated as attached.
- (f)(iii) that the said shares be permitted to be dematerialized wherever applicable and sold by following the procedure laid down in the order dated 17.8.2000 passed by this Hon'ble Court in Misc. Petition No.64 of 1998.
- (f)(iv) all expenses for such transfer, dematerialisation and sale be released and be debited to the attached account of late Mr Harshad S Mehta being Current Account No.1/135 with the State Bank of Mysore, Dalal Street Branch and later on reimbursed from the sale proceeds of the shares.
- (g) that the Petitioner be permitted to meet all the fees, cost and incidental expenses relating to the present petition from the attached account of Respondent No.1(a to z) herein.

Exhibit - 6

APPLICATION FILED BY SMT. JYOTI H MEHTA				CLAIM VALUE IN RS. CRORES
M.A. NO.	106 OF 2007	SMT. JYOTI H MEHTA	FAIR GROWTH	37.46
M.A. NO.	107 OF 2007	SMT. JYOTI H MEHTA	HITEN DALAL	6.77
M.A. NO.	108 OF 2007	SMT. JYOTI H MEHTA	DHANRAJ MILLS	57.62
M.A. NO.	109 OF 2007	SMT. JYOTI H MEHTA	PALLAV SETH	0.35
M.A. NO.	110 OF 2007	SMT. JYOTI H MEHTA	SESA GOA	205.39
M.A. NO.	111 OF 2007	SMT. JYOTI H MEHTA	CUSTODIAN	150.00
M.A. NO.	114 OF 2007	SMT. JYOTI H MEHTA & ANOTHER	CUSTODIAN	590.83
	TOTAL			1046.42

1900

IN THE SPECIAL COURT (TRIAL
OF OFFENCES RELATING TO
TRANSACTIONS IN SECURITIES)

ACT, 1992
AT MUMBAI
MISC APPLN NO.113 OF 2007

Smt Jyoti H Mehta

..Applicant

V/s

The Custodian & Ors

..Respondents

AFFIDAVIT IN REPLY OF
APPLICANT

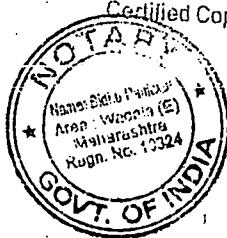
Dated this 1st day of
September, 2008

M/s M P Vashi & Associates,
Jalaram Jyot Building,
Janmabhoomi Marg,
Fort. Mumbai 400 001

1901

Certified Copy Charges Rs. 1/-

- 1 -



IN THE SPECIAL COURT (TRIAL OF OFFENCES
RELATING TO TRANSACTIONS IN SECURITIES) AT BOMBAY

MISC.APPLICATION NO.111 OF 2007

Smt. Jyoti Mehta ...Applicant

v/s.

The Custodian & ors.Respondents

MISC.APPLICATION NO.112 OF 2007.

Smt. Jyoti Mehta ...Applicant

v/s.

The Custodian & ors.Respondents

MISC.APPLICATION NO.113 OF 2007

Smt. Jyoti Mehta ...Applicant

v/s.

The Custodian & ors.Respondents



TRUE COPY

[Signature]

Advocate For Plaintiff / Counsel for Plaintiff

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- 2 -

Mr. M.M.Vashi i/b M.P.Vashi & Asociates for the
Applicant.

Mr. Milind Jadhav i/b M/s.P.M. & Mithi & co. for
the Custodian/R.I

Mr. B.M.Chatterjee for the Respondent No.2/income-tax
Department.

COURT: D.K.DESHMUKH, J.

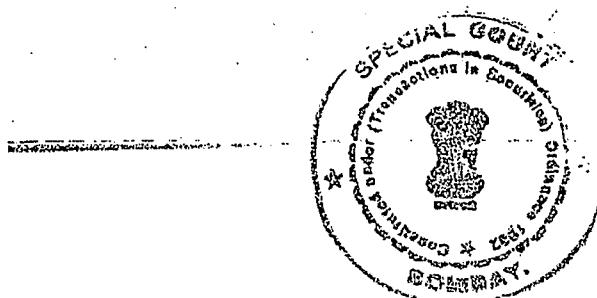
Special Court

DATED: 26th February, 2009

P.C.:

A note is submitted by the custodian. It is taken on record and marked "X" for identification. The learned Counsel appearing for the notified party has no objection to the order being made in terms of the note at "X". Hence, the order in terms of the note at "X".

The Chartered Accountant is directed to submit his report as expeditiously as possible, in any case, within eight weeks from the date on which the copy or



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this order is delivered to him by the custodian. The Chartered Accountant shall be at liberty to apply for extension of time, if necessary, beyond eight weeks, after filing status report as to what has happened during the period of eight weeks. All the three Misc. Applications are disposed of.

sd/-XXX
Shri D. K. Deshmukh, J
Judge Special Court



D.R.O.C.S. MUMBAI
1904 21/2/09

SEARCHED
INDEXED

X

NOTE

MA No.111 of 2007 to MA 113 of 2007

Jyoti Mehta Vs. The Custodian & Ors.

Pursuant to the direction issued by the Hon'ble Special Court on 13/02/2009 this office is in receipt of terms of reference and scope of work of the said firm of Chartered Accountants i.e. M/s. Gala & Gala who are carrying out the post Audit of Accounts in the Office of the Custodian Mumbai.

- a. The firm of Chartered Accountants should compile facts and prepare a report on the accruals that have fallen due in the form of bonus, rights preferential offers, dividends etc on the shares which are subject matter of MA No.111 of 2007 to No.113 of 2007 that have fallen due on the unregistered shares.
- b. The firm of Chartered Accountants should thereafter draw entity wise claim sheets on the erstwhile Owners of the shares based on the accruals that have fallen due which are determined as per Para 1 above.
- c. Urgently prepare a report to derive the present value of the recovery remaining pending i.e. after taking into account any claim of interest for monies enjoyed by erstwhile owners and value of the accrued benefits such as bonus, rights taking into account the current market value of the said shares so as to place a report before this Hon'ble Special Court.
- d. The fees payable to the Chartered Accountants will be released from the attached account of Late Shri Harshad S. Mehta.
- e. The Chartered Accountants will be paid at the Govt. Rates approved by Institute of Chartered Accountants.



Applied on.....	21/2/09
Pages.....	4
Examined by	Mr. Majumdar.
Compared with	Mr. Belosay.
Ready On.....	21/2/09
Delivered On.....	21/2/09

Certified to be a true copy
OFFICER ON SPECIAL DUTY
Officer of the Special Court
Bombay.
21/2/09

1905

Central Govt/Advocate

Govt of India
 Ministry of Law & Justice
 Deptt of Legal Affairs
 Aayekar Bhawan, Annex
 New Marine Lines,
 Bombay 400 020.

THE SPECIAL COURT CONSTITUTED UNDER THE
 SPECIAL COURT (TRIAL OF OFFENCES RELATING TO
 TRANSACTIONS IN SECURITIES) ACT, 1992 AT BOMBAY.

MISC. APPLICATION NO. 424 OF 1994

IN

MISC. APPLICATION NO. 207 OF 1994

Asstt Commissioner of Income Tax
 Central Circle-23, Old C.G.O. Bldg.,
 Annex, 7th floor, M.K.Road,
 Bombay 400 021.

Applicant

Versus

Shri A.K. Menon
 Custodian & Ors.

Respondents

To

The Officer on Special Duty
 Special Court,
 Bombay.

Sir/Madam,

BE PLEASED to enter my appearance on behalf of the
 Applicant above-named in the above matter.

Dated this

September, 1994

Yours faithfully,

(S. D. Patil, Advocate)
 Advocate for the Applicant

TRUE COPY

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Advocate For Petitioner/Complainant/Plaintiff

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IN THE SPECIAL COURT constituted under
THE SPECIAL COURT (TRIAL OF OFFENCES
RELATED TO TRANSACTIONS IN S. SECURITIES)
ACT, 1992 AT BOMBAY.

MISCELLANEOUS APPLICATION NO. 424 OF 1994
IN

MISCELLANEOUS APPLICATION NO. 297 OF 1994

Assistant Commissioner of Income tax)
Central Circle, 23, Old C.G.U. Bldg.)
Annexe, 7th Floor, Maharshi Karve)
Road, Bombay 400 020.)

versus.

1) Shri A.K. Menon,)
Custodian & Others) Respondents

INDEX

Sr. No. Particulars

- 1.: Petition
 - 2.: Exhibit 'A'
 - 3.: Exhibit 'B'
(Summary of Bonami Shares)

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IN THE SPECIAL COURT
CONSTITUTED UNDER THE SPECIAL COURT
(TRAIL OF OF ENDS RELATING TO TRANSACTIONS IN
SECURITIES) ACT, 1992 IT IS SOLEMNLY
MISCELLANEOUS APPLICATION NO. 299 OF 1994

IN

MISCELLANEOUS A LIC TION NO. 297 OF 1994

- | | | |
|---|---|----------------|
| 1) AS INSTANT CO: ISSIGNER OF
INCOME TAX,
CENTRAL CIRCLE-23, 7TH FLOOR
OLD C.G.O. BUILDING ANNEXE
M.K. ROAD, BOMBAY 400 020 | } | ... APPLICANT |
| VERSUS | | |
| 1) SHRI A.K. MENON, CUSTODIAN
NARIMAN BHAVAN,
9TH FLOOR,
NARIMAN POINT, BOMBAY 400 021 | } | ... RECIPIENTS |
| 2) THE BOMBAY STOCK EXCHANGE
PHIROZE JEEJHOY TOWERS
DALAL STREET
BOMBAY 400 001 | | |
| 3) THE CALCUTTA STOCK EXCHANGE
ASSOCIATION LTD.,
7, LYONS RANGE
CALCUTTA 700 001 | | |
| 4) THE DELHI STOCK EXCHANGE
ASSOCIATION LTD.,
3 & 4/48, ASAF ALI ROAD
NEW DELHI 110 002 | | |
| 5) THE MADRAS STOCK EXCHANGE LTD.
EXCHANGE BUILDING, POST BOX
No.183, 11, SECOND LINE BEACH
MADRAS 600 001 | | |
| 6) SHRI HARSHAD S. MEHTA
1205/06, MAKER CHAMBER-V
NARIMAN POINT
BOMBAY-400 021. | | |
| 7) SHRI ASHWIN S. MEHTA
1205/06, MAKER CHAMBER-V
NARIMAN POINT
BOMBAY-400 021. | | |
| 8) SMT. JYOTI H. MEHTA
1205/06, MAKER CHAMBER-V
NARIMAN POINT, BOMBAY 400 021 | | |
| 9) SHRI GUNIR S. MEHTA
1205/06, MAKER CHAMBER-V
221, NARIMAN POINT,
BOMBAY-400 021. | | |
| 10) Parsons/Companies mentioned in
Column 2 of Annexure-B | | |
| 11) Companies mentioned in
Column (ii) of Annexure-B | | |

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- 2 -

MAY IT PLEASE YOUR LORDSHIP:

1. The applicant is the Assistant Commissioner of Income tax, Court.Cir.23. In the course of his duties the Applicant has been looking into the financial affairs of the notified persons, among others. During the course of his investigation it was found that the large number of shares belonging to notified persons of Shri Harshad S. Mehta group were registered in the names of a large number of benami persons. Such transfer of notified persons in the names of benami persons without the permission of the Court is in violation of the provisions of the Special Court Act.
2. In this regard the Applicant had made the following Applications before the Hon'ble Court -

- a) Misc. Applications Nos.194/1.93 for declaration that the shares registered/held in the names mentioned in Exhibit 'A' to the said application No. 194/1993 belong to notified persons and after the notified date, they vest in the Custodian who may be directed to take charge of the said assets and for other reliefs. During the course of proceedings the Hon'ble Judge observed that the benami persons should also have been made parties to the Miscellaneous Application.
- b) In view of the above and further benami shares in a number of companies found during the course of investigation, the Department filed another Miscellaneous Application No.53/1994, impleading the Companies(Scrips).

On 15th February 1994 the Respondent No.6 i.e. Shri Harshad S. Mehta filed an affidavit annexed to which was a list of benami shares and

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1909

debentures in various companies. These shares were subsequently surrendered to the Custodian in pursuance to the direction of the Hon'ble Court.

- c) The Applicant further filed another Miscellaneous Application No.93/1994 stating that the number of shares surrendered/admitted by the Respondent No.6 is much less than the number of benami shares identified by the department.

The Respondent No.6 filed another affidavit on 9-8-94 disclosing further benami shares which are in his possession.

3. During the course of searches conducted by I.T.Deptt. at various premises, a large number of benami shares belonging to Shri Harshad S. Mehta group were seized.

4. Therefore it has become necessary to modify the Miscellaneous application No.297 of 1.94 by excluding the admittedly bona fide shares and benami shares seized by the Department.

5. A reconciliation has been made between the benami shares identified by the department and a number of shares disclosed by Shri Harshad S. Mehta and number of shares seized by I.T. Department. The matching has been done scripwise and followise. The working is given in Exhibit 'A' of this application.

6. The above working shows that still a large number of benami shares identified by the department are in possession of Harshad S. Mehta group or they have been sold in the market. The summary of such shares is shown in Exhibit 'B'. The total value of such shares at the price as on 16-9-94 is.Rs. 173,43,76,161/-.

7. All efforts have been made to ensure that the above working as per Exhibit 'A' is correct and complete. However considering the volume of data involved, chances of any

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mistake cannot be ruled out. The applicant therefore craves leave to amend or alter the working.

8. It is also clarified here that the above list of Benami shares is not full and complete since the investigation by the I.T. Department is still going on and information has been received from about 40 companies only and the information from remaining companies are yet to be received and to be analysed.

9. It is seen that a number of shares registered initially in the benami names have been transferred to some other names without undergoing certification procedure laid down by the Hon'ble Court. This might have been done before the attachment orders were passed by the Hon'ble Court. Nevertheless such transfers are void in law in view of the provisions of the Special Court Act.

10. It is therefore necessary that Shri Harshed S. Mehta should be directed to surrender all the shares which are in his possessing at the earliest possible. The balance shares will therefore represent the floating stock in the market. Such shares should be recovered from the present holders irrespective of the fact whether such shares are still standing in the names of benami persons or not.

11. It is therefore necessary that the list of benami shares which are neither surrendered nor seized by the department should be published in the newspapers and present holders may be asked to contact the I.T. Deptt. with full particulars and benami persons should also be asked to appear before Hon'ble Court so that they can also be heard before such shares are held by the Hon'ble Court as belonging to notified persons.

12. In order to prevent further transfer of such shares it is requested that concerned companies ('scrips) may be

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asked not to transfer the shares registered in the names of benami persons irrespective of the fact whether such shares are still registered in the names of benami persons or not.

13. The Applicant therefore prays that the Hon'ble Court be pleased -

- a. to issue notice to respondents including the persons mentioned in Col.(2) of Exhibit 'A' and companies mentioned in Column (1) of Exh.'A' hereto,
- b. to direct Respondent Nos. 6 to 9 to disclose all the shares which are in their possession,
- c. to direct all the companies mentioned in Exh.'A' that they should not transfer any shares registered in the folio Numbers mentioned in Exhibit 'A' irrespective of the fact whether such shares are still standing in the name of benami persons or not, and keep in abeyance all the rights, bonus, dividend, preferential allotment or other benefit accruing on such shares in super session of all earlier orders passed by the Hon'ble Court in Miscellaneous Application No.194/93, 53/94 and 93/1,94 and
- d) to grant such other relief as this Court deems fit.

Dated this

day of September, 1994

(SUNIL GUPTA)
Asstt.Com. of Income tax, Central Circle-23,
Bombay.

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VERIFICATION

I, SUNIL GUPTA, Assistant Commissioner of Income Tax,
Central Circle-23, Bokbaw do solemnly declare and state
that the statements made in paras 1 to 8 of the above
application are based on information available from the
records of the case and I believe the same to be true
and the statements in paras 9 and 13 of the application
contain submissions to this Hon'ble Court and I believe
the same to be true.

Solemnly declared at Bombay.

This day of Sept. 1994

Léopold

Before me

Advocate for the Applicant.

Special Court, Bombay:

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G.N.F.C LTD
G.N.F.C LTD
200

G.S.F.C LTD
G.S.F.C LTD

135

DINESH J SHAH
PENINSULA IMPEX F.LTD
644379
677190

50
0
25850

50
100
SCRIP TOTAL

JAGDISH R SHETH
RAJA YADAV
205192
205474

1085
50
0
1000
0
0

85
50
SCRIP TOTAL

GLAXO INDIA	HARESH S AVALANI	AVLAHSOL	1000	100
GLAXO INDIA	REKHA H AVALANI	AVLARHUL	400	400
GLAXO INDIA	SARLBEN S AVALANI	AVLAS001	800	800
GLAXO INDIA	SHANTILAL ODHVAYAJI AVALANI	AVLAS001	900	900
GLAXO INDIA	S O AVALANI	AVLAS002	700	700
GLAXO INDIA	ALPA JOBALIA	JOBAA001	1300	1300
GLAXO INDIA	JAYESH D JOBALIA	JOBAJ001	1400	1400
GLAXO INDIA	NIRAV D JOBALIA	JOBAN003	1400	1400
GLAXO INDIA	ALPESH H MODI	MODIAH04	1350	1350
GLAXO INDIA	B D MODI	MODIB002	1000	1000
GLAXO INDIA	HASMUKHBHAI D MODI	MODIH004	1350	1350
GLAXO INDIA	JINESH B MODI	MODIB04	1350	1350
GLAXO INDIA	KIRAN B MODI	MODIKB03	1200	1200
GLAXO INDIA	R B MODI	MODIRB05	300	300
GLAXO INDIA	R.D MODI	MODIRD07	1000	1000
GLAXO INDIA	USHABEN H MODI	MODIUH01	1350	1350
GLAXO INDIA	VAISHALI B MODI	MODIVB03	1350	1350
GLAXO INDIA	JIGNESH R SHETH	SHETJR02	1350	1200
GLAXO INDIA	JAY PRAKASH R SHETH	SHETJR04	700	550
GLAXO INDIA	MEENABEN J SHETH	SHETMJ09	900	900
GLAXO INDIA	H J SHETH	SHETMJ10	1000	1000
GLAXO INDIA	RAMNIKLAL V SHETH	SHETRV07	600	600
GLAXO INDIA	A C TOLIA	TOLIAC01	650	650
GLAXO INDIA	A K TOLIA	TOLIAK01	900	900
GLAXO INDIA	B K TOLIA	TOLIBK01	600	600
GLAXO INDIA	C C TOLIA	TOLICC01	850	850
GLAXO INDIA	JAS TOLIA	TOLIJ01	800	800
GLAXO INDIA	J A TOLIA	TOLIJAO1	800	800
GLAXO INDIA	J C TOLIA	TOLIJC01	400	400
GLAXO INDIA	J K TOLIA	TOLIK01	1000	1000
GLAXO INDIA	K C TOLIA	TOLIKC01	1000	1000
GLAXO INDIA	K N TOLIA	TOLIKN01	850	850
GLAXO INDIA	K N C TOLIA	TOLINK01	700	700
GLAXO INDIA	N K TOLIA	TOLINK01	500	500

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GUJARAT GOVERNMENT
PUBLICATIONS DEPT.

BLO 6

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ITC AGRO-TEC	SANTOSH IMPEX PVT LTD	JTC35945	14200	0	13900	300
ITC AGRO-TEC	PROBODHINI IMPEX PVT LTD	JTC35948	13700	0	13500	200
ITC AGRO-TEC	MINAXI IMPEX PVT LTD	JTC35949	13500	0	13500	13500
ITC AGRIT-TEC	LEENA HOLDINGS P.LTD	JTC35950	14500	0	6300	8200
ITC AGRIT-TEC	CACTUS IMPEX	JTC36030	15200	0	15100	100
ITC AGRIT-TEC	NUTAN IMPEX PVT LTD	JTC36040	12800	0	0	12800
ITC AGRIT-TEC	MECHANA IMPEX PVT LTD	JTC36049	13600	0	13500	100
ITC AGRO-TEC	LATIKA HOLDINGS PVT LTD	JTC36051	15400	0	15300	100
ITC AGRO-TEC	VASANTI HOLDINGS PVT LTD	JTC36052	14800	0	14610	200
ITC AGRO-TEC	REDBUD REAL ESTATES PVT LTD	JTC36053	200	0	100	100
ITC AGRO-TEC	SUNIL HAGINDAS KOTHARI	JTC3929R		0	201	SCRIP TOTAL

35800

ITC BHADRACHALAM
ITC BHADRACHALAM

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JAYESH D JOBALIA
MEENABEN J SHETH

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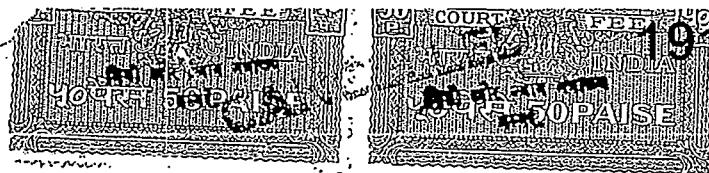
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BEFORE THE SPECIAL COURT CONSTITUTED UNDER
THE SPECIAL COURT (TRIAL OF OFFENCES
RELATING TO TRANSACTIONS IN SECURITIES)
ACT, 1992, AT MUMBAI.



