

“Smt Jyoti Mehta filed Affidavit in rejoinder to oppose the sale of residential flats at Madhuli. The claims made by the I.T. department were extremely high-pitched and patently illegal against which large amounts were illegally collected even though they had not become final and binding. That premature sale of shares had caused losses of Rs.4747.97 Crores and the Hon’ble ITAT had granted reliefs in 131 cases. Mehtas were facing difficulties in defending their legal interest and Custodian had taken several precipitatory steps to paralyze them.”

IN THE SPECIAL COURT (TRIAL OF OFFENCES RELATING
TO
TRANSACTIONS IN SECURITIES) ACT, 1992 AT MUMBAI
MISC.PETITION NO.41 OF 1999

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THE CUSTODIAN ..PETITIONER
V/s
HARSHAD S MEHTA & ORS ..RESPONDENTS

AFFIDAVIT OF MRS JYOTI HARSHAD MEHTA, RESPONDENT NO.1(a) AS
LEGAL HEIR OF LATE SHRI HARSHAD S MEHTA

I, Mrs Jyoti Harshad Mehta, as legal heir of late Shri Harshad S Mehta, Hindu adult, Indian inhabitant, residing at 32, Madhuli, Dr Annie Beasant Road, Worli, Mumbai 400 018., in my affidavit in reply to the affidavit of revenue, state as under :-

1. I have gone through the contents of the affidavit filed by the revenue and in response to the same, I am filing this affidavit in reply. I say that nothing should be taken to have been admitted by me unless it is specifically admitted by me. I also deny any inconsistent or contrary statements to whatever I am stating in this affidavit in reply.
2. At the outset and before proceeding to deal with the contents of the affidavit of revenue, I would like to state the factual background of last few years of events leading till date in order that an overall view is taken. I say that sometime in April 1992, the alleged scam broke out involving in the main my late husband Shri Harshad S Mehta. I say that this lead to several actions by all the departments and even the revenue went into an overdrive. I say that since then my late husband as well as our family members and corporate entities promoted by us have been victimized

merely because of the breaking out of the alleged scam. I say that though the revenue ought to be concerned with taxing our actual incomes but unfortunately it has taken advantage of the special status of priority granted to it under Section 11 of the Special Courts Act. I say that under this priority, its claims rank above those of banks and financial institutions and other creditors. I say that the revenue exploited priority status by making false demands so that it can take away the monies belonging to other creditors and the notified entities. I say that I have a grievance against the revenue for their approach towards late Shri Harshad S Mehta in particular. I say that due to the development of several unforeseen and unfortunate incidents my late husband and all other notified entities could not make full compliance and effectively defend our interest. I say that now special efforts are being made by us to restore normalcy and enhance compliance. I say that realizing our inability to make compliance and using discretionary powers vested in them under the provisions of the best judgment assessments, the revenue foisted upon all of us very high pitched assessments which has no relevance whatsoever with our actual incomes. In case of best judgment assessment also, the Assessing Officers are required to make enquiry, ascertain and establish facts and collect evidence and put up a case to the assessee, but none of these were followed both in spirit or in law.

3. I say that these high pitched demands were used as justification to liquidate all our assets and now only the residential premises remain to be sold which is being contested by us. The sale of office in particular completely broke our back as such huge demands could not be defended by the notified entities with no proper office or machinery hitherto available to them. I say this has also prevented an equitable distribution under Section 11 in as much as my late husband has not been able to meet the liabilities of other genuine creditors largely being the Banks and financial institutions. I say that therefore the revenue is responsible in frustrating

the functioning of the Special Courts Act causing amongst other things enormous delay in achieving its objectives. For and on behalf of the notified entities on an interim basis, an amount of Rs.1227 crores have come to be disbursed to the revenue covering largely the statutory period under various orders of this Hon'ble Court and the Hon'ble Supreme Court of India. I say that the monies disbursed to the revenue are in the nature of interest bearing deposits recallable by the Court and the Secretary, Govt. Of India has given an undertaking to the Courts for this purpose. I say that the notified entities have always opposed such an adhoc disbursement to the revenue since it creates a vested interest and apprehending that the revenue would not bring the money back.

4. I say that after the liquid balance was exhausted, the revenue built up pressure for liquidation of movable and immovable assets even without awaiting the outcome of our appeals. I say that the notified parties had repeatedly urged that the assets may be liquidated only after our liabilities are crystallized under Section 9A of the Special Courts Act and our appeals are heard. I say that the notified entities have repeatedly asserted in several proceedings before this Hon'ble Court as well as the Hon'ble Supreme Court of India that these high pitched demands are patently illegal and would not survive the test of law and that the assessment orders suffered on several counts including those of violation of principles of natural justice and certain patently illegal and presumptive additions. I say that the notified parties have even given the details about their factual taxable income by drawing their books of accounts. I say that once the books of accounts were drawn, it was easy to find out the taxable income earned by the notified persons.
5. I say that way back, in 1993, this Hon'ble Court appointed three firms of Chartered Accountants to arrive at the assets and liability picture of each of the notified entities. I say that these three firms combed through each

and every transaction recorded in the books of accounts and they could have easily given their opinion on the taxable income earned by the notified entities atleast for the period 01.04.1991 upto 08.06.1992. I say that based on my books of accounts before them, it was always possible for these firms to give an opinion and finding on the likely tax liability but unfortunately they have failed in discharging their real obligations. I say that in the meantime, the Custodian has also been more than obliging to the revenue mostly at the cost of other creditors by taking even the preposterous demands of the revenue at their face value and by time and again supporting the applications of interim disbursements to them and advocating sale of my assets.

6. I say that to meet the revenue liabilities and other creditors, a scheme was devised for sale of Shares belonging to me. Under the scheme, the Disposal Committee was constituted whose mandate was to liquidate the Shares after doing evaluation such as to maximize the realizations. This Committee was directed to effect sales in a phased manner. I say that the notified parties opposed the sale of Shares before crystallization of liabilities under Section 9-A of the Special Courts Act and before the appeals were heard, but unfortunately their objections were over ruled. I say that similarly in case of several large scrips when they were put on the block, the notified parties opposed the sale on various grounds that the price was low, that the future of the capital market was extremely bright, that unnecessary tax liability on account of sale of shares will be foisted upon them, that in some cases their holdings constituted management block and therefore ought to fetch a premium and that it could be reasonably expected that capital gains tax would be abolished. It was urged that the economy had a bright future and the Shares were bound to appreciate. I say that the Disposal Committee in their wisdom invariably came to the conclusion that the entire portfolio was required to be liquidated. Thus an appreciating asset generating tax free dividend

income was converted into liquid balance in the form of fixed deposits generating taxable income and with no scope of appreciation. I say that each of the grounds of opposition now stands vindicated as the Shares which have been sold at a throw away price causing losses running into thousands of crores have risen sharply. I say that the shares which have come to be sold in the last two years alone have appreciated by about 700% and even at their current prices, they continue to be fancied as the best investments. I say that the Advocates representing the Custodian have always painted a gloomy scenario as if the stock markets were doomed and going to crash and sink overnight and have vehemently advocated the sale of shares without possessing any expertise or understanding of a specialized subject like capital market. I say that to establish my above contention, I am pleased to enclose a chart where a sample of 21 cases of block sales have been taken. I say that it pains me to report that for the sale of Rs.866.44 crores worth of shares in the year 2003, the loss on the same in just last two years and few months amount to a whopping Rs.4747.97 crores. Hereto annexed as **Exhibit-A**, is a copy of the chart giving computation of this loss. I say that this loss is so stupendous that had these sales not been made, every creditor would have had no grievance at all and there would have been complete discharge of all their genuine liabilities. I say that by premature sale of Shares, the loss suffered is so enormous that had it not been sold, the question of sale of house might not have arisen.

7. In support of above contentions, I am now pleased to state that in recent times, the Hon'ble Income Tax Appellate Tribunal have granted major reliefs to all the notified entities in about 131 cases. I am pleased to enclose a chart giving particulars of these cases and the reliefs granted thereunder as **Exhibit-B**. I say that several benches of the Hon'ble ITAT in practically all the cases have held that the assessment orders passed by the revenue were in violation of the principles of natural justice and

therefore they have been set aside. The Assessing Officer has been directed to make assessment de novo after taking into account the books of accounts of the notified parties and after giving them full opportunity of rebutting the proposed additions. In some cases, where the orders of CIT (Appeals) have been set aside, similar directions of accepting the books of accounts and granting of opportunities have been given. Thus the orders made by the revenue under the provisions of best judgment assessments are patently illegal. I say that since the factual circumstances in all cases are more or less identical, even the pending cases are likely to be treated as covered matters and therefore the demands existing in the cases where hearing is yet to take place or the notified parties are yet to contest, the results are likely to be the same.

8. I say that so far as my late husband is concerned, he has drawn his books of account for the period upto March 1993 upto which period he had the records with him or for which period he could obtain the records. I say that the demands made by the revenue against my late husband are also absolutely false and absurd on the very face of it. In support of my contention, I am pleased to furnish particulars of taxable income as arrived at by my late husband for the three assessment years ended 31.03.1994, and the comparable figures of assessments made by the revenue and the demands made thereunder. These particulars are as follows :-

Asst. Year	Income Tax payable / (refund) as per books of accounts	Income Tax Payable as per I.T. Assessment.	Interest Levied by Revenue	Total Tax Demand	Payments released to Revenue
1991-92	-888000	3972885941	5005836234	8978722175	Nil
1992-93	-37500000	11239409712	14611232610	25850642322	6780254103
1993-94	61810716	6246971860	8622253995	14869225855	1034086
	23422716	21459267513	28239322839	49698590352	6781285189

I say that thus against and at the highest an admitted liability of about Rs.2.34 crores as per the books drawn by late Shri Harshad S Mehta, the revenue has assessed him for a taxable income of Rs.2145.92 crores and further the revenue has imposed interest liability of Rs.2823.93 crores. Thus against a paltry liability of Rs.2.34 crores, a demand has been made by the revenue for an amount of Rs.4969.86 crores. I say not only this, the revenue has succeeded in collecting an amount of Rs.686.95 crores. I say that the revenue has further levied interest and penalties on him which are linked to the income assessed by them and against these demands, an amount of about Rs.686.95 crores has already been disbursed to the revenue as and by way of adhoc interest bearing disbursements.

9. I say that in a landmark judgment, even the Hon'ble Supreme Court of India took judicial notice of the situation that could prevail with a notified person who is charged of committing offences. In their judgment dated 13.05.1998 in Civil Appeal No.5326 of 1995 being Harshad S Mehta V/s Custodian & Others reported in (1998) 5 SCC in Para 35, the Hon'ble Supreme Court has observed and held as under :-

" the assessee who is before the Special Court is a person liable to be charged with an offence relating to transactions in securities. He may not, in these circumstances, explain transactions before the Income Tax authorities in case his position is prejudicially affected in defending criminal charges. Then, on account of his property being attached, he may not be in a position to deposit the tax assessed or file appeals or further proceedings under the relevant tax law which he could have otherwise done. Where the assessment is based on proper material and pertains to the "statutory period", the Special Court may not reduce the tax claimed and pay it out in full. But if the assessment is a "best judgment" assessment, the Special Court may examine whether for example, the

income which is so assessed to tax bears comparison to the amounts attached by the Custodian or whether the taxes so assessed are grossly disproportionate to the properties of the assessee in the hands of the custodian, applying the Wednesbury Principle of Proportionality. The Special Court may in these cases, scale down the tax liability to be paid out of the funds in the hands of the custodian."

I say that so far as my late husband is concerned, while he was alive, the above observations about his condition in defending himself against the demands of the revenue were truly so. I say that large part of his time was spent by him in defending himself in several criminal cases and he could not devote time or resources to contest the revenue claims. I say that he was further hampered by the fact that he was a notified person and had no means to engage counsels of quality who could contest his cases being very complex both on facts and law. I say that unfortunately in the end of 2001, at a young age of only 47 years, he died in judicial custody and his sudden demise therefore dislocated his affairs completely.

10. I say that I being a widow and housewife and also being a notified person, have not been able to defend both his and my own cases. I say that more over, all the offices have come to be sold, the services of the staff who was looking after his affairs have been terminated and the computers which were used to keep his records were taken away by the custodian. All the records of all the notified entities and that of my late husband came to be completely dislocated as all the offices in which they were housed were sold off without any alternative arrangement for keeping these records. I say that they will have to be reorganized and reconstructed if the appeals by the revenue have to be contested. I say that custodian has not made available all the records and documents of period post notification to the notified entities and to my late husband as a result of which the books of accounts post notification period have not been drawn.

I say that whatever data was fed into the computers, the same is taken away by the custodian. I say that thus a complete co-operation from custodian will be required to contest the false demands of the revenue.

11. I say that in last few years in particular, and after the death of my late husband, his affairs are not being represented and they have been decided ex parte. I say that unfortunately the liabilities against him though grossly incorrect have come to be confirmed. However, I have been advised that so far as revenue is concerned, I can prefer applications for recalling of the ex parte orders. I am in the process to seek help and preparing to file such applications both in my own cases as well as in the case of my late husband. I say that recently I have preferred some of my pending appeals and restoration applications and I am in the process of locating and organizing the records of my late husband to prefer his applications. I am also encouraged by the results obtained in the recent 131 cases of notified entities in my family as narrated by me earlier. I say that thus it is only a matter of time that even the demands made against my husband would come to be set aside and fresh assessments ordered. I say that we are already taking inspection of records and obtaining copies thereof from the office of the custodian so as to draw our books of accounts for the period post notification. I say that it is my desire to restore normalcy and make statutory compliance notwithstanding numerous difficulties cited by me earlier. In the circumstances, I humbly pray to this Hon'ble Court to grant me time to contest these false demands so that this Hon'ble Court would get the true state of affairs so far as the liabilities of my late husband are concerned. I humbly pray that this is in the interest of all the creditors of my late husband as only proper determination of his liabilities can lead to an equitable distribution to his creditors under Section 11 of the Special Courts Act. I say that therefore it would be in the interest of justice, fair play and equity of all parties concerned that the false demands of the revenue are contested and

adequate support of resources and time is granted to me to achieve this objective. I say that since the false demands of the revenue would be resisted by presenting the books of accounts, there is no possibility of resurrection of false demands by abuse or discretionary powers vested with the revenue.

12. I say that notwithstanding the above and without prejudice, I submit that even the revenue has recorded a concession before the Hon'ble Supreme Court of India in respect of high pitched demands that they can be ignored. I am pleased to cite paragraph 36 in the same Supreme Court judgment cited above which reads as follows :-

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Although the liability of the assessee for the balance tax would subsist and the taxing authorities would be entitled to release the remaining liability from the assessee, the same will not be paid in priority over the claims of everybody else under Section 11(2)(a). If the Special Court so decides, it may direct payment of the balance liability under Section 11(2)(c). Otherwise the taxing authorities may recover the same from any other subsequently acquired property of the assessee or in any manner in accordance with law. Such scaling down, however, should be done only in serious cases of miscarriage of justice, fraud or collusion, or where tax assessed is so disproportionately high in relation to the funds in the hands of the custodian as to require scale down in the interest of the claims of the banks and financial institutions and to further the purpose of the Act. In fact, the Income Tax authorities have also accepted the exorbitant tax demands can be ignored, applying the Wednesbury principles.”