MISC. PETITION NO. 99 OF 1998

The Custodian

.....Petitioner

Vs.



.....Respondents

AFFIDAVIT

1. I, Shri V. K. Gupta, Deputy Commissioner of Income Tax, Central Circle 23, Mumbai, having my office at 7th Floor, Old C. G. O. Complex Annexe, Maharshi Karve Marg, Mumbai 400 020, do hereby solemnly affirm and state as under:

2. That I have gone through the above mentioned petition filed by the Custodian appointed under the Special Court (Trial of Offences relating to Transactions in Securities) Act, 1992, and after considering the petition in detail, I state at the outset that the Respondent No. 2, viz., Assistant Commissioner of Income Tax, Central Circle 23, Mumbai, (now redesignated as Deputy Commissioner of Income Tax, Central Circle 23, Mumbai), has no objection to the Custodian's Application to this Hon'ble Court for declaration of all the shares / securities standing in the name of individuals / entities in the Exhibit 'G' of that application as 'Benami' shares of the Respondent No. 1. However, I say and submit that on investigation and detection by this Department, further holdings of benami shares of the Respondent No. 1 have been brought to light, the list of which is appended herewith as Annexure 1. These shares had not been listed in the list of Benami shares of the Respondent

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[Signature]

Advocate For Petitioner / Respondent / Applicant

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No. 1 as filed in the earlier applications filed by this Department. Neither do these shares appear in the Exhibit 'G' of the petition mentioned above; nor have they been disclosed by the Respondent No. 1 so far. Thus, these shares represent Benami holdings of the Respondent No. 1 which hitherto remained not accounted for.

3. I humbly state that under the circumstances the shares listed in Annexure 1 appended herewith be declared as Benami shares of the Respondent No. 1 and therefore, be attached with such further orders as the petitioner has prayed for in connection with the Exhibit 'G' of the above mentioned petition.

4. I state that Respondent No. 2 has investigated and will further investigate to discover shares / securities holdings, which according to the Respondent No. 2, are the Benami holdings of the Respondent No. 1 and will place before this Hon'ble Court for necessary orders.

I humbly state that the detection of Benami shares / securities is based on Benami names and / or addresses used by the Respondent No. 1 for receiving deliveries of these Benami shares / securities.

6. I humbly state that this Department has taken all due care and caution with full diligence to be accurate in respect of the names and corresponding folio numbers; however, the Department reserves its right for corrections, if necessary and required, from time to time.

Solemnly affirmed and declared
at Mumbai on this 10th day of September, 1999.

(R.N. Bandyopadhyay)
Advocate for the Respondent No. 2

Deponent

Before me.
T. S. J. 1999
OFFICER ON SPECIAL DUTY
Special Court, Mumbai
Bombay

Applied on 17/05/2024
Pages 09
Examined by G.P.W. Q
Compared with S.A.B. Q
Ready on 21/05/2024
Delivered on 21/05/2024

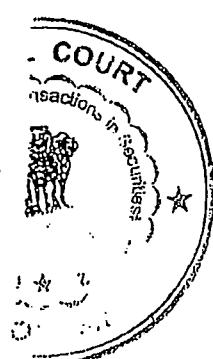
Page numbered to be a true copy
T. S. J. 1999
OFFICER ON SPECIAL DUTY
Officer of the Special Court

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12/10/1917

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ANNEXURE : 1



Sr	NAME	SCRIP	FOLIO	SHARES As Per Company
1	SHAH DINESH JECHAND	AP RAYONS	1002003	50
2	SHAH RITA DINESH	AP RAYONS	0402190	50
3	SHAH RITA DINESH	AP RAYONS	0402191	50
4	AJIT KUMAR DUGAR	ACC	A19743	140
5	ARUN SHAH	ACC	A20691	210
6	ARUNA RAJGURU	ACC	A20803	60
7	ASTHA DINESH SHAH	ACC	A19744	84
8	ASTHA SHAH	ACC	A19745	63
9	BHAVESH HARSUKHLAL MODI	ACC	B16305	170
10	CHANDA M GANDHI	ACC	C11381	105
11	CHHAYA HARSUKHLAL MODI	ACC	C11267	502
12	DARSHANA BHUPENDRA AVLANI	ACC	D16027	160
13	DEEPAK BABULAL SHAH	ACC	D16319	42
14	DEVKUWAR JECHAND	ACC	D16803	75
15	DEVKUWAR JECHAND	ACC	D16805	75
16	DHARMCHAND HARLALKA	ACC	D16302	280
17	DHIRUBHAI PRABHUDAS SAPANI	ACC	D16206	112
18	DHIRUBHAI PRABHUDAS SAPANI	ACC	D16208	84
19	DINESH JECHAND	ACC	D16804	75
20	DINESH JECHAND SHAH	ACC	D16806	75
21	ESHA SHAH	ACC	E01810	63
22	HANUMAN PRASAD SHARMA	ACC	H11785	140
23	HIMANSHU M GANDHI	ACC	H11728	91
24	HIRABEN JECHAND	ACC	H11791	140
25	JANARDHAN S SAPTE	ACC	J15218	63
26	JAYSHREE RAJGURU	ACC	J15729	50
27	JAYSHREE YOGESHBHAI	ACC	J16035	50
28	JAYSHREEBEN RAJGURU	ACC	J15724	60
29	KHYATI DEEPAK SHAH	ACC	K21261	28
30	KRUTI DEEPAK SHAH	ACC	K21250	84
31	KRUTI DEEPAK SHAH	ACC	K21252	35
32	KRUTI DEEPAK SHAH	ACC	K21253	35
33	KRUTI DEEPAK SHAH	ACC	K21262	80
34	MAHENDRA ID GANDHI	ACC	M27659	70
35	MAHENDRA PRABHUDAS SAPANI	ACC	M27663	112
36	MAHENDRA PRABHUDAS SAPANI	ACC	M27660	71
37	MANISH RUNGTA	ACC	M27769	280
38	MEENA RAJENDRA SHAH	ACC	M27915	56

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ANNEXURE : 1

Sr	NAME	SCRIP	FOLIO	SHARES As Per Company
39	MEENA RAJENDRA SHAH	ACC	M27929	42
40	MEENA RAJENDRA SHAH	ACC	M27935	84
41	MUKESH HIRALAL SHAH	ACC	M27918	35
42	MUKESH HIRALAL SHAH	ACC	M27920	35
43	MUKESH HIRALAL SHAH	ACC	M27927	49
44	MUKESH HIRALAL SHAH	ACC	M27928	35
45	MUKESH SHAH	ACC	M27930	105
46	NIDHI DEEPAK SHAH	ACC	N16505	35
47	NIDHI DEEPAK SHAH	ACC	N16511	28
48	NIRAV MAHENDRA SAPANI	ACC	N16353	105
49	NIRAV MAHENDRA SAPANI	ACC	N16354	105
50	PARMANAND HARLALKA	ACC	P19616	560
51	PARUL MAHENDRA SAPANI	ACC	P19573	70
52	PURUSHOTTAM LAL AGARWALA	ACC	P19767	280
53	R K HARLALKA	ACC	R22545	357
54	RAJENDRA BABULAL SHAH	ACC	R22584	42
55	RAJENDRA BABULAL SHAH	ACC	R22593	35
56	RAMESH KUMAR GUPTA	ACC	R22518	280
57	RANJANBEN PRAVIN SHAH	ACC	R22515	469
58	REKHA HARESH AVLANI	ACC	R21983	200
59	RITA DINESH SHAH	ACC	R23390	75
60	RITA DINESH SHAH	ACC	R23407	75
61	SANJAY M GANDHI	ACC	S37350	98
62	SANJAY M GANDHI	ACC	S37357	84
63	SHANTA DURLABJI MODI	ACC	S36734	700
64	SHANTILAL ODHAVJI AVLANI	ACC	S36687	200
65	SHYAM SUNDAR HARLALKA	ACC	S37472	280
66	SUBHADRABEN BABULAL SHAH	ACC	S37937	329
67	SUSHILA HARLALKA	ACC	S37752	273
68	MADHU MEHTA	APOLLO TYRES	Z076852	1900
69	MADHU MEHTA	APOLLO TYRES	Z076829	2900
70	SUNIT BHARAT JANGLA	APOLLO TYRES	Z075933	2750
71	BHAVESH H MODI	BIRLA JUTE	059773	5400
72	NILESH H MODI	BIRLA JUTE	059774	5300
73	RUSHABH SHAH	BIRLA JUTE	061550	616
74	JITENDRA MOHANLAL VORA	BOMBAY DYEING	J3396	50

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ANNEXURE : 1

Sr	NAME	SCRIP	FOLIO	SHARES As Per Company
75	A N JOBALIA	BURROUGH S WELLCOME	60050	1200
76	BHAVIN SANGHAVI	ESSAR GUJARAT	B906012	150
77	DINESH J SHAH	ESSAR GUJARAT	D801728	65
78	JYOTI J VORA	ESSAR GUJARAT	J489405	225
79	MADHUBEN N MEHTA	ESSAR GUJARAT	M906409	1250
80	NAVINCHANDRA L MEHTA	ESSAR GUJARAT	N903366	1250
81	ASHIL KOTHARI	ESSEM CATALYST	A00319	1000
82	BHARATI SHAH	ESSEM CATALYST	B00149	1200
83	BHAVESH MODI	ESSEM CATALYST	B00187	500
84	BINA A AVLANI	ESSEM CATALYST	B00233	900
85	GIRISH MANIAR	ESSEM CATALYST	G00077	100
86	JAY SHETH	ESSEM CATALYST	J00130	500
87	JAYESH N SHAH	ESSEM CATALYST	J00005	1000
88	JITUBHAI M VORA	ESSEM CATALYST	J00281	100
89	KIRAN B BHARWADA	ESSEM CATALYST	K00276	900
90	NILESH MODI	ESSEM CATALYST	N00200	500
91	NITA A KOTHARI	ESSEM CATALYST	N00310	1000
92	DINESH J SHAH	EXCEL INDUSTRIES LTD	D1620	150
93	DINESH JAICHAND	EXCEL INDUSTRIES LTD	J2023	375
94	JAYESH N SHAH	G E SHIPPING	J-45925	1400
95	RANJIT BARODIA	G E SHIPPING	R-51299	1400
96	SONAL HEMANT SHETH	G E SHIPPING	S-62381	1163
97	VIPUL M SHAH	G E SHIPPING	V-46564	1200
98	YADAV RAJU BHAU	G E SHIPPING	Y-40808	1200
99	DINESH J SHAH	G.N.F.C.	620128	50

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ANNEXURE : 1

Sr	NAME	SCRIP	FOLIO	SHARES As Per Company
100	DINESH J SHAH	G.N.F.C.	644379	50
101	NILESH D JOBALIA	G.S.P.C.	205181	700
102	ALPA N JOBALIA	HERO HONDA	136968	750
103	KALPANA N JOBALIA	HERO HONDA	136969	750
104	NIRAV D JOBALIA	HERO HONDA	136970	100
105	NIRAV D JOBALIA	HERO HONDA	136972	700
106	BHAVESH B.MODI	HINDALCO	HEA-8336	2610
107	CHHAYA MODI	HINDALCO	HEA-8335	1750
108	HASMUKHBHAI D.MODI	HINDALCO	HEA-8337	3000
109	JULEBIBHAID.MODI	HINDALCO	HEA-8334	4900
110	MINAL D.MODI	HINDALCO	HEA-8332	3000
111	NILESH D MODI	HINDALCO	HEA-8331	2600
112	GOODVALUE FINVEST PVT.LTD.	INDIAN RAYON	G-39462	6800
113	PODDAR PACKAGINGS PVT.LTD.	INDIAN RAYON	P-46025	6700
114	PRAHLAD ESTATES PVT.LTD.	INDIAN RAYON	P-46024	6700
115	REDBUD REAL ESTATE P.LTD.	ITC	3/6066	100
116	NILESH D JOBALIA	OSWAL FATS	22970	840
117	USHA H MODI	PARASRAM PURIA SYNTHETIC	42867	1000
118	ASHWIN S AVLANI	PRIYADARS HINI CEMENT	A5786	300
119	J M VORA	PRIYADARS HINI CEMENT	J2351	100
120	JYOTI J VORA	PRIYADARS HINI CEMENT	J2350	100
121	SHANTILAL O AVLANI	PRIYADARS HINI CEMENT	S13815	500
122	NEETA KOTHARI	PUNJAB TRACTORS	11394	100
123	RAJESH H SHAH	PUNJAB TRACTORS	13437	50
124	SUBHAS B SHAH	PUNJAB TRACTORS	11515	400
125	SUNIL N KOTHARI	PUNJAB TRACTORS	11393	150
126	SACHIN N PATIL	SESA GOA	S13250	150

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ANNEXURE : 1

Sr	NAME	SCRIP	FOLIO	SHARES As Per Company
127	DINESH J SHAH	SPIC	D7331	30
128	BHAVIN SANGHAVI	TATA TEA	B6364	1200
129	BHAVIN SANGHAVI	TATA TEA	B6367	50
130	PRAHIT INV P LTD	TISCO		10000
131	SAYASHREE INV P LTD	TISCO	SIS162315	22000
132	SUHIT INV LTD	TISCO	SIS180172	16260
133	SUHIT INV LTD	TISCO	SIS186132	5090
134	SULAX INV P LTD	TISCO	SIS180144	22000
135	SUPHALAM INV P LTD	TISCO	SIS180923	23000
136	CHIMANLAL C TOLIA	UNITED PHOSPHO	C800	2122
137	DINESH J SHAH	UNITED PHOSPHO	D5027	1050
138	DINESH J SHAH	UPCOM CABLES	D2997	130



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Central Govt. Advocate

Government of India,
Ministry of Law and Justice,
Department of Legal Affairs,
Aayakar Bhavan Annexe,
Mumbai-20

IN THE SPECIAL COURT CONSTITUTED UNDER THE
SPECIAL COURT (TRIAL OF OFFENCES RELATING TO
TRANSACTIONS IN SECURITIES) ACT, 1992 AT MUMBAI.

MISC. PETITION NO. 99 OF 1998



The Custodian

....Petitioner

Versus

Shri Harshad S. Mehta & Others

....Respondents

To,

The Officer on Special Duty
Special Court
Mumbai.

Sir/Madam

BE PLEASED to enter my appearance on behalf of the Applicant
above named in the above matter.

Dated this 10th day of September 1999.

Yours faithfully,

(R. N. BANDYOPADHYAY)
ADVOCATE FOR THE APPLICANT

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BEFORE THE SPECIAL COURT AT MUMBAI
CONSTITUTED UNDER THE SPECIAL COURT
(TRIAL OF OFFENCES RELATING TO
TRANSACTIONS IN SECURITIES) ACT 1992.

MISC. PETITION NO. 99 OF 1998.

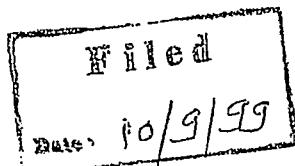
The CustodianApplicant

Vs.

Shri Harshad S. Mehta & OthersRespondents

AFFIDAVIT

Dated this 10th day of September 1999.



R. N. BANDYOPADHYAY

Advocate for the Applicant
Ministry of Law and Justice,
Aayakar Bhavan Annexe,
New Marine Lines, Mumbai - 20

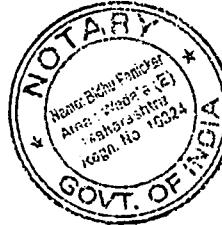
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BEFORE THE SPECIAL COURT CONSTITUTED UNDER
 THE SPECIAL COURT (TRIAL OF OFFENCES RELATING
 TO TRANSACTIONS IN SECURITIES) ACT, 1992
MISCELLANEOUS PETITION NO. 99 OF 1998

The Custodian, appointed under
 The Special Court (Trial and
 Offences Relating to Transactions
 in Securities Act, 1992

...Petitioner



Versus

Shri Harshad S. Mehta & Others

...Respondents

AFFIDAVIT ON BEHALF OF RESPONDENT NO.42, IN REPLY TO THE PETITION

I, Ilam C. Karanji, S/o of Shri T.C.Kamboj, Company Secretary of Respondent No.42, in the above Petition having its office at 34, Community Centre, Basant Lok, Vasant Vihar, New Delhi, do hereby solemnly affirm and state as under:-

GOMI

1. I am the Company Secretary of Respondent No.42 and conversant with the facts of the case and therefore able to depose to the same.
2. I say that the present Petition inter alia calls upon this Respondent to furnish particulars of Benami Shares of the 1st Respondent. I say that this Respondent will abide by the orders and directions of this Hon'ble Court and I am making this Affidavit for the limited purpose of placing before this Hon'ble Court and relevant facts required to be disclosed in relation to the Miscellaneous Petition and as per the requisition contained therein.
3. (A) By a letter dated 9th March 1994, the Petitioner called upon this Respondent to confirm whether shares/debentures enumerated in the list enclosed therewith, were in the name of the 1st holders indicated therein. Hereto annexed and marked Exhibit "I" is the copy of the said letter dated 9th March 1994. The Registrar and Share Transfer Agent of this Respondent (hereinafter referred to as "MCS Limited"), replied the said letter vide their letter dated 26th April, 1994 and enclosed therewith the particulars of those shares as per the requisition made by the Petitioner. The MCS Limited, in the above letter dated 26th April 1994, pointed out that as per records of the Respondent Company, 750 shares are appearing in respect

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Advocate For Petitioner / Respondent / Appellant

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26/5/1993
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of Ledger Folio No.137322, while as per the list given by the Petitioner, 1600 shares are appearing. It was further observed that in respect of Folio No.137318, 200 shares are appearing in Company's record, while 100 shares are appearing in the Petitioner's list. Hereto annexed and marked "Exhibit II" is the copy of the letter dated 26th April 1994.

(B) Further, by a letter dated 11th January 1995, the Petitioner requested this Respondent to update the list of the Benami Shares submitted by Respondent No.1 to this Hon'ble Court on 9th August 1995. Hereto annexed and marked "Exhibit III" is the copy of letter dated 11th January 1995. In reply to the Petitioner's above letter, the MCS Limited furnished the details of the shares and particulars as per the records as on that date. Hereto annexed and marked 'Exhibit IV' is the copy of the letter dated 30th January 1995.

(C) Further, by a letter dated 22nd June 1995, the Petitioner informed this Respondent about the status of the shares, which were registered in the name of the parties, as per the list enclosed therewith. Hereto annexed and marked Exhibit V is the copy of the Petitioner's letter dated 22nd June 1995. In reply to the said letter, the MCS Limited, vide their letter dated 6th July 1995, furnished the details of share certificates, name and address of the persons in respect of the Folio Nos., given by the Petitioner in the letter dated 22nd June 1995. Hereto annexed and marked "Exhibit VI" is the copy of the letter dated 6th July 1995. This Respondent observed that the number of shares in respect of Folio No.136541 was inadvertently shown as 850 shares by the Petitioner instead of 820 shares as per the records of this Respondent. It was further observed that the Petitioner inadvertently again shown 1600 shares instead of 750 shares in respect of Folio No.137322, which was earlier corrected by the Petitioner in the letter dated 11th January 1995 (Exhibit III hereto).

(D) Further by a letter dated 28th July, 1998, the Petitioner inter alia informed this Respondent that the Harshad Mehta Group filed two Affidavits and furnished the details of shares of various Companies standing in the name of Benami names and details of the same were communicated to this Respondent by earlier letters dated 19th March 1994, 11th January, 1995 and 22nd June, 1995. It was further stated in the said letter that the Order of 13th March, 1997, did not cover the shares of this Respondent, the Petitioner is taking the action to place the matter before this Hon'ble Court as it was necessary to cover all the Benami shares held by the Harshad Mehta Group. Hereto annexed and marked Exhibit VII is the copy of the letter dated 28th July 1998.

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4. I say that this Respondent observed from the list of shares registered in the name of Benami holders as enclosed by the Petitioner along with their above letter dated 28th July, 1998, 212 shares under Certificate No.307956 to 307961 which were issued as bonus shares during the year 1995, against Folio No.137312 have been transferred in the name of SBI Capital Markets Limited A/C Stock Holding Corporation of India Limited on 23rd December, 1998, based on the documents executed by the Benami holder Sh.Bipin Bhai D. Modi. I further say and submit that in reply to the aforesaid letter dated 28th July, 1998, the facts were brought to the notice of the Petitioner by this Respondent vide its letter dated 29th September 1998. Hereto annexed and marked Exhibit VIII is the copy of the letter dated 29th September 1998.
5. I say that in the mean while, the said 212 shares were lodged by Stock Holding Corporation of India Limited for dematerialisation. I further say that this Respondent refused the said request for dematerialisation of those shares vide its letter dated 27th October 1998, under intimation to the Petitioner and informed the Stock Holding Corporation of India Limited that the said request cannot be accepted as these are the Benami shares of Respondent No.1. Hereto annexed and marked Exhibit IX is the copy of the letter dated 27th October 1998.
6. I say that the Petitioner, vide their letter dated 1st December, 1998, called upon this Respondent to deposit the said 212 shares with O.S.D., Mumbai. Hereto annexed and marked Exhibit X is the copy of the Letter dated 1st December 1998. I further say that pursuant to the aforesaid letter dated 1st December 1998, this Respondent deposited the said shares with O.S.D., Mumbai, vide its letter dated 25th March 1999. Hereto annexed and marked Exhibit XI is the copy of the letter dated 25th March 1999.

I say and submit that this Respondent will abide by the Order(s) and direction(s) of this Hon'ble Court and crave leave to file further detail Affidavit, if so directed and/or required to clarify with respect to the aforesaid.

Certified to be a true copy
22/05/2014
OFFICER ON SPECIAL DUTY
Officer of the Special Court
Bombay (B)

Solemnly Affirmed at New Delhi
this 6th day of July, 1999

Advocate for the Respondent

For Respondent No.42
For Hero Honda Motor Limited

H. C. Kamboj

Company Secretary

Applied on 17/05/2014

Pages 54

Examined by GPN

Queried by SAB (P)

Ready on 22/05/2014

Delivered 29/05/2014

REGISTERED

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EXHIBIT

OFFICE OF THE CUSTODIAN
THE SPECIAL COURT (Trial of offences relating to
transactions in Securities) Act, 1992
3rd Floor, Bank of Baroda Bhawan,
16, Parliament Street,
NEW DELHI-110001
Phones : 3326836, 3327279

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No 4151 CUS/ATT/MA-530 OF 94/987 (KW)

MARCH 9, 1994

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Dated the.....

To
The Company Secretary,
Hero Honda Motors Ltd.,
34, Community Centre,
Basant Lok, Vasant Vihar,
New Delhi-110 057.

Dear Sirs,

Harshad S. Mehta - a notified person under the Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992 - in his affidavit filed with the Special Court in Misc. Application 194 of 93 and 53 of 1994 has claimed that the shares and debentures enumerated in the list enclosed belong to one or the other of 29 parties of Harshad Mehta Group (HMG) or are shares/debentures purchased by the three stock-broking firms of M/s Harshad S. Mehta, M/s Ashwin Mehta and M/s Jyoti H Mehta on behalf of their clients including entities within the group and family members. He has also stated that some more shares/debentures which have remained unregistered, the details of which are under compilation and will be submitting the same to the Special Court at a later date.

In this connection, you are requested to confirm whether the shares/debentures enumerated in the said list are in the names of the first holders indicated therein. It should be noted that in terms of Secs. 3(3) and 3(4) of the Special Court's Act, all properties - movable or immovable or both, belonging to persons notified under the said Act, stand 'attached' simultaneously with the issue of Notification and constructively vest with the Special Court.

In the light of the above, you are hereby called upon not to deal with these shares/debentures in any manner whatsoever without the permission of the Special Court.

W.W.H.
W.W.H.
J.W.A.
J.W.A.
Enc: As above

Yours faithfully,

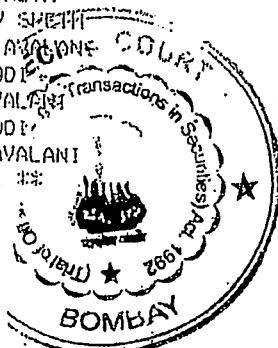
(D.K. ROY CHOWDHARY)
Officer on Special Duty

1928

BB HERD HONDA
 BHARTIBEN R SHETH
 BHAVESH H MODI
 CHHAYA H MODI
 DARSHANA B. AVALANI
 DURLABINJI K MODI
 HARESH S AVALANI
 HARSHUKHLAL D MODI
 HARSHUKHLAL D MODI
 JAGDISH R SHETH
 JAYPRAKASH R SHETH
 KANCHANGEN R. SHETH
 MADHUBEN N MEHTA
 MEENABEN H MODI
 MEENABEN J SHETH
 MILESH H. MODI
 NAVINCHANDRA L MEHTA
 NILESH D. JOSALIA
 RAJANI D MODI
 RAJESH R. SHETH
 RAMNIKLAL V SHETH
 REKHABEN H AVALANI
 REKHABEN MODI
 SARLABEN AVALANI
 SHANTA D MODI
 SHANTILAL AVALANI
 Subtotal

<u>Quantity</u>	<u>Folio no.</u>
900	137374 ✓
750	137311 ✓
750	137313 ✓
850	136540 ✓
750	137314 ✓
820	136541 ✓
750	137317 ✓
100	137318 ✓
900	137377 ✓
900	137378 ✓
700	137379 ✓
850	137298 ✓
700	137320 ✓
900	137381 ✓
1600	137322 ✓
850	137301 ✓
800	136971 ✓
850	137323 ✓
850	137384 ✓
850	137385 ✓
785	136542 ✓
715	137325 ✓
800	136543 ✓
750	137326 ✓
700	136544 ✓

20170 X



1929

EXHIBIT-II

M C S L I M I T E D

SRI VENKATESH BHAVAN, 212-A, SHAHPURJAT, BEHIND PANCHSHEEL CLUB, NEW DELHI-110 016
Phone : 6453830, 6453831, 6453832 Fax: 011-6473152 Telex: 031-71448 MCSID

REGISTERED

MCS/HHML/212/94-95

Dated : 26th April '94

Mr. D.K. Roy Chaudhary
Officer on Special Duty
Office of the Custodian
The Special Court
3rd Floor, Bank of Baroda Bhawan
16, Parliament Street
New Delhi - 110 001

Re : Hero Honda Motors Limited

Dear Sir,

We refer to your Letter No. 415/CUS/ATT/MA-530 OF 94/987 (KW) dated 9th March 1994.

We enclose herewith a list containing details of Certificate Nos., Distinctive Nos. and Name & Address of the holder.

The difference in 850 Shares being attributed to the difference in holding of Mr. N. N. Modi vide Folio No. 137322. As per our records, the holding is 750 Shares not 1600.

Kindly let us have details of the Certificate No. in order to let you know the correct position.

Please also note that we have marked stop transfer against the said Folio No. .

Thanking you,

Yours faithfully,
for M C S LIMITED.

(N. KRISHNA KUMAR)
ASSISTANT MANAGER

Encl : As above

C.C. Hero Honda Motors Ltd.

1930

1933

1934

1935

三

प्रगतिशक्ति कां नीलकंठ सर्विसेस OFFICE OF THE CUSTODIAN (S.85) 1938

विशेष न्यायालय (प्रतिभूति संबंधी हार सम्बन्धी) (THE SPECIAL COURT (Trial of offences relating to
प्रपराप विचारणा) अधिनियम, 1992 (Transactions in Securities) Act, 1992

दोपरो मंजिल, देव भाक बड़ोदा भवन, 3rd Floor, Bank of Baroda Bhawan,

16, पानियानेट स्ट्रीट, 116, Parliament Street

मुम्बई - 400001, मुम्बई - 400001, मुम्बई - 400001

फ़ोन : 3326836, 3327279, 3329231, फ़ोन : 3326836, 3327279, 3329231

फ़ैक्स : 91 11 331-1665, फ़ैक्स : 91 11 331-1665

EXHIBIT-III



The Company Secretary
HERO HONDA MOTORS LTD.
34 COMMUNITY CENTRE
BASANT LOK, VASANT VIHAR
NEW DELHI - PIN - 110054

Sir,

Substituting list of benami shares submitted by Harshad Mehta to special Court on 9th August 94.

Harshad S. Mehta in his Affidavit dated 25th February 94 had submitted a list of benami share holding in various companies which was forwarded to you vide this office letter No.4151/Cus/Att/MA-53/987-Dated 18th April 94 to this office immediately in respect of shares and folios which were not listed in his earlier affidavit of 25th February 94.

You may also kindly arrange to note the instructions given in this office letter dated 9th/19th March 94 and furnish the additional information called for in this office letter No.285/Cus/Att/MA-53/987 dated 18th April 94 to this office immediately in respect of shares and folios which were not listed in his earlier affidavit of 25th February 94.

Yours faithfully,

(D.K. ROY CHOWDHURY)
OFFICER ON SPECIAL DUTY

Encl:as above

1939

HERO HONDA

SHARTIBEN R SHETH
BHAVESH H MODI
BIPINBHAI D MODI
CHHAYA H MODI
DARSHANA BHUPENORA AVALANI
DURLABHAJI KABABHAI MODI
HARESH SHANTILAL AVALANI
HARESH SHANTILAL AVALANI
HARSHUKHLAL D MODI
HARSHUKHLAL D MODI
JAGOISH R SHETH
KANCHANSEN R SHETH
KACHUBEN N MEHTA
HEENABEN H MODI
MEENABEN J SHETH
MEENABEN J SHETH
NAVINCHANDRA L MEHTA
NILESH D. JOBALIA
NILESH D. JOBALIA
NILESH H MODI
RAJNINI D. MODI

137374 900
137311 750
137312 850
137313 750
136540 850
137314 750
136541 X 750
HH136541 70 }
137317 750
137318 100
137377 900
137378 900
137379 700
137298 850
137320 700
137381 700
137381 200
137301 850
136971 750
H136971 50 }
137322 750
137323 850



1940

Page No. 29

FOLIO NO. QUANTITY SECOND HOLDER

FIRST HOLDER

RAJESH R SHETH
RAHANIKLAL V SHETH
REKHABEN B MODI
REKHABEN B MODI
REKHABEN HARESH AVALANI
SARLABEN SHANTILAL AVALANI
SHANTABEN D MODI
SHANTILAL ODHAVJI AVALANI
** subtotal **

137384 850
137385 850
137325 700
HH137325 15
136542 ✓ 785
136543 800
137326 750
136544 700

20170



1941

691

12.10

EXHIBIT-IV

18

M C S L I M I T E D

Sri Venkatesh Bhavan, 212-A, Shahpurjat, New Delhi-110 049

Phone: 011-6453030, 011-6453031, 011-6453032

Fax: 011-6473152

Telox: 031-71440 MCSD

MC:HH:1850:98

Jan 30, 1995

D K Roy Choudhary
Officer on Special Duty
Office of the Custodian
The Special Court
3rd floor, Bank of Baroda Bhawan
16, Parliament Street
NEW DELHI 110001

Dear Sir,

Re: Hero Honda Motors Limited

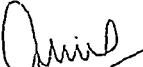
Sub: Updating list of benami shares submitted by
Harshad S Mehta for Special Court on 9.8.94.

This letter is in response to your letter No. 2922/CUS/ATT/MA-53/94
987 (KWW) dt 25.1.1995 received through Hero Honda Motors Ltd
on 25.1.1995.

As desired we are enclosing herewith list containing the
details of share certificates name and address of the persons
whose DOB Nos have been given by you.

Thanking you,

Yours faithfully,
for MCS LIMITED


AMLA M KHATRI

SR. MANAGER

CC: Hero Honda Motors Limited
NEW DELHI

21942

1943

REGISTER OF MEMBERS AS ON 20/10/1944		PAGE NO. 7	
NAME AND ADDRESS	DATE OF FREIGHT	SHARES HELD	SHARES HELD
ENTRY NO.	DATE	TRENT	A/C SHARES
137312 RAJKOT GUJARAT	11-09-92	50 12509665 12509714	141014 69955
65909 11-09-92	50 16193668 16193714	12397 139946	
65909 11-09-92	50 23005466 23006115	46021 139946	
* D MODI BUSINESS			
65909 11-09-92	50 23008666 23009115	768027 139946	
65909 11-09-92	50 3092465 6119265	139946	
65909 11-09-92	50 3092465 6119265	139946	
65909 11-09-92	50 3656476 36564865	79102 139946	
65909 11-09-92	50 4153766 4153815	80103 139946	
65909 11-09-92	50 4228626 42286115	23371 139946	
65909 11-09-92	50 14839780 1484929	155601 139946	
65909 11-09-92	50 14839780 1484929	155601 139946	
65909 11-09-92	50 14839780 1484929	155601 139946	
65909 11-09-92	50 12347543 12347543	183783 139946	
65909 11-09-92	20 12347543 12347543	183783 139946	
65909 11-09-92	20 15031998 15031987	183783 139946	
65909 11-09-92	50 1602666 1602515	17215 12769	
65909 11-09-92	50 1602666 1602515	17215 12769	
65909 11-09-92	50 1053216 1053216	21074 12267	
65909 11-09-92	50 1053216 1053216	21074 12267	
65909 11-09-92	50 4773466 2773515	95479 12612	
S-T-PAN-BUS-STOP			
UPLETA GUJARAT			
560470			
* R MODI BUSINESS			
65909 11-09-92	50 4022156 4022156	60733 12512	
65909 11-09-92	50 47733156 47733155	95176 12512	
65909 11-09-92	50 47733156 47733155	95176 12512	
65909 11-09-92	50 53216 53216	1071 10150	
65909 11-09-92	50 65766 65815	9232 10150	
65909 11-09-92	50 471416 471416	9436 10150	
65909 11-09-92	50 745316 745316	10291 12059	
65909 11-09-92	50 1358115 1358115	27117 12059	
65909 11-09-92	50 1424415 1424415	28497 12059	
65909 11-09-92	50 3268766 3268815	6185 12059	
65909 11-09-92	50 1303216 1303216	66071 12059	
65909 11-09-92	50 3354116 3354116	65492 12059	
65909 11-09-92	50 3632666 3632666	172667 12059	
65909 11-09-92	50 1103114 1103114	750 135530	
137313 CHHAYA R MODI			
S-T-PAN-BUS-STOP			
UPLETA GUJARAT			
65909 11-09-92	50 12171766 12171765	190607	
65909 11-09-92	50 12575047 12575047	190607	
65909 11-09-92	15 15109632 15109701	190607	
65909 11-09-92	10 15109632 15109701	190607	
65909 11-09-92	20 15109632 15109701	190605	
65909 11-09-92	50 4213666 4213715	81203 12931	
65909 11-09-92	15 15168187 15168201	156764 12931	
65909 11-09-92	20 15171825 15171822	160476 12931	
65909 11-09-92	50 108116 108116	21752 12235	
65909 11-09-92	50 160618 160618	12222 12235	
65909 11-09-92	50 180055 180055	5810 12235	
65909 11-09-92	50 230766 230766	12225 12235	
65909 11-09-92	50 604016 604016	16090 12235	
65909 11-09-92	50 1470116 1470116	22912 12235	
65909 11-09-92	50 1593016 1593016	31910 12235	
65909 11-09-92	50 3342116 3342116	66552 12235	
65909 11-09-92	50 3570666 3570666	3576115 71531 12233	
65909 11-09-92	50 17490996 17490996	1749715 29932 10932	
65909 11-09-92	50 2746266 2746266	2746315 51935 10932	
137314 DURLABHAI KARBHAI MODI			
JAWAHAR SOCIETY			
STREET NO 3 BHIMANI KRUPA			
65909 11-09-92	50 12171766 12171765	190607	
65909 11-09-92	50 12575047 12575047	190607	
65909 11-09-92	15 15109632 15109701	190607	
65909 11-09-92	10 15109632 15109701	190607	
65909 11-09-92	20 15109632 15109701	190605	
65909 11-09-92	50 4213666 4213715	81203 12931	
65909 11-09-92	15 15168187 15168201	156764 12931	
65909 11-09-92	20 15171825 15171822	160476 12931	
65909 11-09-92	50 108116 108116	21752 12235	
65909 11-09-92	50 160618 160618	12222 12235	
65909 11-09-92	50 180055 180055	5810 12235	
65909 11-09-92	50 230766 230766	12225 12235	
65909 11-09-92	50 604016 604016	16090 12235	
65909 11-09-92	50 1470116 1470116	22912 12235	
65909 11-09-92	50 1593016 1593016	31910 12235	
65909 11-09-92	50 3342116 3342116	66552 12235	
65909 11-09-92	50 3570666 3570666	3576115 71531 12233	
65909 11-09-92	50 17490996 17490996	1749715 29932 10932	
65909 11-09-92	50 2746266 2746266	2746315 51935 10932	
137315 HARSHUKHAL D MODI			
JAWAHAR SOCIETY STREET NO 3			
BHIMANI KRUPA UPLIK GUJARAT			
65909 11-09-92	50 12171766 12171765	190607	
65909 11-09-92	50 12575047 12575047	190607	
65909 11-09-92	15 15109632 15109701	190607	
65909 11-09-92	10 15109632 15109701	190607	
65909 11-09-92	20 15109632 15109701	190605	
65909 11-09-92	50 4213666 4213715	81203 12931	
65909 11-09-92	15 15168187 15168201	156764 12931	
65909 11-09-92	20 15171825 15171822	160476 12931	
65909 11-09-92	50 108116 108116	21752 12235	
65909 11-09-92	50 160618 160618	12222 12235	
65909 11-09-92	50 180055 180055	5810 12235	
65909 11-09-92	50 230766 230766	12225 12235	
65909 11-09-92	50 604016 604016	16090 12235	
65909 11-09-92	50 1470116 1470116	22912 12235	
65909 11-09-92	50 1593016 1593016	31910 12235	
65909 11-09-92	50 3342116 3342116	66552 12235	
65909 11-09-92	50 3570666 3570666	3576115 71531 12233	
65909 11-09-92	50 17490996 17490996	1749715 29932 10932	
65909 11-09-92	50 2746266 2746266	2746315 51935 10932	