I say that in view of the above also, the demands made by the revenue ought to be ignored by this Hon'ble Court.

13. I say that bearing the above factual background and in order to ensure equitable distribution under this act, the revenue should not be encouraged to follow the approach as it has done for the last few years lest even after passage of fourteen years, the Special Courts Act which was made for expeditious disposal would not be effective for another several years. I therefore humbly pray that in the above circumstances, a holistic view of the situation may kindly be taken by this Hon'ble Court.
14. I say that until now, an amount of Rs.686.95 crores have come to be disbursed to the revenue as interest bearing deposits which can be recalled by this Hon'ble Court. I am pleased to enclose a chart giving the particulars of disbursements together with the claim of interest till latest date as Exhibit-C. I say that thus this Hon'ble Court can recall an amount of about Rs.998 crores from the revenue together with interest. I state that while the revenues demands may be ignored in terms of their concession recorded by them, the above Rs.998.00 crores may be treated as a part of the assets of my late husband in order to get an accurate picture of his assets and liabilities.
15. I now deal with the contents of the affidavit of revenue on a para wise basis.
16. As regards what is stated in paras 1 and 2 of the affidavit, I have nothing to state.
17. As regards what is stated in para 3 of the affidavit, I say that it is true that interim disbursements were made despite opposition my late husband on the ground that vested interest would get created in favour of the revenue. I state that the notified entities have always nursed an apprehension that once the revenue collects any monies, they would deploy the entire machinery and powers at their disposal to unfairly

contest our appeals and continue to litigate so as to deny any legitimate relief and with a view to somehow retain the monies. The notified entities apprehend that such wide powers are vested in the revenue unlike other creditors that they could be abused to create fresh false liabilities and prolong litigation. I say that instances are now coming to light where the Assessing Officer refuses to grant relief even if the appellate authorities like the CIT and ITAT direct him to do so. I say that not only this, even clearly settled issues through various appellate orders are not followed by the Assessing Officer in several cases ignoring binding precedents only with a view to make high pitched assessments or sustain demands. I say that interim disbursements have lead to complete distortion of the asset and liability picture and they defeat and delay any equitable distribution of monies under Section 11 of the Special Courts Act. I say that therefore all monies presently lying with the revenue ought to be recalled with interest atleast once. I say that liquid balances may be placed with banks under Fixed Deposits pending distribution. I say that in any event, the stage of final distribution is nearing and even on this ground also, the monies advanced to the revenue ought to be recalled with interest. I therefore deny that the monies paid to the revenue in realistic sense are secured even though an undertaking might have been obtained by this Hon'ble Court from the Secretary, Government of India in that regard.

18. I say that as regards what is stated in para 4 of the affidavit is concerned, I am not repeating the averments made by me earlier. I say that the revenue has for the first time advanced the argument about the refundability of monies received by them under Section 240 of the Income Tax Act, and thereby challenged whether or not this Hon'ble Court can recall the monies disbursed to the revenue for which an express undertaking has been given by the Secretary, Government of India to this Hon'ble Court. I say that therefore the revenue should be called upon to

elect whether the provisions of Section 240 of the Income Tax Act would prevail upon the orders of this Hon'ble Court and the Hon'ble Supreme Court of India making interim disbursements to the revenue. I say that to test the intentions of the revenue, all the monies lying with them ought to be recalled back so that the stand of the revenue gets very clear. I say that there is no scope of applicability of any Section of the Income Tax Act which is contrary to the orders of this Hon'ble Court and the orders of the Hon'ble Supreme Court of India.

19. I say that monies advanced by this Hon'ble Court are recallable unconditionally and they are not refund as set out under Section 240-A of the Income Tax Act. I say that in the present affidavit, the revenue has computed the liability of my late husband ignoring the terms of orders under which the monies have been received by them as interim disbursements. I say that according to me, while computing his asset base, the interim disbursements made to the revenue together with interest on the same should be treated as his asset. I say that as on 31.05.2006, the figure on this count would come to Rs 997,60,74,604/- which should be included in his asset base. I say that the detailed computation is available at Exhibit-C. I say that unfortunately the Custodian has also taken the liability figure as per revenue rather than as per the decision laid down by the Hon'ble Supreme Court of India. I say that in further support of my contention that the monies given are only deposit, I am citing the relevant extract of the common order of the Hon'ble Justice Shri S H Kapadia dated 16.03.2002 in Misc. Appeal Nos.342 of 2001 to 348 of 2001.

" The amount, as stated herein above, is not being released towards income tax liabilities as such. The amount is being released only subject to the undertaking being given by the appropriate authority to bring back the monies as and when Court requires, with interest. "

I respectfully submit that the revenue is purposely confusing the issue, the effect of which is so drastic on the computation of the asset and liability that it can even lead to sale of residence. I submit that the stipulation in the order of Hon'ble Justice S H Kapadia itself completely clinches the issue in my favour.

20. As regards what is stated in para 5 is concerned, I say that in the present case, the real issue is whether the revenue has taken monies from the Hon'ble Special Court or Hon'ble Supreme Court of India under Section 240 of the Income Tax Act or under the conditions as stipulated in the orders. I say that the law that is being cited may be applicable only if the monies were received by the revenue as normal tax payment from the assessee and not as and by way of refundable deposit under the orders of the Hon'ble Special Court and Hon'ble Supreme Court of India. I say that therefore, clearly the present case is distinguishable from the law being cited by the revenue in this paragraph.
21. As regards what is stated in para 6 is concerned, the revenue has not understood the contention of the notified parties. As stated earlier, all high pitched demands have to be ignored in terms of concession given by the revenue as cited by me earlier. I say that in any event, once I contest these demands and going by the precedents of decisions in the case of other notified parties, I am bound to get the relief and these demands would not survive. I say that in the interim, these demands ought not to be treated as enforceable liability. I say that I have contended that the monies collected by the revenue from the Hon'ble Special Court and the Hon'ble Supreme Court of India as and by way of deposit is returnable as and when the Courts direct it to do so. I say that if this Hon'ble Court chooses not to recall the monies, then atleast for computation of the asset and liabilities of my late husband on any given date, the monies advanced

to the revenue together with interest on the stipulated rate should be and ought to be treated as a part of his asset base. I say that therefore the revenue is intentionally confusing the issues and furnishing a distorted picture to both this Hon'ble Court as well as the Custodian who unfortunately is ever willing to go by the figures furnished by the revenue and ignore our claims. I say that the Custodian is also capable of giving a correct interpretation to the facts of the present case but has purposely opted to support the cause of revenue.

22. As regards what is stated in para 7 is concerned, I deny that the ITAT has set aside the orders of other notified persons on procedural ground. I say that in fact, a very substantial and major ground urged by notified entities have come to be accepted by the ITAT while setting aside the assessment orders. I say that these assessment orders have been set aside at the very threshold and on the ground that the principles of natural justice and fair play have not been observed while passing these assessment orders, and therefore in some cases, even the CIT (Appeals) have been directed to accept the books of accounts as an additional evidence. I deny that adequate opportunity was given to assessee to put forth the case and in fact the contentions of the revenue have been rejected in toto by the ITAT, and therefore they do not survive. It therefore does not lie in their mouth to repeat their completely rejected contentions before this Hon'ble Court and make a factually incorrect statement. I say that several benches of the ITAT have come to the same common conclusion that the revenue has violated the principles of natural justice. I say that it is settled law that any order that is drawn by any authority in violation of principles of natural justice is not only illegal, but it is void ab initio. I say that the revenue wishes recovery under illegal orders made by it. I repeat and reiterate that my husband is not claiming any refund in the manner that is being suggested by the revenue. I say that the revenue is free to take any and all steps that it may be advised, but as of date, the orders of the ITAT

stands. I say that as regards the Appeals that the revenue proposes to file under Section 260-A before the High Court, it may be noted that the High Court under the above provisions would entertain only questions of law as the ITAT is the last fact finding body. I say that an assessment order is largely an issue of facts and therefore the revenue would have to satisfy all the appellate authorities on the question of facts.

23. As regards what is stated in para 8 is concerned, I deny that there is huge income tax liability which is due and payable including interest and penalty. I state that in terms of the Order of the Hon'ble Supreme Court of India cited by me, the high pitched demands made by the revenue have to be ignored. I say that pending the contesting the same and obtaining the reliefs like the other notified parties these demands may be ingored even on this additional ground
24. As regards what is stated in para 8 is concerned, I deny that there is huge income tax liability which is due and payable including interest and penalty. I state that in fact I propose to contest all the orders and when they come up for hearing, they are likely to be set aside and substantial relief is bound to be granted to my husband. I say that this is on the basis that most of the matters are likely to be treated as a covered case under the binding precedents. As regards the contents of Exhibit-B of the affidavit of revenue are concerned, I deny its correctness. I say that as urged by me earlier, the monies released as deposits on adhoc basis to the revenue together with interest ought to be shown as the asset base of my husband. I say that the ratio of the order of the Hon'ble Supreme Court of India in the present proceedings as well as the order of Hon'ble Justice Shri S H Kapadia dated 16.03.2002 cited by me would consequently apply. Further revenue has inflated the liability by even adding additional interest. I say that interim disbursements have been set off against the tax demand. I say that no credit for interest payable on

these deposits have been accounted for. I thus deny the accuracy of computation made by the revenue in Exhibit-B and put them to strict proof thereof.

25. I say that my husband a notified entity and on and from the date of his notification, his assets are vested in the hands of the Custodian who have been managing these assets under the instructions of this Hon'ble Court. I say that post notification, his income is in the nature of fixed deposit interest, dividend, profit made on sale of Shares etc. I say that while earning these incomes as per the provisions of law, taxes have been deducted at source. I say that in respect of these TDS, all the parties who are deducting the tax are issuing certificates for such deductions in favour of the Custodian. I say that the Custodian is therefore liable to forward the original of these TDS certificates either to me or to the revenue under advise to me so that I get the relief for taxes already paid before determination of tax liability of my husband. I say that during the last fourteen years, in respect of several cases, the Custodian has not forwarded the TDS certificates. There are certain instances where even the Banks or the Companies would not have forwarded the TDS. I say that while making the assessment, the tax authority has not given credit for deduction of such TDS. I say that in these cases, the Custodian ought to be called upon by this Hon'ble Court to obtain all the certificates of TDS and get them deposited directly with the revenue under advise to me or get them forwarded to me so that I can deposit and claim credit for the same. I say that therefore despite making the tax payment, if I have suffered the consequences of not getting the relief from the revenue on account of no fault of mine but largely due to the Custodian not taking suitable action, the tax liability of my husband to that extent ought to be scaled down for computation of tax liability. I say that even the revenue can be directed to use their powers under Section 131 of the Income Tax Act to obtain all the TDS certificates and give credit for the same to my

husband in the respective assessment years. I say that the amount of excessive tax claims made on on this score would be substantial as vast sums of money are earned through interest from bank deposits. I say that on my part, I am ready and willing to take all the necessary steps as I have been taking them in the past and as I would continue to do so in future. I say not only this, the revenue has levied penalty under Section 271-C which is derived at as a percentage of assessed income. I say that since the said assessed income is inflated due to non-deduction of TDS credit, even the 271-C penalties stand inflated in the same manner. I say that thus non-submission of TDS certificates is inviting multiple liabilities.

26. As regards what is stated in para 9 is concerned, I deny the allegations made by the revenue. I say that the observations made by Hon'ble Justice S N Vairava pertain to situation prevailing in 1993 and were applicable to the state of affairs at that point in time. I say that the same is not germane to the present situation. I say that at that point in time, Hon'ble Justice Shri Vairava had in fact castigated the approach of the revenue by his Order dated 02.07.1993 in Misc. Appeal No.107 of 1993, where he has observed as under :

" This Court has been established due to certain unfortunate events that have taken place. The Special Court Act provides not just for prosecution but also for distribution of assets in the manner laid down under Section 11 thereof. Under Section 11, the Income Tax Department has first priority. For purposes of ultimate distribution, the properties of all Notified persons stand attached. Whilst the property is attached, no payments can be made without permission of Court. The Court cannot distribute unless a person is proved guilty and the Court has a correct and full picture of the assets before it. In the meantime, the Income Tax Department by continuing to act as if it is not concerned with what has happened, is creating innumerable problems.

The Government must now consider restraining the Income Tax Department from levying interest and penalties on notified parties at this stage. This so that the collection and distribution in an orderly fashion. I clarify that the Court is not suggesting that the rights and powers of the Department be curtailed or abrogated in any manner. But it would be better if they wait patiently like others. If a notified party gets de-notified by Court or is ultimately not found guilty, then the question of penalty or interest may arise and could be enforced. Otherwise the Department should consider awaiting distribution under Section 11. This is merely a suggestion. It is for the Department and the Central Government to resolve this. "

27. As regards what is stated in Para 10 is concerned, I deny the factual accuracy and reiterate what I have earlier stated in the present affidavit in reply so far as the overall conduct of revenue is concerned. I say that the total additions made on all the notified entities in my family are so absurd on the very face of it that they are equal to or are more than the total tax liability of the entire country put together.

I say that it is true that in the year 1993 and upto the time the notified entities could draw their books of accounts and collect all relevant material, they could not effectively contest the proposed additions and could not make a compliance as they would have liked it to do. I say that in fact even the Hon'ble Supreme Court of India has taken judicial notice that there could be a possibility that a notified party because of notification, may not be in a position to defend himself. I say that this finding is squarely applicable to our cases. I say that irreparable harm has already been caused by the conduct of the revenue in achieving the purpose of the Special Courts Act and therefore they ought to act fairly and draw just and legally tenable orders. I deny that notified parties have become proactive suddenly after a lapse of nearly thirteen

years and even if it be so, it should not be a cause of any heart burn to the revenue. I deny that notified parties are seeking to prejudice the interests of the revenue and consequently public interest or that notified parties have pleaded ignorance in any of the proceedings. I say that it can never be in public interest when the revenue authorities act high handedly, make false demands, collect monies using coercive methods, take money as deposit committing large sums of interest on it and thereafter lose their false cases and pay up interest and in doing so, also defeat the purposes for which another special act like the present one has come to be enacted. I deny that my husband is contributing to any delay in any of the proceedings. I say that there is plethora of evidence of the excesses of revenue but since I do not wish to burden the records of this proceedings, I am not enclosing the same. I pray that this Hon'ble Court may even appoint any independent firm of Chartered Accountants to obtain a report giving their opinion about the taxable income of my late husband so that once and for all, the role of the revenue gets completely exposed. I say that I am not claiming any refund as is being feared by the revenue, but have only made a request to the Custodian and this Hon'ble Court to recall the monies placed with the revenue together with interest with a view to accurately arrive at the asset base and with a view to truly test the intentions of the revenue. I say that it is obvious that revenue desires to perpetuate injustice to somehow retain large sums of monies unjustly collected by it.

28. As regards what is stated in para 11 is concerned, I say and submit that the office of the Custodian has not completely made available to the notified entities both the particulars of sale of Shares and supporting primary documents. I say that in respect of some Shares, there may not be any capital gains tax as capital gains tax stands abolished if Shares are held as long term asset. I say that my husband,

is ready and willing to meet all the legitimate tax dues which would also include any capital gains tax.