1945



REGISTER OF MEMBERS AS ON 28/09/1974		PAGE NO - 15	
ENTR NO	NAME AND OCCUPATION	DATE OF BIRTH	STATE DISTRICT TOWN
		NO DATE	TR/ACT PHON NO OTHER BALANCE SHARES
137317	11-09-92	65924 11-09-92	50 2746316 54936 109332
	65924 11-09-92	50 15306311 1501360 3971076 79330 109332	
	65925 11-09-92	50 2746316 54936 109332	
	65925 11-09-92	50 15306311 1501360 3971076 79330 109332	
	65926 11-09-92	50 2668266 2668315 53075 53075	
	65927 11-09-92	50 2063066 2063175 53075 53075	
	65928 11-09-92	50 2668316 2668365 53075 53075	
	65929 11-09-92	50 2887476 2887505 53075 53075	
	65930 11-09-92	50 2971076 299215 131943	
	65930 11-09-92	50 3034616 3054665 60702 131948	
	65931 11-09-92	50 2971076 299215 131943	
	65931 11-09-92	50 3034616 3054665 60702 131948	
	65932 11-09-92	50 3946216 3946265 76934 104152	
	65933 11-09-92	50 22469716 2247016 151539	
	65934 11-09-92	50 15376750 15376750 129304 115412	
	65935 11-09-92	50 15672516 15672516 26750 26750	
	65936 11-09-92	50 1582266 1582266 27455 27455	
	65937 11-09-92	50 2771076 2771076 72550 72550	
	65937 11-09-92	50 3461266 3461266 72550 72550	
	65938 11-09-92	50 1531566 1532175 37113 146335	
	65939 11-09-92	50 2096536 2096615 41941 146335	
	65940 11-09-92	50 15133507 15133556 784859 784859	
	65941 11-09-92	50 6594666 6594666 17299 17299	
	65942 11-09-92	50 1582156 1582156 27455 27455	
	65942 11-09-92	50 2771076 2771076 72550 72550	
	65942 11-09-92	50 3035016 3055065 20910 116168	
	65943 11-09-92	50 15133507 15133556 37113 146335	
	65944 11-09-92	50 527165 527165 103536 103536	
	65945 11-09-92	50 1622216 1622216 527165 103536	
	65946 11-09-92	50 2555636 2555715 532760 122718	
	65946 11-09-92	50 2662516 2662565 532760 122718	
	65947 11-09-92	50 3235765 3235875 67725 122718	
	65948 11-09-92	50 15376750 15376750 122718	
	65949 11-09-92	50 15376750 15376750 122718	
	65950 11-09-92	50 4183516 4183516 83580 122718	
	65951 11-09-92	50 2771076 2771076 39015 135087	
	65952 11-09-92	50 104145 104145 172718	
	65953 11-09-92	50 1797466 1797515 35959 127603 750	
	65954 11-09-92	50 1797466 1797515 35959 127603 750	
	65955 11-09-92	50 145699263 15660112 15895 160128	
	65956 11-09-92	50 4225765 4225765 15895 160128	
	65957 11-09-92	50 768116 768116 15895 160128	
	65958 11-09-92	50 147716 147716 721785 721785	
	65959 11-09-92	50 1535316 1535316 1635365 32716 122718	
	65960 11-09-92	50 2624756 2624756 1635365 32716 122718	
	65961 11-09-92	50 291616 291616 291616 291616 122718	
	65962 11-09-92	50 3079716 3079716 3079716 3079716 122718	
	65963 11-09-92	50 3942266 3942266 3942015 78069 132946	
	65964 11-09-92	50 11368216 11368216 11368216 11368216 132946	
	65965 11-09-92	50 12170101 12170101 12170101 123558 132946	
	65966 11-09-92	50 2392768 2392768 2392768 2392768 132946	
	65967 11-09-92	50 4760016 4760016 4760016 4760016 132946	
	65968 11-09-92	50 925216 925216 925216 925216 132946	
	65969 11-09-92	50 3196666 3196666 3196715 63945 160128	
	65970 11-09-92	50 7699116 7699116 7699116 7699116 160128	
	65971 11-09-92	50 3162116 3162116 3162116 3162116 160128	
	65972 11-09-92	50 3235765 3235765 3235765 3235765 160128	
	65973 11-09-92	50 15133507 15133556 37113 146335	
	65974 11-09-92	50 15133507 15133556 37113 146335	
	65975 11-09-92	50 6594666 6594666 17299 17299	
	65976 11-09-92	50 6594666 6594666 17299 17299	
	65977 11-09-92	50 15133507 15133556 37113 146335	
	65978 11-09-92	50 6594666 6594666 17299 17299	
	65979 11-09-92	50 15133507 15133556 37113 146335	
	65980 11-09-92	50 6594666 6594666 17299 17299	
	65981 11-09-92	50 15133507 15133556 37113 146335	
	65982 11-09-92	50 6594666 6594666 17299 17299	
	65983 11-09-92	50 15133507 15133556 37113 146335	
	65984 11-09-92	50 6594666 6594666 17299 17299	
	65985 11-09-92	50 15133507 15133556 37113 146335	
	65986 11-09-92	50 6594666 6594666 17299 17299	
	65987 11-09-92	50 15133507 15133556 37113 146335	
	65988 11-09-92	50 6594666 6594666 17299 17299	
	65989 11-09-92	50 15133507 15133556 37113 146335	
	65990 11-09-92	50 6594666 6594666 17299 17299	
	65991 11-09-92	50 15133507 15133556 37113 146335	
	65992 11-09-92	50 6594666 6594666 17299 17299	
	65993 11-09-92	50 15133507 15133556 37113 146335	
	65994 11-09-92	50 6594666 6594666 17299 17299	
	65995 11-09-92	50 15133507 15133556 37113 146335	
	65996 11-09-92	50 6594666 6594666 17299 17299	
	65997 11-09-92	50 15133507 15133556 37113 146335	
	65998 11-09-92	50 6594666 6594666 17299 17299	
	65999 11-09-92	50 15133507 15133556 37113 146335	
	66000 11-09-92	50 6594666 6594666 17299 17299	
	66001 11-09-92	50 15133507 15133556 37113 146335	
	66002 11-09-92	50 6594666 6594666 17299 17299	
	66003 11-09-92	50 15133507 15133556 37113 146335	
	66004 11-09-92	50 6594666 6594666 17299 17299	
	66005 11-09-92	50 15133507 15133556 37113 146335	
	66006 11-09-92	50 6594666 6594666 17299 17299	
	66007 11-09-92	50 15133507 15133556 37113 146335	
	66008 11-09-92	50 6594666 6594666 17299 17299	
	66009 11-09-92	50 15133507 15133556 37113 146335	
	66010 11-09-92	50 6594666 6594666 17299 17299	
	66011 11-09-92	50 15133507 15133556 37113 146335	
	66012 11-09-92	50 6594666 6594666 17299 17299	
	66013 11-09-92	50 15133507 15133556 37113 146335	
	66014 11-09-92	50 6594666 6594666 17299 17299	
	66015 11-09-92	50 15133507 15133556 37113 146335	
	66016 11-09-92	50 6594666 6594666 17299 17299	
	66017 11-09-92	50 15133507 15133556 37113 146335	
	66018 11-09-92	50 6594666 6594666 17299 17299	
	66019 11-09-92	50 15133507 15133556 37113 146335	
	66020 11-09-92	50 6594666 6594666 17299 17299	
	66021 11-09-92	50 15133507 15133556 37113 146335	
	66022 11-09-92	50 6594666 6594666 17299 17299	
	66023 11-09-92	50 15133507 15133556 37113 146335	
	66024 11-09-92	50 6594666 6594666 17299 17299	
	66025 11-09-92	50 15133507 15133556 37113 146335	
	66026 11-09-92	50 6594666 6594666 17299 17299	
	66027 11-09-92	50 15133507 15133556 37113 146335	
	66028 11-09-92	50 6594666 6594666 17299 17299	
	66029 11-09-92	50 15133507 15133556 37113 146335	
	66030 11-09-92	50 6594666 6594666 17299 17299	
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	66032 11-09-92	50 6594666 6594666 17299 17299	
	66033 11-09-92	50 15133507 15133556 37113 146335	
	66034 11-09-92	50 6594666 6594666 17299 17299	
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	66036 11-09-92	50 6594666 6594666 17299 17299	
	66037 11-09-92	50 15133507 15133556 37113 146335	
	66038 11-09-92	50 6594666 6594666 17299 17299	
	66039 11-09-92	50 15133507 15133556 37113 146335	
	66040 11-09-92	50 6594666 6594666 17299 17299	
	66041 11-09-92	50 15133507 15133556 37113 146335	
	66042 11-09-92	50 6594666 6594666 17299 17299	
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	66047 11-09-92	50 15133507 15133556 37113 146335	
	66048 11-09-92	50 6594666 6594666 17299 17299	
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	66051 11-09-92	50 15133507 15133556 37113 146335	
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	66074 11-09-92	50 6594666 6594666 17299 17299	
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	66076 11-09-92	50 6594666 6594666 17299 17299	
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	66078 11-09-92	50 6594666 6594666 17299 17299	
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	66080 11-09-92	50 6594666 6594666 17299 17299	
	66081 11-09-92	50 15133507 15133556 37113 146335	
	66082 11-09-92	50 6594666 6594666 17299 172	

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REGISTER OF SHAREHOLDERS AS ON 28/09/92		DATE OF TRANSAK - TRANSFER - SHARES DISSEMINATE TO	SHARE NO.	BALANCE
ENTRY NO	DATE	TR/ACT	CERT NO.	A/C SHARES
137521	11-09-92	66143 11-09-92	30 14849275 14849264	185973 129681
	66143 11-09-92	- 20 14857530 14857535	- 185973 - 129681	
	66144 11-09-92	- 15-15147712-15147726	- 185950 - 129640	
	66145 11-09-92	35 15150102 15150136	185950 129640	
	66146 11-09-92	50 325516	70640 129455	
	66147 11-09-92	50 459566	91917 118336	
	66148 11-09-92	50 459566	89615 118377	
	66149 11-09-92	50 459566	89615 118377	
	66150 11-09-92	50 3043316 1043315	605886 91129	
	66151 11-09-92	50 3267366 1597615	71531 119259	
	66152 11-09-92	50 4292216 4292215	85552 119259	
	66153 11-09-92	50 150219271 150219272	7603426 132746	
	66154 11-09-92	50 15154166 15154165	175226 132946	
	66155 11-09-92	20 1233948-1533767	- 165782 - 152946	
	66156 11-09-92	50 12346668 12346667	187782 132946	
	66157 11-09-92	- 10 1237533-123752	- 33786 132756	
	66158 11-09-92	50 1518666 31335 5134	9000	
137522	11-09-92	053103 11-09-92	30 12028334 1202563	190622
	053108 11-09-92	- 20 1256137 1535966	- 90022	
	66159 11-09-92	50 2099466 209715	14195 111099	
	66160 11-09-92	50 256568 256515	12195 111099	
	66161 11-09-92	50 11531216 1247510	22385 11192	
	66162 11-09-92	50 1247510-1247515	84840 - 124558	
	66163 11-09-92	50 14361216 14361215	25134 126339	
	66164 11-09-92	50 16729116 16729105	33266 - 90016	
	66165 11-09-92	50 1680166 1680215	33613 90016	
	66166 11-09-92	50 2164116-2165565	42500 - 90016	
	66167 11-09-92	50 2661666 2662115	49233 90016	
	66168 11-09-92	- 50 2622766-2622816	- 502656 - 90016	
	66169 11-09-92	50 3255616 3255615	51742 90016	
	66170 11-09-92	- 50 15331026-15331025	- 153106 - 90016	
	66171 11-09-92	50 15331079 15331128	169183 90016	
	66172 11-09-92	- 50 15331129-15331130	- 1531129 - 90016	
	66173 11-09-92	50 11991516 1198813	97177 124730	
	66174 11-09-92	50 112016784 11207013	59353 - 120727	
	66175 11-09-92	50 112016784 11207013	99354 120727	
137523	11-09-92	06115 11-09-92	50 1271565-1271515	124770
	66176 11-09-92	- 50 1271565 1271515	124770	
	66177 11-09-92	50 3864796 3865015	87210 124770	
	66178 11-09-92	50 4370516 4370516	87210 124770	
	66179 11-09-92	50 4394816 4394815	37706 124730	
	66180 11-09-92	50 11991516 1198813	97177 124730	
	66181 11-09-92	50 112016784 11207013	59353 - 120727	
	66182 11-09-92	50 112016784 11207013	99354 120727	
	66183 11-09-92	50 2561166 256115	51233 50938	
	66184 11-09-92	50 2561166 256115	51233 50938	
	66185 11-09-92	- 50 2561166 256115	51233 50938	
	66186 11-09-92	50 31587715 31587715	76755 124770	
	66187 11-09-92	50 2191116 2191116	29195 124730	
	66188 11-09-92	- 50 1145613 1145613	- 104537 - 124730	
	66189 11-09-92	50 1145613 1145613	104537 - 124730	
	66190 11-09-92	50 1825116 1825116	36440 26255	
	66191 11-09-92	- 50 1825116 1825116	- 36440 - 26255	
	66192 11-09-92	50 852086 852086	13631 15665	
	66193 11-09-92	- 50 852086 852086	- 13631 - 15665	
	66194 11-09-92	50 1827115 1827115	36687 26255	
	66195 11-09-92	- 50 1827115 1827115	- 36687 - 26255	
	66196 11-09-92	50 3576266 3576266	3576266 70355	
	66197 11-09-92	- 50 3576266 3576266	- 3576266 - 70355	
	66198 11-09-92	50 1825116 1825116	36440 26255	
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	66262 11-09-92	50 1145613 1145613	104537 - 124730	
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	66264 11-09-92	50 1145613 1145613	104537 - 124730	
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	66266 11-09-92	50 1145613 1145613	104537 - 124730	
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	66274 11-09-92	50 1145613 1145613	104537 - 124730	
	66275 11-09-92	- 50 1145613 1145613	- 104537 - 124730	
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	66282 11-09-92	50 1145613 1145613	104537 - 124730	
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	66285 11-09-92	- 50 1145613 1145613	- 104537 - 12	

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EXHIBIT - V

अभिरक्षक का कार्यालय

विशेष न्यायालय (प्रतिमूर्ति भंडवहार सम्बन्धी
अपराध विचारणा) अधिनियम, 1992

गोपनीय मंजित, ईक आफ बड़ोदा गवन,

16, पार्लियामेंट स्ट्रीट,

ग्रही दिल्ली-110001

दूरभाष : 3326836, 3327279

OFFICE OF THE CUSTODIAN

THE SPECIAL COURT (Trial of offences relating to
transactions in Securities) Act, 1992

3rd Floor, Bank of Baroda Bhawan,

16, Parliament Street,

NEW DELHI-110001

Phones : 3326836, 3327279

CONFIDENTIAL

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दिनांक Dated the 19

NO. 811/CUS/MA-297 OF 94(987-KW) :

22 June, 1995

To :

The Company Secretary

Heno Honda Motor Co. Ltd.

34 Community Centre

Basant Lok, Vasundhara, New Delhi 110057.

Dear Sir,

On the directions of the Special Court (Trial of Offences Relating to Transactions in Securities - TORTS), Bombay, this Office has been informed that a large number of shares pertaining to your company, belonging to the Harshad Mehta Group (HMG) notified under the Special Court (TORTS) Act, 1992 have been registered in benami names by them. A list of such parties in whose names the shares have been purported to be registered is enclosed.

2. Under Sec 5(3) of the Special Court Act, all properties, movable or immovable or both, stand attached simultaneously with the issue of notification. As such all attached properties constructively vest with the Special Court. Where therefore, there is certainty that one or the other of the properties belong to the notified persons, although in benami names, they will be deemed attached.

3. The Custodian has also been informed that several of these shares so registered in benami names, have been sold in the market.

4. In order to have a proper perspective of the position, you are requested to urgently indicate the following:-

(a) Confirmation of the fact that the shares indicated in the list are/were registered in the names of the parties mentioned therein. The date(s) from which the shares were so registered may also be indicated;

(b) Details of transfer in the name of the parties mentioned in the list and name(s) of brokers through whom the purchase was made as indicated in the transfer documents with the date of transfer; and

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(c) Transfers, if any, from the parties whose names are indicated in the list, details such as name(s) of transferee(s); number of shares, date of transfer, name(s) of brokers through whom transfers have taken place as indicated in the transfer documents, and Distinctive/Certificate Nos./Folio Nos.

5. Details at (a) less at (c) above, will indicate the position regarding the number of shares continuing to be registered in the names of the parties in the list.

6. As these details will have to be produced to the Special Court in connection with pending applications before Court, an early reply is requested.

7. If possible, in addition to the signed reply to this Office, we may also be furnished the details on floppies.

Yours faithfully,

Ramamurthy

(R. ARAVANUEHAN)
OFFICER ON SPL. DUTY

Enc: As above



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MCS

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MCS Limited

EXHIBIT VI

SRIVENKATESH BHAVAN, 212 A, Shahpurjat, Behind Panchshil Club, New Delhi-110 049
Telephones : 6453830/6453831/6453832 • Telex : 031-71448 MCSD IN • GRAM : MANAUTOSYS • Fax : 011-6473152

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MD/HH/3936/95

July 06, 1995

Mr. K Aravamudhan
Officer on Spl Duty
Office of the Custodian
The Special Court
3rd floor Bank of Baroda Bhawan
16 Parliament Street
NEW DELHI 110001

Dear Sir,

Re: Hero Honda Motors Limited

This has reference to your letter dt.811/CUS/MA-297 of 94 (987-KW) dt.22.6.95 received through Hero Honda Motors Limited on 30.6.95.

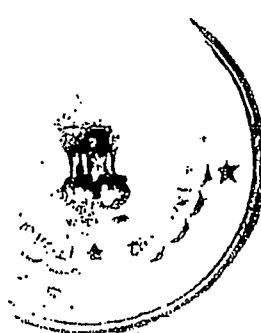
As desired we are enclosing herewith list containing the details of share certificate name and address of the persons whose folio Nos. have been given by you.

Thanking you,

Yours faithfully,
for MCS LIMITED

Dinesh Danday
AUTHORISED SIGNATORY

CC: Hero Honda Limited, New Delhi



1954

EXHIBIT-VII



मत्त्वाव जयते

अभिरक्षक का कार्यालय
विशेष न्यायालय (प्रतिपूति संचयवाहार सम्बन्धी
अपराध विचारणा) अधिनियम, 1992
9 वी मंजिल - नरिमन भवन,
227, विनय के. शाह मार्ग,
नरिमन पॉइंट, मुंबई - 400 021.
दूरभाष : 2833007 - 2856780 फैक्स : 022-2833007

OFFICE OF THE CUSTODIAN
THE SPECIAL COURT (Trial of offences
relating to transactions in Securities) Act, 1992.
9th Floor, Nariman Bhawan,
227, Vinay K. Shah Marg,
Nariman Point, Mumbai - 400 021.
Phone : 2833007-2856780 Fax : 022-2833007

No. 2706 /CUS/BOM/MA-424/94/PN/97 (236-M44)

Dated the 19.....

28.07.1998

The company Secretary,
Hero Honda Motors Ltd,
34, Community Centre,
Besant Lok - Vasant Vihar,
New Delhi 110057.

Sir,

Subject : Shares relating to Harshad S. Mehta Group
in the name of Benamidars.

Re : Misc. Appln No. 194 of 1993 alongwith
Misc. Appln No. 53 of 1994 alongwith
also, Appln No. 92 of 1994 alongwith
Misc. Appln No. 93 of 1994 alongwith
Misc. Appln No. 424 of 1994 in
Misc. Appln No. 297 of 1994

Asstt. Commissioner of Income Tax

& Custodian & Ors.

A reference may please be made to order dated 13th March, 1997 passed by the Hon'ble Special Court disposing of the above applications filed by the Income Tax Department. By this order, the Hon'ble Special Court attached all the shares listed in Exhibits 'A' and 'B' to Misc. Application No. 424 of 1994 except those belonging to the categories specified in the order. A reference may also be made to the Public Notice dated 27th August, 1997 issued by the Income Tax Department as directed by the order. The Public Notice appeared in the Newspapers between 6th and 11th September, 1997. The Public Notice issued by the Income Tax Department specifically highlighted the directions of the Hon'ble Special Court that any persons who wishes to apply for release of his shares from attachment and who has not already applied for certification or filed any application, petition in the Special Court within a period of 16 weeks from the date of the Public Notice. The notice issued by the Income Tax Department also makes it clear that apart from the benamis any other person who has come into possession of any of the shares declared as attached by the Special Court under the order should also apply to the court for release of the shares from attachment.

....cont'd 2

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John
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The order directed the custodian to adopt necessary steps to recover possession of the balance shares from the Benamidars if they can be found and if the benamidars cannot be found to apply for duplicate shares from the companies.

You are aware that the Harshad Mehta Group had under two affidavits furnished details of the shares of various companies standing in benami names in their possession. These shares were handed over to this office for custody based on a direction issued by the court.

Details of the shares of your company so delivered to this office were communicated to you by the custodian's Delhi office under the following letters.

1. 4151/CUS/ATT/MA-53 of 94/(987-KW) dated 19.3.94
2. 2922/CUS/MA-53 of 94/ (987-KW-6) dated 11.1.95
3. 811/CUS/MA-297 of 94 (987-KW) dated 22.6.95.

The company was also informed that the said shares were attached and are not to be dealt with in any manner what so ever without permission of the Special Court.

Since the order dated 13.3.97 of the Hon'ble Special Court did not cover the shares of your company, Custodian is taking action to place the matter again before the Special Court seeking directions. In order to ensure that further orders that may be issued by the court cover all cases of Benami holding it is necessary to submit to the court the complete & correct details of shares held by Harshad Mehta Group in Benami names.

The individual wise and folio wise list of the shares in our possession are enclosed. This list includes shares seized by the Income Tax Department and handed over to this office also. You are requested to kindly verify and indicate whether there are any more shares of your company standing benami names other than those listed in the statement enclosed. If so, you are also requested to kindly furnish a list of shares indicating names and addresses of the holders, Folio No., Certificate No. Distinctive Nos etc. in order to enable us to write to the benamis for deposit of the share certificates with this office. Please also indicate whether any of the shares are held by the Company and if so arrange to deposit same. Yours faithfully,

(H. K. PANDEY)
Officer on Special Duty.

Enccl: as above.