29. As regards what is stated in para 12 is concerned, I have made my submissions earlier in this affidavit in reply and therefore deny anything contrary to what I have urged earlier. I repeat, reiterate the same. I say that the taxable income according to me is already revealed in the books of accounts drawn by my late husband and he is ready and willing to pay tax on that amount. I say that any excess payment would not serve any purpose and in fact is leading to distortion of his real asset and liability position. I say that my husband requires funds to discharge liabilities towards banks and financial institutions. I say that the excess monies which are disbursed to the revenue ought to come back so that my husband can discharge his obligation to the other notified entities. I say that my husband is denying his liability to pay interest post my notification, but at the same time, he does not wish to push himself in a position where he earns less interest from the revenue and ends up paying higher interest to the other creditors if it is so adjudicated. I say that in any event, this Hon'ble Court would need to make an equitable distribution. I say that even the Hon'ble Supreme Court of India in regard to the tax dues for other than priority period in their Judgment in the case of Harshad S Mehta V/s Custodian, being Civil Appeal No.5326 of 1995, para 36 page 19, already held as under :-

" Although the liability of the assessee for the balance tax would subsist, and the taxing authorities would be entitled to realize the remaining liability from the assessee, the same will not be paid in priority over the claims of everybody else under Section 11(2)(a). If the Special Court so decides, it may direct payment of the balance tax liability under Section 11(2)(c). Otherwise the taxing authorities may

recover the same from any other subsequently acquired property of the assessee or in any other manner in accordance with law. "

I say that therefore the interest of revenue has been protected many times more than what the facts and circumstances of the case requires. I say that postponing the recalling of money when it actually does not belong to the revenue, would unnecessarily expose them to interest liability and thereby actually hurt the public interest. I therefore humbly pray that this Hon'ble Court may recall all the deposits placed with the revenue together with interest as shown by me at Exhibit-B.

I say that in the above cited landmark Judgment of the Hon'ble Supreme Court, it has laid down under para 29, page 16, as under :-

" It is submitted that the Act was not intended to secure taxes and therefore, if the Special Court finds that the tax liabilities are such, and their manner of assessment is such, that it would result in the entire funds being paid over to the taxing authorities, the Special Court would have discretion in deciding how much should be paid over to the taxing authority and how much should come to the banks and financial institutions. It is submitted with some justification that Section 11 should be construed in the context of the purpose for which it was framed, as was done by this Court in the case of Tejkumar Balakrishna Ruia Vs A K Menon, where the Court said that if two interpretations are possible, purposive interpretation should be resorted to. The Court in that case held that the income or property obtained by a notified person after the date of the notification could not be attached under Section 3(3). The purposive interpretation in the present case is to be resorted to for the purpose of ensuring that amount realized from the properties attached come back to the banks and financial institutions."

Under the circumstances as stated above, I pray that this Hon'ble Court may be pleased to take on record the factual status and thereafter take steps which will further the cause for which the Special Courts Act has come to be enacted. I say that the custodian may be directed to make available to me every resource, data and documents so that I can contest the grossly incorrect demands made against my late husband. I say that in the interim, this Hon'ble Court may ignore the demands of the revenue as per the concession recorded by them before the Hon'ble Supreme Court and also accept the asset and liability computation as arrived at by me which is enclosed.

30. I say that even the Hon'ble Supreme Court of India in their judgment dated 03.01.2006 in the present proceedings have directed on Page 50 under conclusion (III) as under :-

As regards the liabilities of the Appellants herein, we would request the learned Judge, Special court to consider the matter afresh in the light of the observations made herein before. The learned Judge, Special Court, in this behalf, having regard to the fact that several orders of Best Judgment Assessment have been passed by the Assessing Authority, may take into consideration the ratio laid down in the decision of this Court in Harshad Shantilal Mehta (Supra).

Solemnly affirmed at Mumbai

Dated this 13th day of June 2006

Before me

For Nina Chaugule & Associates

(NINA CHAUGULE)

Adv. for Respondent No.1(a)

VERIFICATION

24

I Smt Jyoti Harshad Mehta, legal heir of Shri Harshad S 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 affidavit is true to my own knowledge and belief.

Solemnly declared at Mumbai

Dated this 13th day of June, 2006

For Nina Chaugule & Associates



(NINA CHAGULE)

Adv. for Respondent No.1(a)



Before me

13/6/06

A Summary chart of particulars of sales of shares by the Hon'ble Special Court and the Losses incurred on sales.

ANNEXURE 'A'

Sr. No.	Scrip Name	Date of Sale	Quantity	Sale Rate	Sale Proceeds (Rs.)	Div per share Declared 2003	Dividend Amount-2003	Div per share Declared 2004	Dividend Amount-2004	Div per share Declared 2005	Dividend Amount-2005	Bonus Declared in 2005 with Ratio	Bonus shares entitled	YEAR OF STOCK SPLIT	STOCK SPLIT VALUE	Qty after Split & Bonus as on 8/12/05	Present Market Rate 23/03/2006	Present Market Value (Rs.)	Net Difference (Rs.) A	Total Dividend Amount (Rs.) B	
1	Ranbaxy	20/12/2002	804777	666.00	454599006	16.00	12071665.00	17.0	13681209.0	17.0	13681209.0			JULY'06	FV RS.6	1609664	390.00	627726060	173027066	39434073	
2	Castrol	17/01/2003	1183937	200.00	236787400	8.26	9767480.26	8.3	9767480.3		0.0						230.00	272306610	36618110	19634961	
3	GACL	17/01/2003	2326400	166.00	360692000	7.00	16284800.00	8.0	18611200.0	9.0	20937600.0	2	1163200	JUNE'05	FV RS.2	17448000	96.00	1657660000	1296968000	66833600	
4	Hero Honda	17/01/2003	6035885	240.00	1463012400	18.00	109726936.00	20.0	121917700.0	20.0	121917700.0						887.00	6407049986	3944837696	363661330	
5	Hind. Lever	17/01/2003	634410	178.00	112924980	6.50	3489265.00	6.5	3489265.0	6.0	3172050.0						256.00	161774660	48849670	1018560	
6	ICICI Bank	20/01/2003	459315	136.00	62007626	7.60	3444862.60	7.5	3444862.6	8.6	3904177.6						692.00	271914480	209906966	10793903	
7	ITC Ltd	17/01/2003	471351	666.00	308734906	16.00	7070266.00	20.0	9427020.0	31.0	14611881.0	2	236676	SEPT'06	FV RE.1	7070260	178.00	1258606280	949771376	31109166	
8	Jaiprakash	17/01/2003	1837737	36.00	66168632	0.00	0.00	1.5	2766605.6	2.4	4410668.8						462.00	849034494	782876962	7167174	
9	Pun. Tractor	17/01/2003	440146	147.00	64701462	1.00	1320438.00	4.5	1980667.0	6.6	2420803.0						261.00	110476646	46776184	6721898	
10	Tata Tea	17/01/2003	732765	166.00	113678676	7.00	5129355.00	8.6	6228502.6	10.0	7327650.0						870.00	637606660	623926976	18685508	
11	L & T	01/04/2003	2074099	180.00	373337820	7.60	16655742.60	80.0	166927920.0	137.6	286188612.6			APR'04	FV RS.2	10370495	2376.00	24629926626	24266687806	466672276	
12	Reliance Ind	01/04/2003	2323053	270.00	627224310	6.00	11616265.00	6.3	12196028.3	7.6	17422897.6						777.00	1805012181	1177787871	41234191	
13	TELCO	01/04/2003	632041	161.00	80338191	4.00	2128164.00	8.0	4266328.0	12.6	6650512.6						906.00	481497106	401168914	13035005	
14	Apollo Tyres	30/04/2003	6488850	90.00	493996600	4.50	24699826.00	4.5	24699826.0	4.5	24699826.0						288.00	1680788800	1086792300	74099476	
15	Madras Cem.	08/06/2003	18620	6110.00	95148200	0.00	0.00	6.0	111720.0	10.0	186200.0				FV RS.10	186200	2034.00	378730800	283682600	297920	
16	ITC Ltd	27/08/2003	117650	770.00	90690500	0.00	0.00	20.0	2353000.0	31.0	3647160.0	2	68826		FV RE.1	1764760	178.00	314126600	223636000	5000150	
17	Reliance Ind	27/08/2003	1459676	366.00	632781740	0.00	0.00	6.3	7663299.0	7.5	10947670.0						777.00	1134168262	601386612	18610869	
18	Tata Tea	27/08/2003	233227	214.00	49910678	0.00	0.00	8.5	1982429.5	10.0	2332270.0						870.00	202807490	162996912	4314700	
19	Pun Tractor	27/08/2003	603600	166.00	94161600	0.00	0.00	4.5	2716200.0	6.6	3319808.0						251.00	151603600	67342000	6036000	
20	Apollo Tyres	27/08/03	12491875	175.00	218728126	0.00	0.00	4.5	56213437.6	4.5	66213437.6						288.00	368713126	148986000	11248876	
21	ACC	10/10/2003	16264865	170.00	2765027060	0.00	0.00	4.0	66059460.0	7.0	113854056.0						761.00	12377662266	9612636216	178913615	
22	ULTRA TECH																829639	611.00	606909429		
	GRAND TOTAL				8664441398		222303037		534484139		716845969							55185697737	46014346910	1473633146	
																			A + B		47487980056

* ULTRA TECH SHARES WERE OFFERED TO SHARE HOLDERS OF L&T DURING THE YEAR 2004 IN THE RATIO OF 4 SHARES FOR EVERY 10 SHARES HELD IN L&T

For the above Ultra Tech Shares offered by the Company, the shareholders ought to have paid Rs.10/- per share, Hence 8,29,639 x 10/- = Rs.82,96,390/-

Less : 8,296,390

The total loss incurred considering current market price and dividend declared by the companies =

Rs.47479683666

i.e. Rs.4748.79 Crores (Approx) on a sale of Rs.866.44 Crores (Approx)

47479683666

Statement Showing Income Tax Appellate Tribunal Orders

Sr. No.	Assessee	ITA NO.	A.Y.	Order Date	U/S.	Bench	Amount of Tax Including Interest	Particulars
1	Aatur Holdings Pvt. Ltd.	ITA/4147/B/1995	1991-92	25-Oct-05	147/144	A Bench	65,96,326	Set aside CIT (A) order & restore the matter to Assessing Officer with direction to decide the same afresh
2	Aatur Holdings Pvt. Ltd.	ITA/638/M/1996	1992-93	17-Oct-05	144	G Bench	(1,86,29,710)	Set aside CIT (A) order & restore the matter to Assessing Officer for adjudication De novo.
3	Aatur Holdings Pvt. Ltd.	ITA/4065/M/2002 ITA/4066/M/2002 ITA/4067/M/2002	1995-96 1996-97 1997-98	31-Oct-05	144	F Bench	30,33,914 39,93,001 20,86,205	I.T. Dept. Appeal dismissed which was against CIT (A) Order deleting the addition made on ground of presumed Dividend by A.O.
4	Aatur Holdings Pvt. Ltd.	ITA/5042/M/2005	1992-93	31-03-06	143-147	K Bench	9,08,44,823	Set aside CIT (A) order & restore the matter to CIT (A) for a fresh decision.
5	Aatur Holdings Pvt. Ltd.	ITA/5043/M/2005	1993-94	31-03-06	144	K Bench	84,02,214	Set aside CIT (A) order & restore the matter to CIT (A) for a fresh decision.
6	Aatur Holdings Pvt. Ltd.	ITA/1005/M/2000 (D.A.)	1991-92	12/08/04	271(1)(C)	H Bench	8756292	Dept. Appeal Dismissed. No penalty when Return not submitted.
7	Aatur Holdings Pvt. Ltd.	ITA/1007/M/2000 (D.A.)	1992-93	12/08/04	271(1)(C)	H Bench	30146655	Dept. Appeal Dismissed. No penalty when Return not submitted.
8	Aatur Holdings Pvt. Ltd.	ITA/7475/M/1995 (D.A.)	1995-96	27/12/04	271(1)(b)	D Bench	10000	CIT Deleted penalty. Dept. Appeal against this is dismissed.
9	Aatur Holdings Pvt. Ltd.	ITA/8982/M/1995 (D.A.)	1991-92	28/12/05	271B	G Bench	100000	Penalty levied by CIT is deleted.
10	Aatur Holdings Pvt. Ltd.	ITA/3169/M/2002 (D.A.)	1994-95	02/12/05	143(3)	G Bench	1,80,024	CIT Deleted Deem Dividend of Rs. 1684300/- against which Dept. had preferred appeal which is dismissed.
11	Ashwin S. Mehta	WTA/26,27 & 28/M/2000	1991-92 1992-93 1993-94	18-Oct-05	16(3)	WT Bench	93,43,729 18,75,41,822 4,33,27,935	Directed the CIT (A) to admit all the three appeals for adjudication De novo.
12	Ashwin S. Mehta	ITA/7926/M/2003 ITA/4995/M/2003(D.A.)	1992-93	31-03-06	144	K Bench	569,53,42,884	Set aside CIT (A) order & restore the matter to CIT (A) for a fresh decision on merit after considering the books of accounts
13	Ashwin S. Mehta	ITA/3022/M/2005 ITA/4994/M/2003 (D.A.)	1991-92	31-03-06	147	K Bench	38,42,65,281	Set aside CIT (A) order & restore the matter to CIT (A) for a fresh decision on merit after considering the books of accounts
14	Ashwin S. Mehta	ITA/5035/M/2005	1996-97	28-Apr-06	271(1)(b)	K Bench	30,000	Penalty Reduced from Rs.10,000/- to Rs.2,000/-
15	Ashwin S. Mehta	ITA/7310/M/2003	1993-94	28-Apr-06	144	K Bench	24,29,88,350	Set aside CIT (A) orders & restore the matter to Assessing Officer with the direction to frame the assessment de novo and considering the books of accounts.
16	Ashwin S. Mehta (H.U.F.)	WTA/310/M/1996	1992-93	28-Apr-06	16(3)	K Bench		Appeal of the assessee deserves to be allowed and treated as HUF
17	Ashwin S. Mehta	ITA/2201/M/2002 ITA/6103/M/2002 ITA/6104/M/2002	1995-96 1996-97 1997-98	21/05/2004	144	A Bench	5,72,85,709 7,13,15,984 3,92,97,363	CIT(A) did not admit appeal. Now restored to CIT for adjudication de novo.
18	Ashwin S. Mehta	ITA/3001/M/2001	1994-95	21/05/2004	271(1)(b)	A Bench		Penalty of Rs. 10000/- reduce to Rs. 5000/-.
19	Cascade Holdings P. Ltd.	ITA/4085/M/2002 (D.A.)	1997-98	17/11/2005	249(4)(a)	J Bench		Against CIT(A) order Dept. had preferred appeal which is dismissed.