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12. 7. 19

BENAMI SHARES OF HARSHAD MEHTA GROUP AS ON 7/23/982

SPEED PLATE 1957 EXHIBIT-VIII

10/2X

HHML:SECT:GP:CUS-111:98

1235
September 29, 1998

Officer on Special Duty,
Office of the Custodian,
9th Floor, Nariman Bhawan,
227, Vinay K. Shah Marg,
Nariman Point,
Mumbai - 400021

KIND ATTN: : MR. H.K.PANDEY

Sub: Shares relating to Harshad S. Mehta Group
in the name of Benamidars

((VASANT LOK)) 2227590
SPP AD 7002
NAME: HR.H.K.PANDEY, O/O THE,CUSTODIAN POINTS 400
CITY: BOMBAY 400
From : I.C.KARBAOJ,HHML, NEWDELHI-57
INS FOR RS. 0 / P-STAMP Rs. 0
AKT: 55.00/ Gms.64H / 05/10/98 11:41

DEL516117002400

Dear Sir,

This has reference to your letter No.2706/CUS/BOM/MA-424/94/PN//97 (236-M44) dated 28.07.98 received by us on 05.08.98 on the above matter. As desired by you, we are enclosing herewith a statement showing the holding against each folio alongwith name, address, certificate no., distinctive no. etc.

In this connection, we would like to bring the followings to your notice :-

- The company received the intimation for the first time on 24.03.94 regarding the 20170 shares benami shareholding of Harshad S. Mehta from your New Delhi Office vide letter no.4167/CUS/ ATT/MA-53/ OF 94/987 (KW) dated 09.03.94 and directed us to not to deal with these shares in any manner whatsoever without permission of the Special Court. In response to the said letter, the company's Registrar M/s. MCS Limited informed the status of the said shares vide letter no.MCS/HHM/V/212/94-95 dated 26.04.94 and confirmed the stop transfer of the said shares. Further, the company also asked clarification regarding the difference in holding against folio no.137322 as appearing in your list (1600 shares) was not with conformity with the holding appearing in company's record (750 shares) which is unanswered by you till date (copy of both the letters are enclosed herewith for your reference).
- The company received the intimation for the second time during the month of January, 1995 from your New Delhi Office vide letter no.2922/CUS/ATT/MA-94/ 987 (KW-6) dated 11.01.95, alongwith an updated list of benami shares submitted by Mr.Harshad S. Mehta to the Special Court on 09.08.95 pertaining to 20170 shares. On going through our records, we found that 850 shares against folio no.137312 which were not appearing in the earlier list but, were appearing in the updated list and accordingly, the Registrar of the company forwarded a revised list of all 20170 shares vide letter no.MC:HH:1850:95 dated 30.06.95 confirming the status of the said shares and revised stop transfers against the respective folios appearing in the revised list including shares pertaining to folio no.137312.

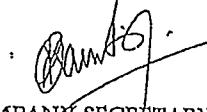
1958

- 10 30 22
- The company received the intimation for the third time on 24.06.95 from your New Delhi Office vide letter no.511/CUS/MA-297 OF 94 (297-KW) dated 22.06.96, forwarded another revised list of benami shares pertaining to 18500 shares. On going through our records, we found that 850 shares each appearing in the earlier list against folio no.136540, 137312 & 137385 were not appearing in the present list and also shares appearing against folio no.137322 which was rectified in the earlier list is again showing as 1600 shares. However, as desired by you the Registrar of the company revised the stop transfers and forwarded the revised list of the benami shares to your New Delhi Office vide their letter no.MC/HH/3936/95 dated 06.07.95.

On receipt of this present letter no.2706/CUS/BOM/MA-424/94/PN/97 (236-M44) dated 28.07.98, we found that 212 shares pertaining to certificate no.307956-61 issued as bonus shares against folio no. 137312 have been transferred in favour of SBI Capital Market Limited, A/C Stock Holding Corporation of India Limited on 23.12.96 (photo copy of transfer deed is enclosed herewith for your reference) as the stop transfer marked against the said folio was removed on basis of your revised list received vide letter no.511/CUS/MA-297 OF 94 (297-KW) dated 22.06.96. Therefore, the third party interest has already been created against the said shares by virtue of transfer from the beneficial owners. Now, therefore we request you to bring the said fact before the Special Court as and when the application for the benami shares shall be filed by us before the Special Court and if so required, claim the said shares from the transferor/transferee by impleading them as necessary party to the application. We would also request you to forward a copy of the application pertaining to the benami shares when the same shall be filed before the Special Court.

Thanking you,

Yours faithfully,
for HERO HONDA MOTORS LIMITED


COMPANY SECRETARY

Encl : As above

DETAILS OF PAID SHARES HELD BY HERO HONDA MOTORS LIMITED (SHARES) -

NH. ADDR.

PLATE NO. : DIST FROM DIST. TO H.D.E.

1. HARSHKIL D. HOBRI
GREEN PARK SOCIETY
SEVAND, NUSI, SPP. DRAVID GUJARAT
362001

	CLASSIC COUPLET:	3062966	3062915	50
	000043424	3210216	3210255	50
	00004356	34113112	3711365	50
	00175735	15555021	15555020	50
	4030793	19941382	19941481	50
			21012	250

2. RAMONE SHANTILAL AVAIKARI
6 SAKHAKA BHUWAN
OPP RAVALJI ROAD, GAROON
RAVALJI ROAD, NO 4
CHATKOPAR EAST, MUMBAI
400017

	0134511 00022369	1173516	1173565	50
	00027977	1398166	1398415	50
	00029310	1465116	1465165	50
	0003011	1515916	1515915	50
	00032036	1601316	1601325	50
	00057190	2661016	2661065	50
	00072319	1668464	1668515	50
	00074441	2833716	3833765	50
	0008246	1131516	4131565	50
	0081332	4165116	4165165	50
	3208793	4392126	4392135	50
	00101753	71401064	11401115	50
	00102158	1140121	11401243	50
	00110107	12370168	12373277	20
	00190817	12431178	12434197	20
	0019377	17446301	1SS19310	10
	0019505	1SS19311	15519330	20
	0019525	1576501	15827350	50
	0019545	1379481	13797903	50
	00197751	15921269	17231277	50
	00301252	15931448	15931497	50
	00302453	15931958	12932047	50
	00307454	16932048	16932097	50
	00307455	17520945	19932102	5
			STATS	1025

1959

	0134510 0002244C	421316	421365	50
	0000535	426266	426315	50
	00014178	715116	715145	50
	00023210	1181016	1181065	50
	00033374	1153216	1153225	50

709

MAN

3. DARSHANA BHUCHENDRA AVHLANI
FLAT NO 4 SUNRISE APARTMENT A
1ST FLOOR JALAVAN SOCIETY
JUNAGADH GUJARAT
362001

----- DETAILS OF 20370 SHARES (BEMAHIL : HERO HONDA MOTORS LIMITED (SHARES) - SH 100/- PER SHARE -----

NM.	ADDR.	EQUD.	SERT. NO.	DIST.	FRMD.	DIST.	TO	HLDG.
			00023542	1196616	1196665	50		
			00023543	1196665	1196715	50		
			00032355	1636545	1637015	50		
			00043596	1732246	1732315	50		
			00072503	2279330	2279345	50		
			00080085	3539245	3539715	50		
			00092570	403576	4403565	50		
			00138162	1143784	1113783	50		
			00145132	1361854	1326175	50		
			00170074	1632434	1635443	50		
			00170045	1855644	18356493	50		
			00170072	15356497	15356545	50		
			00301645	1581456	15921725	50		
			00301646	1581456	15921765	50		
			00107647	1591784	15921735	50		
			00307648	15921856	15921855	50		
			00307649	15921856	15921855	10		
			00307650	15931874	15931897	10		
					NOTE	1052		

4. RUPIN GUJAI D MODI
SIGNATH COMMERCIAL COMPLEX
SECOND FLOOR OFFICE NO 211
OFF SARATH HOTEL
RAJKOT GUJARAT
360001

013312 00004695

1960

0017144	054816	856065	50					
00017215	860365	860315	50					
00021014	1051216	1052245	50					
00033597	1619306	1619315	50					
00033645	1612764	1622215	50					
00040021	2100356	2100365	50					
00044922	2606684	2606915	50					
00041154	3579216	3605365	50					
00170394	3519216	3519205	50					
00072102	3654616	3642245	50					
00041085	453764	453015	50					
00053711	453765	4521715	50					
00151725	123147243	12315555	10					
00152753	12315745	12315742	20					
00141014	123109265	123109714	50					
00155601	14849786	14849826	50					
00155602	14849820	14849879	50					
00151753	15031759	15013757	20					
		NOTE	850					

013312 00013441
00013651
0005415
0006666

071524	571515	571515	50					
582060	582050	582050	50					
127064	1270515	1270515	50					
022516	1223565	1223565	50					

710

710

KANCHANERI P SIE CH
KANCHANERI KAILA RUPAD
VRUJ BILUVAN KALIJI
GUS 340001

P. JAYPRakash, A. SHETH,
SOMNATH COMMERCIAL COMPLEX
31 - 37 KARAN PARA SECOND FLOOR
DISTRICT NO. 21;
RAJKOT, GUJARAT
360001

G137378 20000325

23640

25715

50

00045126	745816	245915	50
09035095	1154745	115325	50
00024673	1263216	1693315	50
00037439	1814646	1817015	50
00045211	2291716	2291745	50
00011171	2358216	2358115	50
C137378	2286616	2086645	50
00019619	250614	250615	50
05500733	2237160	2237215	50
06695211	1741026	1742115	50
00045572	4763166	4743215	50
00196220	11181817	12461750	50
00019620	12592192	12593201	10
00019620	15982397	15982406	50
00019620	18647925	18647974	50
00155501	1454775	14846024	50
00155520	18846225	14846074	50
00019620	15956558	15956558	50
00140237	14621923	15021672	50
00019615	17943192	6940632	50
00036194	17944312	19244032	50
00036194	17944463	17944432	50
00036194	19644172	19844182	50
00036194	1995431	19954282	20
00036194	19954302	19954287	5
	TOTAL	1125	

10 JAGDISH P. GHOSH
SOMNATH COMMERCIAL COMPLEX
33 - 47 RAJAKAROYA ROAD,
OFFICE NO. 211
RAJKOT, GUJARAT
360001

G137377 20000427

254605

346715

50

00026741	1211662	1211615	50
00026741	1772915	1772965	50
00045414	2024616	2024626	50
00045216	2166616	21666465	50
00078435	3192126	3192135	50
000684051	4852094	4320115	50
000684112	11011904	11215115	50
00089506	11119114	10215163	50
00089506	11219162	11219213	50
00089507	11219214	11219233	50
00089508	11119264	11219333	50
00089508	11219315	11219363	50
00089508	11119464	11219413	50
00089508	11119415	11219523	50

1963

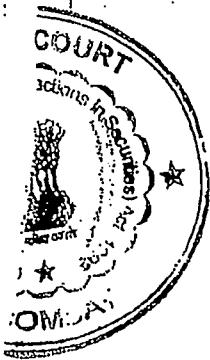
73

MAN

DETAILS, RE. 30270, SHARES OF GEMINI HOLDINGS LTD., UNITED STATES	
THE ADDRESS, FOLIO, CEN. NO., DSET, RSNH, DISTRIBUTION, ETC.	
LAW	
C	
00058132 2916116 2916116 50	
00011964 2027116 30179265 50	
0005380 3145516 3168565 50	
0005341 31525644 3159715 50	
00078245 39428566 3953015 50	
C	
00052405 41119316 4119845 50	
0005209 0755976 4760015 50	
00052320 5750016 5760015 50	
0003758 12170101 12170150 50	
00058575 14937943 14940012 50	
00058599 19241059 19241916 50	
00058000 19241919 19241948 50	
00058001 19241947 19242010 50	
00058002 19241915 19242065 50	
00058003 19242019 19242072 10	
COTADPA 19242079 19242080 2	
C	
014/327-6601715 - 6337416 - 357453 - 20	
0025341 1256532 1256532 50	
0025359 1409536 1409536 50	
00253710 30543710 30543710 50	
00061110 3054416 3054416 50	
00061115 31164516 31164516 50	
00061116 3223216 3223216 50	
00061117 3238046 3238046 50	
00061118 3530115 3530115 50	
00061123 4008715 4008715 50	
00062051 4102015 4102015 50	
00061541 12110852 12110852 40	
0018220 12110857 12110857 20	
0018131 121108917 121108917 10	
0018132 121108927 121108927 10	
0018142 12126542 12126542 20	
0018143 12126543 12126543 15	
0018012 12610722 12610722 10	
0019012 12610732 12610732 10	
00190612 12604167 12604167 15	
00190613 12604168 12604168 15	
00162200 14658618 14658618 10	
00162201 14658623 14658623 20	
00181542 15016642 15016642 20	
00190605 15912081 15912081 30	
00208066 19942131 19942131 50	
00308067 19942151 19942151 50	
00308068 19942251 19942251 20	
00308069 19942255 19942255 5	
00308070 19942257 19942257 2	
00308071 19742258 19742258 1	
C	
014/327-6601715 - 6337416 - 357453 - 20	

1966

VIS TECHNICALS & ROOT
SONNATH COMMERCIAL COMPLEX
SECOND FLOOR, OFFICE #211
GPO SAKATE HOTEL
SAKATI DISTRICT
210001



STUTI 263

11. NAME - SHAKESPEARE, HERBERT - ADDRESS - 10, BURTON ROAD, LONDON, S.W.1 - TELEGRAMS - SHAKESPEARE - TELEPHONE - 20209 - SHADES - DEPARTMENT - HERD HONDA CYCLES LIMITED

... - 12 - DURGABHAI, KAFALVI, NO. 1.
JAHIRAH SOCIETY
STREET NO. 3 BRAHMINA,
UPRAJA GUJARAT
350495

A circular library stamp with a decorative border. The word "CURT" is at the top, "3015th Service Center" is in the center, and "MEAT" is at the bottom. The date "1968" is stamped in the middle. A small star is on the right side.

149 SARTORIUS STERILE
FLAT 1-G 2 - 100-101
151 ST. JOHN'S - 100-101
JUNIOR GARDEN - 100-101
342091

1970

DETAILS OF 2027D SHARES (GERMAN) HELD HONDA MOTORS LIMITED (SHARES)

NM APPS. - EQUITY CERT. NO. - DATED FROM - DATED TO - HLD.

00307965	19940371	19940950	20
00307966	19940391	19941005	10
00301965	19941001	19941005	5
00101962	19941004	19941007	2
			937
22 NAVINCHANDRA L MEHTA			
3 SHREEFAL BHUVAN			
CAME CROSS LAND			
MATTOFAR H SURBAT			
400000			
013/301 00000000	14514	13505	
00032227	140394	140913	50
00033514	18316	25265	50
00031765	45994	22515	50
00035841	797346	797346	50
0003897	149240	09445	50
0014266	146266	146265	50
00063342	2416616	2416625	50
-	2421062	2421115	50
0001281	2563024	2664115	50
-	2563024	2563024	50
0092623	3503524	3503524	50
0006078	4303162	4303165	50
0007632	4281104	4381215	50
00044986	4745316	4745355	50
0017485	13529936	13529935	50
0014267	13530032	(3530032	50
00107628	19940352	19940381	50
00037945	19940382	19940382	50
00037935	19940382	19940382	50
00037931	19940382	19940382	50
00037931	19940382	19940382	10
000307942	19940132	19940132	10
	19940132	19940132	10
			1052
23 HABIBUN N MTA			
3 SHREEFAL BHUVAN			
CAME CROSS LAND GERMANY			
GERMANY			
400000			
013/301 00014725	1462602	1462115	
00014726	1462114	254665	50
0011327	255262	26115	50
00041702	710410	72165	50
0003083	1558616	1525645	50
00039227	1559845	1549515	50
00031467	2522024	2589515	50
00031462	2581615	258205	50
00060591	1994216	204265	50
00041714	2042316	204265	50
00042012	2100114	3101625	50
0006442	3111624	3121715	50
0006442	3123546	3125615	50
00062517	3146546	3142915	50
00070213	3151102	3541215	50
0006251	4212852	4212852	50

DETAILS OF 20200 SHARES_OURFACIAL_HIRE MACHINES LIMITED (SHARES)

MR_GDOS_EQUIP_CERT_NO_DIST_RGN_DIST_ID_HLDG

0012854	1246814	1145814	50
00307920	11937975	1959725	50
00307921	1959745	1959794	50
00307922	1959795	1959805	50
00307922	1959805	1959805	50
00307924	1959805	1959805	10
00307925	1959805	1959805	10
			100

24 NILESH D THAKKAR
C O BELLA ELECTRONICS
3 S PAKANA SHEPPING CENTRE
5 BHAI BHANUCH

0012854	1246814	1145814	50
C0C9951	074116	49565	50
C0C1243	52164	59265	50
C0C19630	691616	591045	50
C0C23432	1121116	1121145	50
C0C4486	1218116	328365	50
C0C72047	1591666	1581915	50
00072240	3611516	6411505	50
00072460	3622616	3622655	50
00072545	3722716	3722715	50
00073205	110974	1109813	50
00098054	11142014	11142014	50
00113874	11932115	11882065	50
00114206	11932116	11932116	50
00114206	11979214	11979463	50
00119545	12313973	12313973	20
00139545	12495520	12495520	15
00140545	12510716	12510716	15
00307737	1959795	1959805	50
00307746	1959805	1959805	50
00307751	1959805	1959805	50
00307761	1959805	1959805	50

25 RAJKRISHNA SHETH JAI AMI
6 CHIRAGLAL CHIRAGLAL
DRF RAJASTHAN
MOULDAH KUND NO 4
RAJASTHAN STATE COTTERY
40007.

0012854	75116	75116	50
00C88117	159465	159465	50
00C88174	334516	334516	50
00C13277	1913516	1913516	50
0009130	2107116	2107116	50
00065117	320366	320366	50
C0C74461	1521116	351745	50
C0C7557	2528116	3528116	50
00065117	4033316	4033316	50
00084352	4217116	4217116	50
0008043	440166	440166	50
0008110	4700116	4700116	50
0008117	4700144	4700144	50

DETAILS OF 2020 SHARE CERTIFICATE : HERO-HONDA MOTORS LIMITED (SHARES)

NO. ADDRESS FOLIO CERT NO. LIST FROM DIST. NO. HOD.

0015942	12011691	12011705	15
00137455	12435333	12038853	20
00165921	13190247	15190596	50
0017189	12304286	12305543	50
00160556	16616161	16616162	50
0016157	19932153	19932602	50
00227152	17932252	19932252	20
00107459	19932253	19932272	20
0000710	19932171	19932292	20
00007461	19932362	19932397	50
00007462	19932390	19932390	1
		TOTAL	921
26	SHANTILAL DONAUJI DVALAMJI FLAT NO. 6 SUNRISE APARTMENT 1ST FLOOR JALAYAN SOCIETY JUNAGADH GUJARAT 362001		
G134344	00013562	072014	672665
			50
00019502	201914	9945765	50
00026015	111024	111024	50
00026026	1112916	1112916	50
0004115	7206416	7206416	50
00083564	4192616	4192616	50
00128786	1117652	1117652	15
00167655	12263121	12263121	10
00161586	1294702	1294702	20
00157029	12367343	12367343	15
00167651	12067356	12067356	15
00127651	12368912	12368912	20
00121201	12125274	12125274	20
00167985	12419119	12419119	5
00167981	12494475	12494475	5
00167982	12494516	12494516	15
20115051	11324561	11324561	30
00157285	16395112	16395112	5
00112945	11993572	11993572	5
00127625	11788442	11788442	20
00162652	14917819	14917819	20
00161623	11170645	11170645	20
00167861	1409712	1409712	15
00167862	14764712	14764712	25
00167863	13174711	13174711	50
00167864	11172317	11172317	20
00167865	11150727	11150727	5
00167866	11150728	11150728	15
00167867	11150729	11150729	20
00167868	11150730	11150730	5
00167869	11150731	11150731	15
00167870	11150732	11150732	5
00167871	11150733	11150733	10
00167872	11150734	11150734	50
00167873	11150735	11150735	50
00167874	11150736	11150736	20
00167875	11150737	11150737	5
00167876	11150738	11150738	15
00167877	11150739	11150739	20
		TOTAL	975

1972

722
X



1973

EXHIBIT-IX

27-OCT-1998 10:28 FROM

TD

6494152 P.01

HERO HONDA MOTORS LIMITED

34, BASANT LOK, VASANT VIHAR, NEW DELHI-110 057.
PHONES : 6144151, 6144121.
FAX : 011-6143321, 6143198.