Statement Showing Income Tax Appellate Tribunal Orders

Sr. No.	Assessee	ITA NO.	A.Y.	Order Date	U/S.	Bench	Amount of Tax including Interest	Particulars
20	Deepika A. Mehta	M.A. 436/M/2004 in WTA NO.728/M/94 (D.A.) WTA NO.728/M/94	1990-91	07-Feb-05		G Bench	54,65,079	M.A. filed by the revenue dismissed against the ITAT order to set aside W.T.order of CIT(A) and our appeal is restored to A.O.
21	Deepika A. Mehta	ITA/2204/M/2002	1995-96	25-May-05	144	C Bench	1,90,80,509	Set aside CIT (A) order & restore the matter to CIT (A) with direction to decide it de novo on merit
22	Deepika A. Mehta	ITA/7308/M/2003	1992-93	31-Aug-05	144	E Bench	34,29,67,473	Set aside CIT (A) order & restore the matter to Assessing Officer with direction to re-assess de novo on merit
23	Deepika A. Mehta	ITA/7309/M/2003	1993-94	19-Oct-05	144/249(4)	E Bench	15,09,44,883	Set aside CIT (A) order & restore the matter to Assessing Officer for adjudication De novo.
24	Deepika A. Mehta	ITA/2804/M/2004	1991-92	31-03-08	147	K Bench	8,85,48,803	Set aside CIT(A) order & restore the matter to CIT (A) for a fresh decision on merit after considering the books of accounts
25	Deepika A. Mehta	WTA/113/M/2004	1991-92	31-03-06	17	K Bench	39,90,105	Set aside CIT (A) order & restore the matter to CIT (A) for a fresh decision as quantum is set aside.
26	Deepika A. Mehta	ITA/3666/M/2003 (D.A.)	1992-93	28-Apr-06	144	K Bench	(34,29,67,473)	Set aside CIT (A) orders & restore the matter to Assessing Officer with the direction to frame the assessment de novo.
27	Deepika A. Mehta	WTA/279/M/2003	1992-93	23/02/08	18	WT Bench		CIT(A) set aside to A.O. to reframe assessment a fresh.
28	Deepika A. Mehta	WTA/285/M/2003	1993-94	23/02/06	16	WT Bench		CIT(A) set aside to A.O. to reframe assessment a fresh.
29	Deepika A. Mehta	ITA/8201/M/1995	1988-89	31/03/08	271(1)(C)	K Bench		CIT(A) sent to A.O. To recompute penalty after giving effect to this order.
30	Deepika A. Mehta	ITA/8112/M/1995	1988-89	21/03/06	271(1)(C)	K Bench	522798	CIT(A) restored to CIT(A) for fresh adjudication after decision of quantum
31	Deepika A. Mehta	ITA/8113/M/1995	1988-89	21/03/06	273(2)(a)	K Bench		CIT(A) restored to CIT(A) for fresh adjudication after decision of quantum
32	Deepika A. Mehta	ITA/1141/M/1996	1989-90	26/04/06	144	K Bench	1000928	Order of CIT(A) restored to A.O. for fresh adjudication as per ITAT order of A.Y. 1990-91
33	Deepika A. Mehta	WTA/226/M/1996	1989-90	26/04/2006	17	K Bench	117761	Order of CIT(A) restored to A.O. for fresh adjudication as per ITAT order of A.Y. 1990-91
34	Deepika A. Mehta	ITA/6106/M/2002 ITA/6107/M/2002	1996-97 1997-98	29-Dec-05	144	B Bench	1,58,00,360 1,39,09,429	Set aside CIT (A) order & restore the matter to CIT (A) for fresh adjudication on merit
35	Divine Holdings P. Ltd.	ITA/180/M/2000	1993-94	26-Jun-01	144	B Bench	3,44,727	Set aside CIT (A) order & restore the matter to CIT (A) with direction to decide it de novo on merit
36	Eminent Holdings P. Ltd.	ITA/1328/M/2000 (D.A.)	1994-95	24-Feb-05	143(3)	I Bench	1,50,247	Revenue Appeal is dismissed and CIT (A) order for deleting presumed dividend on shares is upheld

Statement Showing Income Tax Appellate Tribunal Orders

Sr. No.	Assessee	ITA NO.	A.Y.	Order Date	U.S.	Bench	Amount of Tax including Interest	Particulars
37	Growmore Exports Ltd.	ITA/4149/M/1995	1991-92	17-Oct-05	147/144	A Bench	33,26,720	Set aside CIT (A) order & restore the matter to Assessing Officer for adjudication De novo.
38	Growmore Exports Ltd.	ITA/637/M/1996	1992-93	17-Oct-05	144	F Bench	(9,14,59,851)	Set aside CIT (A) order & restore the matter to Assessing Officer for adjudication De novo.
39	Growmore Exports Ltd.	ITA/3081/M/2000 ITA/2966/M/2000	1991-92 1992-93	27-Oct-05	271(1)(C)	C Bench	44,16,000 15,11,61,820	Set aside assessment order & proceed to decide these appeals also as per separate orders as quantum is set aside.
40	Growmore Exports Ltd.	ITA/5039/M/2005	1993-94	31-03-06	143-147	K Bench	1,45,26,674	Set aside CIT (A) order & restore the matter to CIT (A) for a fresh decision.
41	Growmore Exports Ltd.	ITA/5038/M/2005	1992-93	31-03-06	143-147	K Bench	27,82,95,358	Set aside CIT (A) order & restore the matter to CIT (A) for a fresh decision.
42	Growmore Exports P Ltd	ITA/9700/M/1995 (D.A.)	1991-92	25/12/03	271B	A Bench	100000	Against CIT(A) order Dept. had preferred appeal which is dismissed.
43	Growmore Leasing & Inv. Ltd.	ITA/5894/M/95	1990-91	19-Aug-05	271B	B Bench	1,00,000	Penalty levied by the A.O. and sustained by the CIT (A) is deleted.
44	Growmore Leasing & Inv. Ltd.	ITA/2724/M/01	1992-93	23-Nov-05	144	B Bench	(84,73,01,049)	Set aside CIT (A) order & restore the matter to Assessing Officer to reframe the assessment de novo.
45	Growmore Leasing & Inv. Ltd.	ITA/7924/M/2003	1991-92	31-03-06	147	K Bench	33,13,96,287	Set aside CIT (A) order & restore the matter to CIT (A) for a fresh decision on merit after considering the books of accounts.
46	Growmore Leasing & Inv. Ltd.	ITA/2805/M/2004	1991-92	31-03-06	271(1)(C)	K Bench	46719	Set aside CIT (A) order & restore the matter to CIT (A) for a fresh decision as quantum is set aside.
47	Growmore Leasing & Inv. Ltd.	ITA/4851/M/2004	1996-97	31-03-06	144	K Bench	4,29,24,513	Set aside CIT (A) order & restore the matter to CIT (A) for a fresh decision.
48	Growmore Leasing & Inv. Ltd.	ITA/4850/M/2004	1995-96	31-03-06	144	K Bench	5,43,75,774	Set aside CIT (A) order & restore the matter to CIT (A) for a fresh decision.
49	Growmore Leasing & Inv. Ltd.	ITA/3886/M/2005	1993-94	31-03-06	271B	K Bench	1,00,000	Set aside CIT (A) order & restore the matter to CIT (A) for a fresh decision.
50	Growmore Leasing & Inv. Ltd.	ITA/3885/M/2005	1992-93	31-03-06	144-147	K Bench	1,58,59,90,768	Set aside CIT (A) order & restore the matter to CIT (A) for a fresh decision.
51	Growmore Leasing & Inv. Ltd.	ITA/3884/M/2005	1993-94	31-03-06	143-147	K Bench	26,20,31,302	Set aside CIT (A) order & restore the matter to CIT (A) for a fresh decision.
52	Growmore Leasing & Inv. Ltd.	ITA/5037/M/2005	1994-95	31-03-06	271(1)(C)	K Bench	1,51,42,796	Set aside CIT (A) order & restore the matter to CIT (A) for a fresh decision.
53	Growmore Leasing & Inv. Ltd.	ITA/3881/M/2005	1991-92	28-Apr-06	271(1)(C)	K Bench	11,51,27,755	Set aside CIT (A) orders & restore the matter to CIT (A) for a fresh decision as quantum is set aside.
54	Growmore Leasing & Inv. Ltd.	ITA/7925/M/2003	1993-94	28-Apr-06	144	K Bench	(3,44,30,030)	Set aside CIT (A) orders & restore the entire matter to CIT (A) for reappraisal and de novo after considering full books of accounts.
55	Growmore Leasing & Investment Ltd	ITA/4551/M/1996	1992-93	28/03/05	271(1)(b)	H Bench	50000	Penalty of Rs. 50000/- deleted.
56	Growmore Leasing & Investment Ltd	ITA/8985/M/1995	1991-92	28/10/05	271B	E Bench	100000	Penalty of RS. 100000 confirmed by CIT(A) is deleted.
57	Growmore Leasing & Investment Ltd	ITA/3885/M/2005	1993-94	26/04/06	271(1)(C)	K Bench	32752614	CIT(A) order confirming penalty is cancelled.