HHML:SECT:GP:CUS-111B:98

1251 HERO HONDA 723

October 27, 1998

✓ Stock Holding Corporation of India Limited,
224, Mittal Court, 'B' Wing, 2nd Floor,
Nariman Point,
Mumbai - 400021

Reg : SBI Capital Markets Limited - The Indix Magnum Fund N.V. Mutual Fund

Sub : Dematerialisation of Share Certificate no.307956-961

Dear Sir,

With reference to the above, we wish to inform you that we have received a intimation vide letter no. No.2706/CUS/BOM/MA-424/94/PN//97 (236-M44) dated 28.07.98 from the Office of the Custodian (The Special Court) Office of the Custodian, 9th Floor, Nariman Bhawan, 227, Vinay K. Shah Marg, Nariman Point, Mumbai - 400021 alongwith a list of Benami Shareholders pertaining to Harshad S. Mehta and also directed us to not deal with those shares in any manner without direction of the Special Court (copy of the letter is enclosed herewith). The aforesaid shares are the bonus shares which were issued in favour of the Benamiholder, Mr.Bipin Bhai Modi during 1995 and subsequently transferred in your favour on 23.12.96. In this connection and in response to the aforesaid letter of the Custodian, we have written a letter no.HHML:SECT:GP:CUS-111:98 dated 29.09.98 stating the above facts but, we have not received any intimation/reply from the Office till date.

In the facts and circumstances explained above, we are sorry to say that we are unable to dematerialise the said certificates and request you to take up the matter to the Custodian (address as given above). Hence, the certificate no. 307956-961 have been detained with us and photo copies of the same are enclosed herewith for your reference.

Kindly acknowledge the receipt.

Yours faithfully,
for HERO HONDA MOTORS LIMITED

COMPANY SECRETARY

Encl : As above

CC:MR. S.G.SRINIVASAN - O.S.D
Office of the Custodian, Mumbai

: This is for your information and necessary
action please:

20' MCS Ltd New Delhi

: This is for your information and
action please .



TOTAL P.101

1974

SPEED POST.

यांत्रिक का कावर्त्य
 विशेष न्यायालय (प्रतिभूति संबद्ध वहार सम्बन्धी
 अपराध विचारण) प्रधनियम, 1992
 शोलचे मंत्री, एवं मायर प्रोट भवन,
 16, पालियामेंट स्ट्रीट,
 नई दिल्ली-110001
 फ़ोन्स : 3326836, 3327279, 3329231
 फ़ॉक्स : 91 11 331-1605

OFFICE OF THE CUSTODIAN
 THE SPECIAL COURT (Trial of offences relating to
 transactions In Securities) Act, 1992
 3rd Floor, Bank of Baroda Bhawan,
 16, Parliament Street,
 NEW DELHI-110001
 Phone: 3326836, 3327279, 3329231
 FAX : 91 11 331-1605

No.1510/CUS/ATT/SH-B/HHML/987(50)

1252



To

The Company Secretary,
 Hero Honda Motors Ltd.,
 34, Basant Lok,
 Vasant Vihar,
 New Delhi - 110057.

Sub:- Shares relating to Harshad S Mehta Group in the Benamidars.

Sir,

This has reference to your letter No.HHML/Sect/GP/CUS/111:98 dated 29th September, 1998 on the above mentioned subject addressed to OSD Mumbai. It is seen from your letter that there are several references quoted incorrectly.

2. This office issued four letters containing the list of Benami shares as under:-

Reference No.	Remarks
i) No.4151/CUS/ATT/MA-53 of 94/987(KW) dated 9.3.94	In this letter benami shares pertaining to 24 persons and 20,170 shares were indicated.
ii) No.1514/CUS/ATT/MA-53/ 94/987(KW-5) dated 16.8.94	In this letter share pertaining folio No.137318 for 100 shares was indicated.
iii) No.2922/CUS/ATT/MA-53/94/987(KW-6) dated 11.1.95	In this letter shares pertaining to 30 Benamidars for 20,170 shares were indicated.
iv) No.811/CUS/ATT/MA-297/94/987(KW) dated 22.6.95	In this letter shares pertaining to 25 Benamidars of 20,200 shares were indicated.

3. As and when the information regarding the Benami holdings of Harshad S Mehta was received either from the Hon'ble Special Court through Misc. Applications or from the Income Tax Department, the same were sent to your company through the above mentioned letters. It can be seen from the references that this office never informed the company to remove "Stop Transfer". It can be seen from the letter



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referred to in Serial No.(ii) above, it had been mentioned not to deal with the attached shares, in any manner without the permission of the Special Court. As such the transferring of 212 shares pertaining to folio no.137312 to SBI Capital Markets Ltd. by your company without obtaining the permission of the Special Court is not correct. You are, therefore, called upon to deposit the shares with OSD Mumbai under intimation to this office.

4. It is seen from our record that dividends for the year 1995-96 (final) and for the year 1996-97 (interim) were received from the company. You are, therefore, called upon to intimate us about the crediting of dividends pertaining to the earlier period i.e., for the year 1992-93 to 1994-95.

Yours faithfully,

K. Aravamudhan

(K. ARAVAMUDHAN)
OFFICER ON SPL. DUTY

Copy to :-

Shri M.P. Purushu, OSD, Mumbai with reference to his letter No. 5757/CUS/BOM/MA-424/94/PN/97(236-M44) dated 13.11.1998.



1976 EXHIBIT-XI

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HHML:SECT:GP:CUS-111:M.P-99:99

March 25, 1999

SPEED POST A.D.

Officer on Special Duty,
Office of the Custodian
9th floor, Nariman Bhavan,
227, Vinay K. Shah Marg,
Nariman Point,
Mumbai - 400 021

Sub : Shares relating to Harshad S. Mehta Group in
the Benamidars.

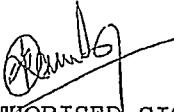
Dear Sir,

This has reference to your letter no.1510/CUS/ATT/SH-B
/HHML/987(50) dated 01.12.98 addressed by your Delhi
Office on the above subject. As directed by your Head
Office, we are depositing herewith 212 shares bearing
certificate no.307956-961 which had been received for
dematerialisation.

Kindly acknowledge the receipt.

Thanking you,

Yours faithfully,
For HERO HONDA MOTORS LIMITED


AUTHORISED SIGNATORY

Encl : As above

SPEED POST A.D.

CC : Mr.K. Aravamudhan,
Officer on Special Duty,
Office of the Custodian,
3rd Floor, Bank of Baroda Bhawan,
16, Parliament Street,
New Delhi - 110001

Refer your letter No.1510/CUS/ATT/SH-B/
HHML/987(50) dated 01.12.98 on the above
matter.



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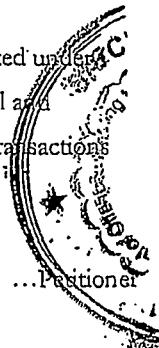
1255

BEFORE THE SPECIAL COURT
CONSTITUTED UNDER THE
SPECIAL COURT (TRIAL OF
OFFENCES RELATING TO
TRANSACTIONS IN SECURITIES)
ACT, 1992

MISCELLANEOUS PETITION
NO. 99 OF 1998

The Custodian, appointed under
The Special Court (Trial of
Offences Relating to Transactions
in Securities) Act, 1992

Ram Ram
File No 634
Versus

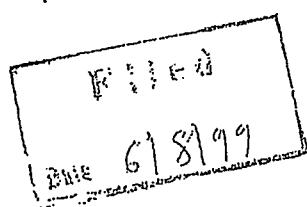


Shri Harshad S. Mehta & Others

...Respondents

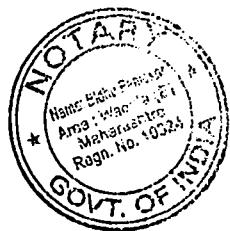
AFFIDAVIT OF SHILAM C. KAMBOJ
ON BEHALF OF RESPONDENT NO.42,
IN REPLY TO THE PETITION

Dated this day of 1999



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SENATE OF THE SPECIAL COURT (TRIAL OF OFFENCES RELATING
TO TRANS ACTIONS IN SECURITIES) AT BOMBAY
MISCELLANEOUS APPLICATION NO. 282 OF 1993.



A.K. Menon, Custodian. ... Applicant

V/s

1. Harshad S. Mehta and Others. ... Respondents

Mr. Atul Setalwad with Mr. G.R. Joshi i/b
M/s P.M. Mithi & Co., for the Applicant;

Mr. S.B. Jaisinghani with Mr. Mahesh Jethmalani i/b
M/s Kanga & Co., for Respondent Nos. 1 to 4;

Mr. Navnit A. Shah i/b M/s. Gagrat & Co.,
for Respondent Nos. 5 to 8;

Mr. S.D. Parekh with Mr. Shashi Kumar Nair i/b
M/s S.K. Nair & Co., for Respondent No.10;

Mr. Nihar Mody i/b M/s Wadia Ghandy & Co.,
for Respondent No.11;

Mr. P.R. Namjoshi with Mrs. Teja Katdare, Spl.P.P.
for Respondent No.12;

Mr. A.V. Bobde with Mr. S.R. Mandrekar and L.K.
Chatterjee, for Respondent No.13;

CORAM: S.N. VARIAVA J.

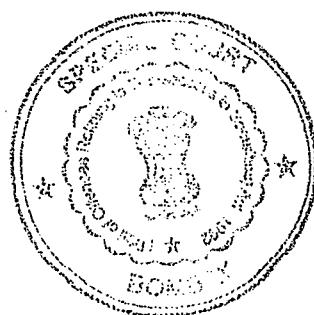
DATE: 11TH JANUARY 1994

P.C.:

At this stage the Custodian is only praying
for an ad-interim order in terms of prayer (a)(ii)
and (a)(iii).

Mr. Jaisinghani states that no order of the
Court is necessary and that the Custodian is always
at liberty to take steps without applying to Court.

Mr. Parekh and Mr. Shah object. They submit



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[Handwritten Signature]
Advocate for Plaintiff / Respondent / Applicant

that, this is not necessary. Mr. Parekh submits that para 5 of the Application state that other persons have held shares as Benamis. He submits that under "Benami Transactions Act", no claims can be made in respect of a property held Benami. In my view no claim is being made in respect of property held Benami. At the stage only an inquiry is proposed. Also Section 13 of the Special Courts Act makes it clear that the provisions of the Act prevail over all other law. This would, *prima facie* include Benami Transactions Act also. Thus, *prima facie* at least, it appears that the provisions of the Special Courts Act prevails over the Benami Transactions Act. This submission is therefore not acceptable.

In my view, Mr. Jaisinghani is quite right. The Custodian could already have written to all parties, in terms of prayers (a)(ii) and (a)(iii), even without any Order of the Court. It is only, if there is non-compliance that intervention of Court is required. Accordingly, I pass no order but clarify that the Custodian and/or C.B.I. and/or Income Tax Department are at liberty to take all necessary steps and to make all inquiries as they consider necessary including addressing letters and calling for information and/or giving directions as set out in prayer (a)(ii) and (a)(iii).

Affidavit in reply within 6 weeks. Rejoinder within 2 weeks thereafter.

Adjourned to 15-3-1994.

authored
ASSOCIATE

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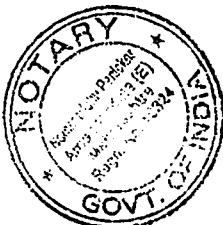
12.77

Certified Copy Charges Rs. 4/-



B. THE SPECIAL COURT CONSTITUTED UNDER THE
SPEC. COURT (TRIAL OF OFFENCES RELATING TO
TRANSACTIONS IN SECURITIES) ACT, 1992

MISCELLANEOUS PETITION NO.99 OF 1998



The Custodian .. Petitioner

v/s.

Harshad S. Mehta & Ors. .. Respondents

I, M. Krishnamurthy, Assistant Manager -
Investor Relation of Larsen & Toubro Limited, the
Respondent No.66 abovenamed having office at L & T
House, Ballard Estate, Mumbai do hereby state on
solemn affirmation and oath state as under :

1. I say that I am conversant with the facts and
circumstances of the case and competent to depose
to the same. I say that I am authorised to depose
to the present affidavit on behalf of the answering
Respondents and am filing the same to bring the
facts concerning and related to the present
Petition and within the knowledge of the answering
Respondents on record.

2. I say that the Petitioner has sought reliefs
with regard to 11,750 shares of the answering
Respondents standing in the name of 13 holders in
the register of members of the answering

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Respondents. I say and submit that the shares of the Respondent Company as mentioned in Column No.7 of Exhibit 'G' with respect to which the Petitioner is seeking attachment are recorded in the register of members which held in the names of the said 13 holders as mentioned therein. I say and submit that the answering Respondents are submitting to the orders of this Hon'ble Court with respect to the said 11,750 shares. Hereto annexed and marked Ex. 'A' EXHIBIT 'A' is a copy of the statement as per the Company's records of the shares held by the benami holders.

3. I further say and submit that the Petitioner has also sought reliefs as regards the right, bonus and dividend i.e. corporate benefits arising from the abovementioned shares. I say and submit that the answering Respondents have not announced any right or bonus issue since the time Respondent No.1 and his group have become notified parties. I further say that dividend for 11,350 shares as specified in Column No.4 of Exhibit 'G' were deposited in Current Account No.1/371 maintained in the name of Harshad Mehta Group - A/c. Benami holders with State Bank of Mysore, Dalal Street Branch, Mumbai 400 023. I say that the dividend amounts were deposited under cover of letter dated 21st August, 1998 and a copy of the enclosure was also submitted to the Petitioner herein. Hereto annexed and marked EXHIBIT 'B' is a copy of the

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said letter dated 21st August, 1998 along with its enclosure.

4. I say that due to a wrongful debit in the register of members books of the answering Respondents dividend with regards to 400 shares was passed on to Mr. N.D. Jobalia. I say that on realizing the same, the answering Respondents by their letter dated 24th November, 1998 requested the said Mr. N.D. Jobalia to reimburse the amount wrongfully paid in order to enabling the answering Respondents to pass on to the Petitioner. Hereto

Ex. 'C' annexed and marked EXHIBIT 'C' is a copy of the said letter dated 24th November, 1998.

I say that the answering Respondents have BAY also prepared a table listing out the shares concerning the answering Respondents and as set out in Exhibits 'G', 'H' and 'H-1' to the Petition as well as the quantity intimated by the Company to the Petitioners. Hereto annexed and marked EXHIBIT Ex. 'D' 'D' is a copy of the said table. I say that the same will enable the Petitioner as well as the Hon'ble Court to conveniently compare various figures concerning the share of the answering Respondents as set out in different exhibits annexed to the Petition.

6. I say that the present affidavit has been

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made on the basis of the records of the Company in order to bring the facts concerning the present Petition on record. I say that the answering Respondents would bring such further facts as may be deemed necessary by this Hon'ble Court. I further say that the answering Respondents are submitting to the orders of this Hon'ble Court.

Solemnly affirmed at Bombay)
on this 1st day of September,) October
1999) M.Kher
)

Before me,

For Manilal Kher Ambalal & Co., *M.Kher*
Partner, *Advocates*
Advocates for Respondent No.66.

OFFICE OF THE COURT
SPECIAL COURT
Mumbai



AI
11/10/99

Applied on 17/05/2024
Pages 11
Examined by GPN (GPN)
Compared with SAB (SAB)
Ready on 22/05/2024
Delivered on 28/05/2024

Certified to be a true copy

22/05/2024
BY OFFICER ON SPECIAL DUTY
Officer of the Special Court
Bombay (OJ)

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ANNEXURE-I

STATEMENT SHOWING DETAILS OF THE SHARES HELD BY BENAMI-HOLDERS
MISCELLANEOUS PETITION NO. 99 OF 1998

Sr. No.	Holder	Folio No.	Shares with Custodian	Shares as per Company's Records
1	Bipin D. Modi	B-77303	50	50
2	H.S. Avlani	H-72463	1250	1250
3	Jayesh D. Jobalia	J-76459	1200	1200
4	Jayprakash R. Sheth	I-76478	500	500
5	Kalpana N. Jobalia	K-83541	200	200
6	Kalpana N. Jobalia	K-83543	1100	1100
7	M. J. Sheth	M-85685	1200	1200
8	Nilesh D. Jobalia	N-77708	1000	1000
9	Nilesh H. Modi	N-77696	949	1000
10	Nirav D. Jobalia	N-77709	1350	1350
11	Rekhaben H. Avalani	R-85568	1150	1200
12	Shantibhai Avlani	ST-1709	700	700
13	Shantilal Avlani	ST-1710	1000	1000
TOTAL			11649	11750

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EXHIBIT 'B':

(S. No. 10)

Larsen & Toubro Limited
Engineers

Registered Office:
L&T House
Ballard Estate
P. O. Box 278
Mumbai: 400 001.

SEC/411/VSG

21st August, 1998

The Manager
State Bank of Mysore
Dalal Street Branch
MUMBAI.

Cc:

Dear Sir,

Dividend for the year ended 31.3.1998
Harshad Mehta Group
Current Account No.1/371

We refer to letter No. 515/CUS/DIVD/Benami
Shares/SUSPENSE A/C/94(1718) dt. 18.7.95 from the
Office of the Custodian, New Delhi and send
herewith Warrants dated 6.8.1998 as per list
attached for depositing in the Current Account
No.1/371 in the name of Harshad Mehta Group -
Benami Shares Account. Kindly acknowledge receipt
of the same.

Thanking you,

Yours faithfully,
for Larsen & Toubro Limited

Sd/-

(V.S. GAOKAR)
Manager - Secretarial

Encl: As above.

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LIST OF WARRANTS DATED 6.8.1998

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ENCLOSURE TO LETTER NO. SEC/411/VSG
DATED 21.8.1998

FOLIO NO.	NAME	D/W NO.	AMOUNT (RS.)
H72463	H.S. Avlani	5502721	8125
B77303	Ripin D.Modi	5501717	325
R85568	R.H. Avlani	7700725	7475
ST1709	S.S. Avlani	5502754	4550
ST1710	S.O. Avlani	5502764	6500
N77709	Nirav D. Jobalia	5424861	8775
N77708	Nilesh D. Jobalia	5424852	3900
N77696	N.H. Modi	5502730	6500
M85685	M.J. Shesh	5501750	7800
K83543	Kalpana N.Jobalia	5424836	7150
K83541	K.N. Jobalia	5424828	1300
J76478	Jayprakash R.Shesh	5501733	3250
J76459	Jayesh D. Jobalia	524810	7800
			73450



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Exhibit C
A/1155

LIST OF SHARES APPEARING IN EXHIBITS "G, "H" & "H-1"
MISC. PETITION NO. 99198

HOLDER	FOLIO NO.	QTY INTIMATED	SHARES WITH	PAGE NO.	SR.NO.	PAGE NO.	SR.NO.	PAGE NO.	SR.NO.	PAGE NO.	SR.NO.
	BY COMPANY	CUSTODIAN	IN "G"	IN "H"	IN "H"	IN "H-1"	IN "H-1"				
BIPIN MODY	IB-77303	50	50	307	236	381	-	-	-	-	-
H.S. AVLANI	H-72463	1250	1250	307	482	399	-	-	-	-	-
JAYESH D. JOBALIA	J-76459	1200	1200	307	638	412	-	-	-	-	-
JAYPRAKASH R. SHETH	J-76478	500	500	307	656	415	-	-	-	-	-
KALPANA N. JOBALIA	K-83451	200	200	307	751	422	-	-	-	-	-
KALPANA N. JOBALIA	K-82543	1100	1100	307	751	422	-	-	-	-	-
M.J. SHETH	M-85685	1200	1200	307	915	434	-	-	-	-	-
NILESH D. JOBALIA	N-77708	600	1060	307	1175	454	-	-	-	-	-
NILESH H. MODI	N-77696	1000	949	307	1182	455	406	549	-	-	-
NIRAV D. JOBALIA	N-77709	1350	1350	307	1202	457	-	-	-	-	-
REKHABEN H. AVLANI	R-85568	1200	1150	307	1510	481	536	560	-	-	-
SHANTI BHALA AVLANI	ST-17C9	700	700	307	-	-	-	-	-	-	-
SHANTILAL AVLANI	ST-1710	1000	1060	307	1768	501	-	-	-	-	-
TOTAL		11350	11649								

NOTES:

1. The names of the holders remain same in all the three Exhibits.
2. The Folio Numbers remain same in all the three Exhibits.
3. The Number of Shares for each Folio remain same for all the three Folios.

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Exhibit 'D'

25/11/98

925

LARSEN & TOUBRO LIMITED
INVESTOR RELATION CENTRE
'Bakhtawar', Ground Floor, P.Bag 19982,
Nariman Point, Mumbai: 400 021.

SH/LT/98/SCAM

24th Nov. 1998

REGISTERED

Mr. N.D. Jobalia.
C/o Bella Electronics
516 Shevasharam
Shopping Centre, 5 Bati
Bharuch: 392 001

Dear Sir,

COURT
Section 17
No. 1000

Sub: Payment of dividend on shares related
to Harshad S. Mehta Group in the
name of Benamidars

As you are already aware, the shares registered in
your name are part of the shares relating to
Harshad S. Mehta Group in the name of Benamidars as
notified by the The Special Court (Trial of
offences relating to transactions in Securities).
We note from our records that you had sold quite a
few shares before the issue of notification and we
find that 400 shares pertaining to Folio No. N77705
and N77706, when received for transfer, were
wrongly debited in our records against Folio No.
N77708. Consequently under your Folio No. N77705
and N77706 you continued to receive dividends on 50
shares and 350 shares respectively since 1993
although you had sold all your shares under these
folios. As a matter of fact, dividend on these 400
shares should have been passed on to the Custodian,
The Special Court as these 400 shares are
registered under your folio No. N77708 and the
original Share certificates have been ceased and

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are in the custody of the Custodian, The Special Court. This clerical error had occurred in the books of our Company in 1993. Consequently you have received the following dividends for which you are not entitled to. We therefore, request you to kindly let us have a Pay Order in favour of Larsen & Toubro Ltd. for the following amount to enable us to pass on this payment to the Custodian as required under the Law.

Folio No.	No. of shares	Dividend	Dividend for the year	Amount
N77705	50	61st	1992-93	175.00
N77705	50	62nd	1993-94	200.00
N77705	50	63rd	1994-95	250.00
N77705	50	64th	1995-96	300.00
ON77705	50	65th	1996-97	300.00
N77705	50	66th	1997-98	325.00
N77706	350	61st	1992-93	1225.00
N77706	350	62nd	1993-94	1400.00
N77706	350	63rd	1994-95	1750.00
N77706	350	64th	1995-96	2100.00
N77706	350	65th	1996-97	2100.00
N77706	350	66th	1997-98	2275.00
				12400.00

Your co-operation will be very much appreciated.

Thanking you,

Yours faithfully,
For Larsen & Toubro, Ltd.,
Investor Relation Centre

Sd/-
(Authorised Signatory)

CC: Mr. S.G. Srinivasan - This refers to your letter
Officer on Special Duty 5662/CUS/BOM/MA-424/94
Office of the Custodian /PN/97 dated 10th Nov.1998
The Special Court
(Trial of offences
relating to transactions
in Securities) Act, 1992,
9th floor, Nariman Bhawan
227, Vinay K. Shah Marg,
Nariman Point,
Mumbai: 400 021.

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BEFORE THE SPECIAL COURT CONSTITUTED
UNDER THE SPECIAL COURT (TRIAL OF
OFFENCES RELATING TO TRANSACTIONS IN
SECURITIES) ACT, 1992

MISC. PETITION NO.99 OF 1998

The Custodian .. Petitioner

v/s.

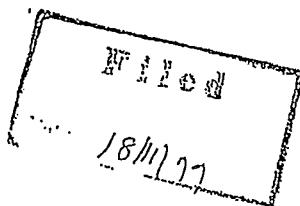
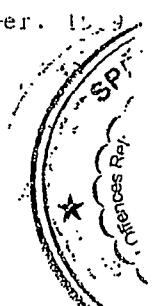
Harshad S. Mehta
& Ors. .. Respondents

CORAM: S. H. KAPADIA J.

DATE: file

Kapadia
18/11/99

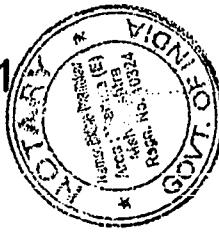
AFFIDAVIT ON BEHALF RESPONDENT NO.66
Dated this 1st day of September, 1999



Manilal Kher Ambalal & Co.,
Advocates for Respondent No.66.

sk/d:/data_1/LAR/AFF-3

1991



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BEFORE THE SPECIAL COURT AT BOMBAY
 CONSTITUTED UNDER THE SPECIAL COURT (TRIAL OF OFFENCES
 RELATING TO TRANSACTIONS IN SECURITIES) ACT, 1992.
 MISC.APPLICATION NO.297 OF 1994.

Asstt.Commissioner of Income Tax, Bombay

... Applicant.

V/s

A.K.Menon, Custodian & Ors.

... Respondents.

G
 I, C.N..JAYARAMAN of Bombay, Indian Inhabitant, an Senior

Account Officer in the Office of the Custodian and a
 Constituted Attorney of the Custodian working for gains
 at 9th floor, Nariman Bhavan, Nariman point, Bombay -
 400 021. do solemnly affirm and state as follows:-

1. At the outset I respectfully submit that the Application herein as also all other Applications of the same nature filed by the Commissioner of Income-Tax are misconceived and are not maintainable. Under the provisions of the Special Courts (Trial of Offences relating to transactions in Securities) Act, 1992, ("the said Act") the properties of any person notified under Sec.3(2) stand attached and such properties have to be dealt with by the Custodian as per the directions of this Hon'ble Court. In respect of attached properties no person has any right to demand or require anything save and except to the extent provided for in Sec.4 of the said Act. If any person has knowledge or information that any attached property has been secreted it is his duty to inform the Custodian. No Person is

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Advocate For Plaintiff / Respondent / Appellant

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entitled to move applications in this behalf in this Hon'ble Court and demand that any particular action be taken.

2. The rest of the Affidavit is being filed without prejudice to this submission.

3. As this Hon'ble Court is aware Mr. Harshad Mehta, and persons connected with him were notified by the Custodian under Section 3 of the said Act on 8th June, 1992. By virtue of the provisions of the said Act all the properties held by the members of the said group were attached and it was not permissible in law for any person to deal with any such property except with the permission of this Hon'ble Court.

4. After the said Notification was issued the office of the said Custodian took charge of the properties belonging to the said group of which his office had any knowledge.

5. Thereafter sometime in 1993 the commissioner of Income Tax filed an application in this Hon'ble Court being Misc.Application No.194 of 1993 setting out therein the result of certain investigations carried out by the Income Tax Authority from which it appeared that a large number of shares were in the possession of the members of the said group on the date of the Notification but had not been disclosed or declared to any person. It further appeared that members of the said group thereafter surreptitiously had the said shares or some of them transferred in the names

1993

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referred to as Benamies consisting of either non existing persons or entities or persons of straw. It further appeared that some such shares had already been sold in the market.

6. Thereafter this Hon'ble Court passed an order on 19th October, 1993 by consent providing for a mode of certification of such shares in effect ensuring that persons who had purchased such shares bonafide in the market without notice of the said shares being attached properties would get good title thereof.

7. On the basis of the information made available to the Office of the Custodian in the said Miscellaneous Application the Custodian applied to this Hon'ble Court by way of Application No.282 of 1993 placing certain facts on record and seeking certain directions. Certain orders were passed thereon by this Hon'ble Court on 11th January, 1994 to which I crave leave to refer.

8. The Custodian has thereafter taken steps with the assistance of the Stock Exchange and from other sources to identify the brokers who had introduced the said shares in the market. So far the following names have been identified :

Sr.No NAME OF INTRODUCING BROKER

1. Shrenik Shah
2. Virendra Navnital & Co.
3. Brij Mohan Sarda
4. Vivek Mahajan



1994

211

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-189-

4

5. T.K.Doshi
6. Loknath Saraf
7. Sushila Rungta
8. Narbheram Harakchand
Shah
9. Laxmi Manharlal (R No.405 J56)
10. Sr.Management Consultants Pvt.Ltd
11. Tushar Bedi
12. Prabhudas Liladhar
13. M.C.Babu
14. Pankaj Shah
15. L.K.Pandey
16. Pallav Sheth
17. J.J.Thakur
18. Jamnadas Morarji & Co.
19. K.N.Amerchand
20. S.G.Mantri
21. Yogesh Choksey

Having done so, the Custodian is now considering adoption of appropriate proceedings so that the value of such shares can be recovered and kept in the appropriate accounts.

9. After the Custodian had filed the said application, the Commissioner of Income Tax filed another application setting out a further list of shares and securities held Benami as also a further list of the names of such Benami holders being Applications No.53 of 1994.



1995

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10. Mr. Harshad Mehta has filed an affidavit in this Hon'ble Court disclosing a further number of benami shares held by him or members of his group and as per the directions of this Hon'ble Court, has taken steps to hand over the Custody of the said share certificates to my office.

11. This Hon'ble Court has also passed orders that Harshad Mehta should disclose shares which were under his control on 8th June, 1992 and which were disposed of at any time (hereafter other than those included in the list to the said affidavit).

12. Steps have been taken to collate the total information thus obtained in relation to such Benami shares. Such collation is taking time as the information disclosed is discrepant. Whilst the total number of Benami shares held in Associated Cement companies, according to the Income Tax Department, was 5,15,429/- the number of shares declared by Harshad Mehta to be only 1,95,379/-. Similar discrepancies are to be found in respect of the shares of other companies as per particulars set out in a statement annexed hereto and marked Exhibit '1'. The Shares of Sesa goa held in Benami names as intimated by Income Tax to be 1,70,450/- while the company has intimated it to be 2,63,290/- and Harshad Mehta has informed Court that he has 1,94,785/- shares.

13. Further though the Income Tax Department has made available to my office detailed particulars of the list

1996

213

-191-

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246

of the names of the Benami holders with folio number, etc., the same do not tally with information I have obtained from the companies concerned as to the holdings of such benami holders in the company concerned.

- (a) Out of 41,83,114 shares and debentures which Harshad S.Mehta had declared in his affidavit dated 25.2.94 as belonging to him but were held in benami names, 41,46,031/- shares have been handed over to the Custodian in terms of Court Order in Misc.Application No.53 of 1994.
- (b) All of them have been listed by the Custodian and have been stored in the RBI vaults.
- (c) The inventory taken by the Custodian indicates the following:-
- (i) 129 Companies were listed in the affidavit of Harshad Mehta. However details in the affidavit were only in respect of 126 companies. Although the name of Orkay, Essém Catalyst and Wimco were listed in the affidavit the details of the folio and shares etc. were not given therein. Neither were any shares relating to them handed over to the Custodian.
- (ii) 150 shares of Tata Telcom listed given in the affidavit. No shares were however handed over. There were additional names which have not been

1997

-192-

217

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indicated in the said affidavit filed by HSM.

There was a variation in the name of Benamdaars indicated by HSM while the folio numbers were the same, as indicated. Variation in the folio numbers against the names appearing in the affidavit were observed. There was variation in the number of shares indicated in the affidavit.

(iii) Significant differences in Shares handed over are as under :

ACC	(-)	12,702
Narmada Cement	(-)	15,600
Mysore Cement	(-)	3,300
Kajaria Cement	(-)	3,000

Valued at present rates (2.7.94) the market value of the shares works out to Rs.5.08 Crores.

14. After this Hon'ble Court passed the said order by consent in Miscellaneous Application No.194 of 1993 as of the 1st of July, 1994; 12615 shares have been certified as having been purchased by bona fide holders without notice. The total number of applications for certification (excluding those already certified) relates to 32790 shares. Thus number falls far short of the number of Benami shares believed or alleged to have been introduced in the market and sold. There could be several reasons for such a small number of shares having



1998

245

-193-

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8

been presented for certification. The cause could include ignorance about the knowledge to have such shares certified. It may, therefore, be desirable if the Stock Exchanges are directed to publish the names of such benami holders in leading news-papers pointing out the order of this Hon'ble court to all persons who have such shares in their possession to apply for certification, if they are so advised. Similar intimation should also be given to the companies concerned. This Hon'ble Court should also consider whether it would be right and proper to prescribe a time limit of 3 months during which such a certification procedure can be resorted to. It would also perhaps be necessary to consider what has to be done in the case of shares found to be held by such benami holders which are not handed over to my office and which are not produced for certification during the time prescribed by this Hon'ble Court (if this Hon'ble Court decided so to do).

15. The Custodian has also taken steps to locate from the Banks concerned the dividends in respect of those which have been cashed from such Benami shares particulars (partial) of such inquiries are annexed hereto and marked Exhibit "2" steps have been taken to locate the Bank Accounts where such dividends have been credited.



1999

- 194 -

*219

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16. In these circumstances it is respectfully submitted that no orders on the Applications are called for.

Solemnly affirmed at Bombay)

aforesaid this 22nd day of)

July, 1994.)

N. Patwari
C.A. to the Custodian

Before me,

J. Rodriguez
22.7.94

For M/s Pravin Mehta & Mithi & Co.,

N. Patwari
(Partner)
Advocates for the Respondent.

OFFICER ON SPECIAL DUTY
Office of the Special Court
Bombay.

Seen Original Power
of Attorney dt: 20.7.94
stated to be in force.
J. Rodriguez
22.7.94



Applied on 18/11/2019
Paper.....14.....
Exhibited by H.P.K. Adarsh
Certified with M/s. Karmal
Patel, 21/11/2019
Delivered on 07/11/2020

Certified copy
21/12/2019

OFFICER ON SPECIAL DUTY
Office of the Special Court
Bombay

11
21/11/2019

2000

-195-

11

✓ 22.7.94
220

EXHIBIT "1"

SR. NO.	COMPANY	<u>NO OF SHARES</u>		
		Intimated Custodian / Parliament as identified by It Deptt in the books of companies (23.2.94)	to intimated by Company to Custodian	Declared b H.S.Mehta.

(1)	(2)	(3)	(4)
1. APOLLO TYRES	1,60,150	5,98,500	4,06,125 6
2. ARVIND MILLS	1,150	5,775	5,630 6
3. BOMBAY DYING	52,706	1,09,865	1,10,715 6
4. INDO GULF FERTILIZER & CHEMICALS LTD.	72,100	72,100	34,300 6
5. ITC AGRO TECH LTD.	2,22,200	3,51,300	3,48,400 6
6. JAIPRAKASH IND.LTD.	2,19,125	2,38,975	1,75,000 6
7. SESA GOA LTD.	1,70,450	2,63,290	1,94,785 6
8. SAW PIPES LTD.	1,87,900	1,80,200	1,05,800 6

2001

- 196 -

Recd. on the Date Recd. of Disbursement

Year Recd. Date Recd. Month Account No. Bank through which Dato

Date of Encashment Date of Disbursement

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Rajiv, R. Sait.

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1992-93 -d- 10/90b 1 -d- Encashed N.A. N.G.

Encashed N.A. N.G.

222

Gujarat State I. Harish Shantilal Josani 1992-94 20491 13805 2561.00 SWC Bank Bhavnagar(E) *Bachay*

Fertilizers
Company Ltd.

Encashed

N.A.

N.G.

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BEFORE THE SPECIAL COURT AT BOMBAY
CONSTITUTED UNDER THE SPECIAL COURT
(TRIAL OF OFFENCES RELATING TO
TRANSACTIONS IN SECURITIES) ACT
1992 AT BOMBAY.

M/s. Application No. 29702

Asstt. Commissioner of Income Tax,
Bombay
... Applicant

V/S

A. K. Menon, Custodian & Ors.
... Respondents.

Per Varsha J

File

Accr

27/7/94

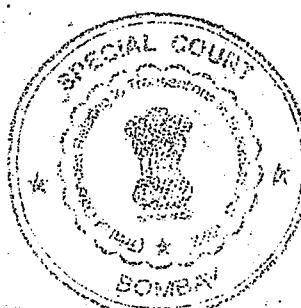
AFFIDAVIT OF 1ST RESPONDENT IN REPLY

DATED THIS 2nd DAY OF July 1994.

Filed

Date: 27.7.94

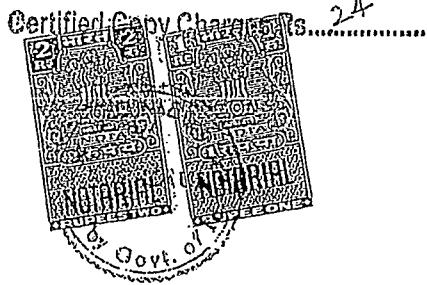
N



M/s. Pravin Mehta & Mithi & Co.,
Advocate for the Respondent.

2005

(07)



BEFORE THE SPECIAL COURT AT BOMBAY
CONSTITUTED UNDER THE SPECIAL COURT
(TRIAL OF OFFENCES RELATING TO TRANSACTIONS IN SECURITIES)

MISCELLANEOUS PETITION NO. 99 OF 1998



A.K. MENON, Custodian

...Petitioner

V/s

Harshad S. Mehta & Ors..

...Respondents

AFFIDAVIT OF RESPONDENT NO. 42

I, Ilam C. Kangoli, an Indian Inhabitant, Company Secretary of the Respondent No. 42 above named do hereby solemnly affirm and say as follows:

1. I have read a copy of the Petition and conversant with the facts of this case and therefore, able to depose to the same.
2. I am making this affidavit in addition to my earlier affidavit dated 6th July, 1999. This Affidavit is made pursuant to the affidavit filed by Commissioner of Income-tax in the 1st week of October, 1999, wherein the income-tax department has discovered further shares of respondent No. 42 which belong to notified parties.
3. I say that by a letter dated 28th September, 1999, a copy of said affidavit filed by income-tax department was furnished to this Respondent. The said letter call upon this Respondent to confirm whether the shares continued to stand in the folio and in the name of the holder indicated by the income-tax department. Hereto annexed and marked Exhibit 'A' is copy of said letter dated 28th September, 1999.
4. I say that this Respondent, after verifying the position has through its letter dated 21st October, 1999, communicated details required by the Petitioner folio wise as under:
(A) With reference to folio No. 136968
 - (i) Original shares continued to stand in the name of benami party.

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2/-

2006

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- 2 -

- (ii) 187 bonus shares were issued to the said party under certificate No. 307723 to 307729. Certificate bearing No. 307723-24 for 100 shares is transferred to the name of Mr. Dalichand J. Jabalia while a certificate of 50 shares bearing No. 307725 has been transferred and demated in favour of Goetz (I) Financial Ltd. and certificate for 37 shares bearing No. 307726-29 is retained in the said folio.
- (iii) (a) 937 bonus shares were issued in 1998 bearing No. 375287-375305.
- (b) A certificate for 100 shares bearing No. 375287-88 was sold and stands in the name of Shailesh R. Gandhi.
- (c) Certificates for 250 shares bearing No. 375289-92 and 375294 was sold and demated in favour of Goetz (I) Financial Ltd.
- (d) A Certificate for 50 shares bearing No. 375293 was sold and dematerialised in favour of Mangopal Bary.
- (e) Another certificate for 50 shares bearing No. 375295 was transferred in the name of Basmukh N. Desai.
- (f) Certificate for 50 shares bearing No. 375296 was transferred in favour of Kaushik R. Bhutt.
- (g) Certificate for 50 shares bearing No. 375297 was transferred and stands in the name of Marketics (India) Pvt. Ltd.
- (h) Share certificates for 387 shares bearing certificate No. 375298-305 remained in the same folio number.
- (i) Certificate for 50 shares bearing No. 375298 were lodged for transfer by Suraj Sanghli Financial Ltd., was received on 6th October, 1999 and has been refused. I say that with respect to aforesaid folio No. 136968 certain shares and/ or bonus have been issued and/ or transferred as aforesaid in view of the fact that the same shares being tainted shares was informed to this Respondent only by the aforesaid letter of the Petitioner dated 28th, September, 1999. (Exhibit 'A' hereto). All aforesaid transfers have been lodged prior to that date. These shares under the aforesaid folio numbers were not intimated to this Respondent earlier in the various lists of shares furnished by Petitioners from time to time.

.....3/-

2007

- 3 -

(B) With respect to folio No. 136969.

- (i) All the original shares continued to stand in the name of Benami parties.
- (ii) 187 bonus shares were issued in 1995 to Benami party under certificate No. 307730-736.
- (iii) 937 bonus shares were issued to the said party in 1998 under certificate No. 375306-324.
- (iv) All bonus shares continued to stand in the name of benami parties.

(C) With respect to folio No. 136970.

- (i) All the original shares continued to stand in the name of Benami party.
- (ii) 25 bonus shares were issued to the said Benami party under certificate No. 307737-38.
- (iii) 125 bonus shares were issued in 1998 to the alleged benami parties under certificate No.375325-327.
- (iv) All bonus shares continued to stand in the name of Benami parties.

(D) With respect to folio No. 136972.

- (i) All the original shares continued to stand in the name of Benami party.
- (ii) 175 bonus shares were issued in 1995 to the alleged Benami party under certificate No. 307743-747.
- (iii) 875 bonus shares were issued in 1998 to the Benami party under certificate No. 375328-345.
- (iv) All bonus shares continued to stand in the name of benami parties.

Hereto annexed and marked Exhibit 'B' is the copy of said letter dated 21st. October, 1999.

5. I say that this Respondent is willing to comply with order and directions of this Hon'ble Court. I say that as aforesaid, the transfers have taken place on account of the fact that these shares were not earlier discovered as belonging to notified parties and intimated to this Respondent.

107

2008

Certified Copy Charges Rs.....

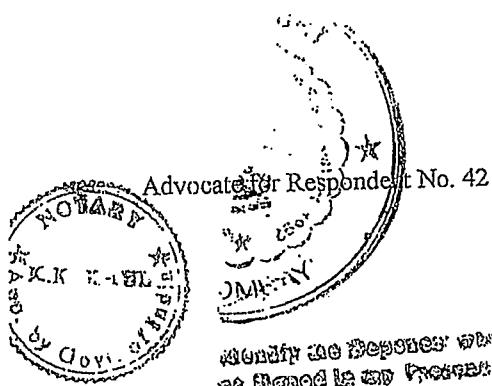
- 4 -

6. I say that what is stated herein above is true to my own knowledge and I believe the same to be true.

Solemnly affirmed at Delhi)

This 8th day of December

1999.)



BEFORE ME SOLEMNLY AFFIRMED
SWORN BEFORE ME NEW DELHI

965/97 NOTARY PUBLIC
K. K. KAUL N.C.T. OF N. DELHI
Advocate/Notary
Parliament Street Court 8 DEC 1999
New Delhi

Applied on 17/05/2024
Pages 06
Examiner GPW
Computer SPB
Ready on 22/05/2024
Delivered on 29/05/2024

Certified to be a true copy
22/05/2024
OFFICER ON SPECIAL DUTY
Officer of the Special Court
Bombay

1078 2009

EXHIBIT - A

OFFICE OF THE CUSTODIAN
THE SPECIAL COURT (Trial of
offences relating to transactions in
Securities) Act, 1992,
9th Floor, Nariman Bhawan,
227, Vinay K. Shah Marg,
Nariman Point, Mumbai – 400 021
Phone:2833007-2856780 Fax:2833007

September 28 1999

No.5013/CUS/BOM/MA-99/98 (239-MID)

Hero Honda Motors Ltd.
34, Community Centre,
Basant Lok, Vasant Vihar,
New Delhi – 110057

Dear Sir:

Sub: My Petition No. 9 of 1998
Custodian Vs. Hitesh Mehta & Ors.

Please find enclosed a copy of the Affidavit filed by Respondent No.2, Shri V.K. Gupta, Commissioner of Income Tax, Central Circle-23, Mumbai in the above matter.

In the Affidavit the Dy. Commissioner of Income Tax, has listed further benami shares detected by the Income Tax Department, complete details in respect of such shares detected by the Income Tax Department in respect of your company has been included in the list included in the list annexed to Annexure – I to the Affidavit. You are requested and verify and confirm that the said shares continue to stand in the folio and in the name of the holder as indicated by the Income Tax Deptt.

You are requested to take note of the details furnished by the Income Tax Department and make your submissions as regards the corrections thereof before the Court when the above matter reaches hearing before the Special Court during the 1st week of October 1999. You are therefore requested to ensure that your reply in the matter as filed before the Special Court and copies furnished to us amongst others.

Yours faithfully,

Sd/-
(S.G. SRINTVASAN)
Officer on Special Duty

Encl. : As above.



1679

2010

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No.DCIT/CC-23/Spl.Court/99-2000

Office of the
Dy.Commissioner of Income-tax
Central Circle-23, 7th Floor,
Room No., 701, Old CGO Bldg.Annexe
M.K.Road, Mumbai-400 020.

Dated: 10.9.1999.

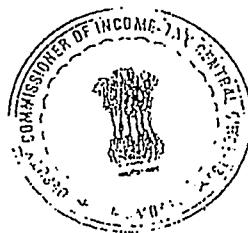
**BEFORE THE SPECIAL COURT CONSTITUTED UNDER
THE SPECIAL COURT (TRIAL OF OFFENCES
RELATING TO TRANSACTIONS IN SECURITIES)
ACT, 1992, AT MUMBAI**

To

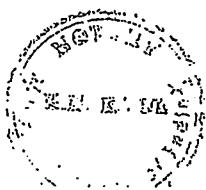
1. The Custodian,
9th Floor, Naftman Bhavan,
227, V.K. Shah Marg,
Naftman Point,
MUMBAI-400 021.
2. Shri Harshad S. Mehta,
1205/5th Makar Chambers V,
Naftman Point,
MUMBAI-400 021.

S. K.

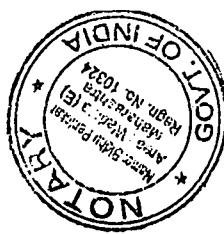
Please find enclosed herewith a copy of affidavit filed in response to the above Misc.
application for your record and notice.



[Signature]
(V. K. GUPTA)
Dy. Commissioner of Income-tax
Central Cir.213, Mumbai.



2011



RELEVANT EXTRACTS OF JUDGEMENTS OF HON'BLE SUPREME COURT INTERPRETING THE PHRASE "BELONGING TO ANY NOTIFIED PERSON" USED IN SEC. 3(3) OF THE TORTS ACT

Kudremukh Iron Ore Co. Ltd. vs. FFSL reported as (1994) 4 SCC 246

Para 3: "*The said Fairgrowth Financial Services Ltd. was a 'notified person' under Section 3(2) of the Act and accordingly the Special Court under Section 11 of the Act had jurisdiction to direct repayment of its liabilities.* The appellant, it is not disputed, had no privity of contract with the said Fairgrowth Financial Services Ltd. However, on the stand of the Andhra Bank Financial Services Ltd. that its funds were, in turn, locked up with and retained by the said Fairgrowth Financial Services Ltd., the appellant moved the Special Court for a direction that the securities of the Fairgrowth Financial Services Ltd. in the hands of the custodian be directed to be sold and the proceeds disposed of in favour of the Andhra Bank Financial Services Ltd. and that out of the sums so found payable, the sum of Rs 54 crores which was then due to the appellant together with accrued interest, be appropriated and applied for the discharge of the appellant's claims."

Para 4: "*The Special Court by its order dated 26-8-1993, now under appeal., declined to entertain the appellant's prayer. It said :*

"In my view, this Court can only adjudicate on claim in respect of properties belonging to notified parties. The petitioner's claim against the 2nd respondent does not fall within the purview of the jurisdiction of this Court. This Court has no jurisdiction over such claims or dispute. It is for the petitioners to adopt such proceedings as they may be advised in the normal civil or criminal courts.

Petition disposed of on ground that this Court has no jurisdiction."

Para 7: "*Indeed, Section 11 of the Act exclusively empowers the Special Court a to give directions in the matter of the property of a notified person. The foundation for the jurisdiction under Section 11 to deal with any such property is that it should have been a property under attachment. Section 3(3) of the Act*

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provides that attachment of property, whether moveable or immovable, or both, belonging to the notified person becomes effective simultaneously with the issue of the notification under Section 3(2) b of the Act. It is with respect to this attached property that powers under Section 11 of the 'Act' could be exercised. We might, here, take a look at Section 11 of the Act:

"**11. Discharge of liabilities:-** (1) Notwithstanding anything contained in the Code and any other law for the time being in force, the Special Court may make such order as it may deem fit directing the Custodian for the disposal of the property under attachment.

(2) The following liabilities shall be paid or discharged in full, as far as may be, in the order as under-

(a) all revenues, taxes, cesses and rates due from the persons notified by the Custodian under sub-section (2) of Section 3 to the Central Government or any State Government or any local authority;

(b) all amounts due from the person so notified by the Custodian to any bank or financial institution or mutual fund;

(c) any other liability as may be specified by the Special Court from time to time.

"The reasoning implicit in the order under appeal is that the power to order payment of amounts due from a 'notified person' 'to any bank or financial institution or mutual fund' presupposes and proceeds on the existence of obligations inter se between the parties based on contractual, statutory or other legally recognised rights and that such vinculum juris is absent as between the appellant on the one hand and the Fairgrowth Financial Services Ltd. on the other. What is further implicit is that the appellant which is a stranger to the consideration respecting transactions between the Andhra Bank Financial Services Ltd. and the Fairgrowth Financial Services Ltd., cannot seek to enforce the obligations thereunder. The remedy of the appellant against its debtor which itself is not a notified person, lies in the ordinary courts of the land. This reasoning is not shown to be unsound."

Canara Bank vs. Nuclear Power Corporation of India Ltd. reported as
1995 Supp. (3) SCC 81

2013

Para 28: Having regard to the enormity of the "scam" and its vast ramifications, Parliament thought it was necessary that all the matters of claims arising out of transactions in securities entered into between the stated dates in which a person notified was involved should be brought before and tried by the same forum. That forum had been invested with the jurisdiction to try persons accused of offences relating to transactions in securities entered into between the stated dates. It was also required to give directions to the Custodian in regard to property belonging to persons notified which stood attached under the provisions of the Special Court Act. The object of amending the Special Court Act invest the Special Court with the power and authority to decide civil claims arising out of transactions in securities entered into between the stated dates in which a person notified was involved has already been stated. In these circumstances, it is proper to attribute to the word "court" in Section 9A(1) of the Special Court Act, not the narrower meaning of a court of civil judicature which is part of the ordinary hierarchy of courts, but the broader meaning of a curial body, a body acting judicially to deal with matters and claims arising out of transactions in securities entered into between the stated dates in which a person notified is involved. An interpretation that suppresses the mischief and advances the remedy must, plainly, be given."

Tejkumar Balkrishna Ruia vs. A.K. Menon reported as (1997) 9 SCC 123

Para 5: "In our view, the terms of sub-section (3) of Section 3 are clear. By reason thereof, the property that belongs to a notified person stands attached simultaneously with the issue of the notification that makes him a notified party. The words "on and from the date of notification" indicate the point of time at which the attachment takes effect; this is reiterated by the words "shall stand attached simultaneously with the issue of the notification". This also indicates that no separate notification or order in regard to the attachment is necessary."

Para 6: "Neither the words 'on and from the date of notification' nor the word 'property' lead to the conclusion that what is attached is not only that property which the notified person owned or was possessed of on the date of the notification but also all such property as he might

acquire at any time thereafter. The intention to attach property which did not belong to the notified person on the date of the notification but which he might acquire later would, had it been there, have been clearly expressed and sub-section (3) would have stated that such property would stand attached the moment it was acquired by the notified person. The Act would also have made provision for a subsistence allowance or the like for the notified person.”

Harshad Shantilal Mehta vs. Custodian reported as (1998) 5 SCC 1

Para 12: “Before the Special Court makes any order under Section 11(1), the Special Court must be satisfied that the property which is attached and is being disposed of, is the property belonging to the notified person. If any person other than the notified person has any share, or any right, title or interest in the attached property on the date of notification under Section 3, that right of a third party cannot be extinguished. There is no provision in the Special Court Act which extinguishes the right, title and interest of a third party in any property which is attached as a consequence of a notification under Section 3. The only right which the Custodian has, in respect of the rights of third parties in such properties, is conferred by Section 4 under which, if the Custodian is satisfied that any contract or agreement which was entered into by the notified party within the “statutory period” in relation to an attached property, is fraudulent or entered into for the purpose of defeating the provisions of the Special Court Act, he can cancel such contract or agreement. There is no other provision under the Special Court Act which affects the existing rights of a third party on the date of attachment, in the property attached. The attached property also does not vest in the Custodian. In this regard, the position of a Custodian is different from that of an official liquidator of a company in winding up. Had the Act provided for the extinguishment of any subsisting rights of other persons in the attached property, the Act could well have been considered as arbitrary or unconstitutional (vide C.B. Gautam v. Union of India [(1993) 1 SCC 78 at pp. 105-110]). ”

2015

Para 13: "The directions, therefore, for disposal under Section 11(1) can be given only after the Special Court has satisfied itself that the property under attachment is the property which belongs to the notified person. The directions for disposal can only be in respect of the right, title and interest of the notified person in the attached property. If, therefore, any application is filed before the Special Court by a third party claiming the property so attached and/or for releasing the right, title and interest of a third party in the property from attachment, the Special Court will have to decide the application before proceeding under Section 11."

Para 14: "It has also been submitted before us by one of the notified parties (Dhanraj Mills v. Custodian) that properties belonging to notified persons which have no nexus with the transactions in securities of the notified person during the "statutory period", also cannot be attached under Section 3. Reliance is placed on the decision of the Bombay High Court in the case of Hitesh Shantilal Mehta v. Union of India² (to which one of us was a party) in this connection. Our attention is drawn to the following passage in the High Court's judgment: (at p. 719)

'If the person ... approaches the Special Court and makes out, for example, a case that the property which is attached has no nexus of any sort with the illegal dealings in securities belonging to banks and financial institutions during the relevant period and/or that there are no claims or liabilities which have to be satisfied by attachment and sale of such property, in our view, the Special Court would have the power to direct the Custodian to release such property from attachment.'

Para 17: "The Custodian has raised certain further questions. We propose to consider one such question which has a bearing on the questions which have been framed by the Special Court. The question is whether in the case of mortgaged/pledged properties of the notified persons already mortgaged/pledged to the banks or financial institutions on the date of attachment, the words of Section 3(3) "any property moveable or immovable or both belonging to any person notified" would refer only to the right, title or interest of the notified person in the mortgaged/pledged property and not the entire property itself. If so, the liabilities mentioned in Section 11(2) which are to be paid from the proceeds of the sale of the attached property, would only refer to proceeds of the sale of the right, title and interest of the notified person in the attached property."

2016

Para 18: “The last question can be answered first. As stated above, Section 3(3) clearly provides that the properties attached are properties which belong to the person notified. The words “belong to” have a reference only to the right, title and interest of the notified person in that property. If in the property “belonging to” a notified person, another person has a share or interest, that share or interest is not extinguished. Of course, if the interest of the notified person in the property is not a severable interest, the entire property may be attached. But the proceeds from which distribution will be made under Section 11(2) can only be the proceeds in relation to the right, title and interest of the notified person in that property. The interest of a third party in the attached property cannot be sold or distributed to discharge the liabilities of the notified person. This would also be the position when the property is already mortgaged or pledged on the date of attachment to a bank or to any third party. This, however, is subject to the right of the Custodian under Section 4 to set aside the transaction of mortgage or pledge. Unless the Custodian exercises his power under Section 4, the right acquired by a third party in the attached property prior to attachment does not get extinguished nor does the property vest in the Custodian whether free from encumbrances or otherwise. The ownership of the property remains as it was.”

Para 41: “In view of the interpretation which we have put on Section 11 of the Special Court Act and Section 3(3) of the Special Court Act, the challenge to the constitutional validity of Section 11 read with Section 3(3) does not survive. If according to any of the banks or financial institutions, any of the properties attached belongs to the bank or financial institution concerned, it is open to that bank or financial institution to file a claim before the Special Court in that connection and establish its right to the property attached or any part thereof in accordance with law. Obviously, until such a claim is determined, the property attached cannot be sold or distributed under Section 11. Transfer Case No. 5 of 1998 is, therefore, dismissed.”

Standard Chartered Bank vs. Custodian reported as (2001) 4 SCC 424

Para 8: "The Court in *Harshad Shantilal Mehta case* [(1998) 5 SCC 1] has held: (SCC p. 12, para 18)

"If in the property 'belonging to' a notified person, another person has a share or interest, that share or interest is not extinguished. Of course, if the interest of the notified person in the property is not a severable interest, the entire property may be attached. But the proceeds from which distribution will be made under Section 11(2) can only be the proceeds in relation to the right, title and interest of the notified person in that property. The interest of a third party in the attached property cannot be sold or distributed to discharge the liabilities of the notified person. This would also be the position when the property is already mortgaged or pledged on the date of attachment to a bank or to any third party. This, however, is subject to the right of the Custodian under Section 4 to set aside the transaction of mortgage or pledge. Unless the Custodian exercises his power under Section 4, the right acquired by a third party in the attached property prior to attachment does not get extinguished nor does the property vest in the Custodian whether free from encumbrances or otherwise. The ownership of the property remains as it was."

Para 9: "Therefore, we are of the opinion that so far as the secured creditors are concerned, subject to the right of the Custodian under Section 4 of the Act, they are entitled to recover the amounts due to them (principal and interest) from the property secured in their favour without taking recourse to Section 11 of the Act. But if the security is not large enough to extinguish their debt, they can seek payment of the shortfall only under Section 11(2)(c) of the Act."

Canbank Financial Services Ltd. vs. Custodian reported as (2004) 8 SCC 355

Para 70: "The properties of a notified person do not vest in the Custodian. He is not a Receiver within the meaning of the provisions of the Code of Civil Procedure or an Official Receiver or an Official Assignee under the insolvency laws. He is also not an Official Liquidator under the Companies Act. His right is the same as that of the notified person. Only when the notified person has a subsisting right in a property, the same being subject to statutory attachment, can the Custodian approach the Special Court for an appropriate direction in relation

2018

thereto. In other words, the Custodian is not permitted to deal with any property which did not belong to the notified person on the relevant date.”

Para 80: “The said decision is also an authority for the proposition that the position of the Custodian is same as that of the notified person himself. If by any law Respondent 2 was not precluded from transferring the shares held by him, the transfer thereof in favour of the appellants was legal. The transaction took place on 6-2-1992 i.e. much prior to 6-6-1992 when Respondent 2 became a notified person. If on or after 6-2-1992, Respondent 2 had no interest in the CANCIGOS, the same could not have been the subject-matter of attachment of the custody. The Custodian could attach the property only when the right, title and interest thereto remain in Respondent 2 and not otherwise.”

Para 91: “The appellant, in our opinion, had also the requisite locus to maintain its application before the Special Court with a view to show that it having an interest in the CANCIGOS, the same is beyond the purview of purported automatic attachment under Section 3(3) of the Act and consequently neither the Custodian derived any right to deal therewith nor the Special Court could issue any direction in relation thereto. In any event having regard to the provision contained in Section 9-A of the Act, all claims relating to the properties which are claimed to have been statutorily attached must be adjudicated by the Special Court only. The claim petition of the appellant was, thus, maintainable.”

Para 97: “The appellant having paid a consideration of Rs 33 crores in relation to the CANCIGOS in question had a just right to possess the same to the exclusion of Respondent 2 and in that view of the matter too the Special Court could not have directed the appellant to hand over the same to the Custodian. The said direction is unsustainable in law.”

Standard Chartered Bank vs. Andhra Bank Financial Services Ltd.
reported as (2006) 6 SCC 94

2019

Para 60: “One of the arguments canvassed before us by Mr Jethmalani was on the effect of Section 4(2) of the Benami Transactions (Prohibition) Act, 1988 on the defence of CMF in the suit. The argument was that CMF has contended, though not in precise terms, that the suit bonds did not belong to SCB at any point of time because the 15% arrangement was only a funding transaction under which the real owner was HPD, though the suit bonds were ostensibly held by SCB. Mr Jethmalani contends that this contention of CMF is specifically barred by Section 4(2) of the Benami Transactions (Prohibition) Act, 1988. The learned counsel for CMF, however, relies on Section 3(3) of the Act, which reads thus:

“3. (3) Notwithstanding anything contained in the Code and any other law for the time being in force, on and from the date of notification under sub-section (2), any property, movable or immovable, or both, belonging to any person notified under that sub-section shall stand attached simultaneously with the issue of the notification.”

Para 61: “The force of the words “belonging to any person notified” used in sub-section (3) of Section 3 of the Act are wide enough to result in attachment of the property which belongs to the notified person irrespective of in whose name the property stands. The provisions of Section 13 of the Act give an overriding effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force. Even assuming that the argument of Mr Jethmalani based on Section 4(2) of the Benami Transactions (Prohibition) Act, 1988 is a plausible one, we are of the view that the combined effect of Sections 3(3) and 13 of the Act would give an overriding effect to the provisions of the Act. It is rightly urged by Mr Kapadia, learned counsel for CMF, that, if that were not so, then the whole purpose of the Act would be defeated since the objective of the Act was to reach out and attach the property in whichever hands it was, irrespective of in whose names the property stood, as long it was property belonging to a notified person. Thus, the contention based on Section 4(2) of the Benami Transactions (Prohibition) Act, 1988 has been rightly rejected by the Special Court.”

BEFORE THE SPECIAL COURT
(TRIAL OF OFFENCES RELATING
TO TRANSACTIONS IN
SECURITIES) ACT, 1992

MISC. APPLICATION NO.10 OF 2023

Smt Jyoti H. Mehta .. Applicant

Vs

The Custodian & Ors. .. Respondents

Affidavit in rejoinder of Smt Jyoti H. Mehta to combined affidavit-in-reply of Smt Kalpana Jobalia, Respondent Nos.10 & 11.

Dated this 23rd day of October 2024



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