Statement Showing Income Tax Appellate Tribunal Orders

Sr. No.	Assessee	ITA NO.	A.Y.	Order Date	U/S.	Bench	Amount of Tax including Interest	Particulars
58	Growmore Reasearch & Assessts Mgmt. Ltd.	ITA/6192/M/99 (D.A.)	1992-93	19-Jul-05	234C	A Bench	(3,82,48,810)	Revenue Appeal is dismissed and CIT (A) order for quashing Int.u/s.234C is upheld
59	Growmore Reasearch & Assessts Mgmt. Ltd.	ITA/2010/M/2000 ITA/2231/M/2000	1991-92	18-Oct-05	143	D Bench	75,93,82,000	Set aside CIT (A) order & restore the matter to Assessing Officer with direction to decide the same afresh
60	Growmore Reasearch & Assessts Mgmt. Ltd.	ITA/4849/M/2004	1998-97	31-03-06	144	K Bench	58,62,79,850	Set aside CIT (A) order & restore the matter to CIT (A) for a fresh decision.
61	Growmore Reasearch & Assessts Mgmt. Ltd.	ITA/4847/M/2004	1994-95	31-03-06	143(3)	K Bench	17,24,90,243	Set aside CIT (A) order & restore the matter to CIT (A) for a fresh decision.
62	Growmore Reasearch & Assessts Mgmt. Ltd.	ITA/4848/M/2004	1995-96	31-03-06	144	K Bench	50,38,34,264	Set aside CIT (A) order & restore the matter to CIT (A) for a fresh decision.
63	Growmore Reasearch & Assessts Mgmt. Ltd.	ITA/3887/M/2005	1990-91	31-03-06	143-147	K Bench	5,11,07,989	Set aside CIT (A) order & restore the matter to CIT (A) for a fresh decision.
64	Growmore Reasearch & Assessts Mgmt. Ltd.	ITA/7602/M/2003	1992-93	28-Apr-06	144	K Bench	211,39,75,304	Set aside CIT (A) orders & restore the matter to CIT (A) for a fresh decision on merits after considering books of accounts.
65	Growmore Reasearch & Assessts Mgmt. Ltd.	ITA/7603/M/2003	1993-94	28-Apr-06	143(3)	K Bench	21,37,38,074	Set aside CIT (A) orders & restore the matter to CIT (A) for a fresh decision.
66	Growmore Research & Assets Mgmt. Ltd.	ITA/8986/M/1995	1991-92	07/12/05	271B	E Bench	100000	CIT(A) order confirming penalty is cancelled.
67	Harsh Estates P Ltd	ITA/4436/M/2002 (D.A.)	1996-97	28/09/05	143(3)	J Bench	13332927	Against CIT(A) order Dept. had preferred appeal which is dismissed.
68	Harsh Estates P Ltd	ITA/3232/M/2002 (D.A.)	1995-96	21/10/05	143(3)	F Bench		Against CIT(A) order Dept. had preferred appeal which is dismissed.
69	Harsh Estates P Ltd	ITA/3233/M/2002 (D.A.)	1997-98	21/10/05	249(4)(a)	F Bench		Against CIT(A) order Dept. had preferred appeal which is dismissed.
70	Harsh Estates P Ltd	ITA/5878/M/2002 (D.A.)	1998-99	28/11/05	249(4)(a)	B Bench		CIT(A) order restored to A.O. to decide afresh
71	Harsh Estates P Ltd	ITA/9043/M/1995	1991-92	31/03/06	271B	K Bench	100000	CIT(A) order confirming penalty is cancelled.
72	Harsh Estates P Ltd	ITA/4981/M/1996 (D.A.)	1992-93	22/09/05	271(1)(b)	D Bench	40000	Against CIT(A) order Dept. had preferred appeal which is dismissed.
73	Harsh Estates Pvt. Ltd.	ITA/4148/B/1995	1991-92	25-Oct-05	147/144	A Bench	8,39,385	Set aside CIT (A) order & restore the matter to Assessing Officer with direction to decide the same afresh
74	Harsh Estates Pvt. Ltd.	ITA/5040/M/2005	1992-93	31-03-06	143-147	K Bench	17,56,58,905	Set aside CIT (A) order & restore the matter to CIT (A) for a fresh decision.
75	Harsh Estates Pvt. Ltd.	ITA/5041/M/2005	1993-94	31-03-06	143-147	K Bench	98,00,450	Set aside CIT (A) order & restore the matter to CIT (A) for a fresh decision.

Statement Showing Income Tax Appellate Tribunal Orders

Sr. No.	Assessee	ITA NO.	A.Y.	Order Date	U/S.	Bench	Amount of Tax including Interest	Particulars
76	Hitesh S. Mehta	ITA/949/M/2002	1991-92	13-May-04	143	A Bench	6,00,12,418	Set aside CIT (A) order & restore the matter to CIT (A) with direction to decide it a fresh in accordance with the law.
77	Hitesh S. Mehta	ITA/3648/M/2003 & ITA/3665/M/2003 (D.A)	1992-93	20-Oct-05	144	F Bench	25,12,13,703	Set aside CIT (A) order & restore the matter to the file of Assessing Officer to reframe the assessment de novo in accordance with the law.
78	Hitesh S. Mehta	ITA/5138/M/2003	1993-94	17-03-06	144	K Bench	21,79,67,962	Set aside CIT (A) order & restore the matter to CIT (A) for a fresh decision on merit after considering the books of accounts
79	Hitesh S. Mehta	WTA/190/M/2003 WTA/209/M/2003(D.A.)	1993-94	17-03-06	16	K Bench		Set aside CIT (A) order & restore the matter to CIT (A) for a fresh decision.
80	Hitesh S. Mehta	ITA/8457/M/1995	1990-91	28-04-04	271(1)(C)	E Bench	8,63,588	Set aside to the A.O. as the quantum appeal is also pending before A.O.
81	Hitesh S. Mehta	ITA/2469/M/2002	1995-96	07-May-04	144	E Bench	3,61,21,488	Matter restored to the file of CIT(A) as the CIT(A) had dismissed the appeal in limine applying u/s.249(4).
82	Hitesh S. Mehta	ITA/6112/M/2002	1996-97	07-May-04	144	E Bench	1,70,12,864	Matter restored to the file of CIT(A) as the CIT(A) had dismissed the appeal in limine applying u/s.249(4).
83	Hitesh S. Mehta	ITA/6113/M/2002	1997-98	07-May-04	144	E Bench	1,39,40,488	Matter restored to the file of CIT(A) as the CIT(A) had dismissed the appeal in limine applying u/s.249(4).
84	Hitesh S. Mehta (HUF)	ITA/311/M/1996	1992-93	12-Apr-04	143(3)	WT Bench		Status of HUF accepted and the income assessed on substantive basis.
85	Jyoti H. Mehta	ITA/4118/M/2003 (D.A.) C.O.No.123/M/2006	1992-93	23-May-06	144	K Bench	519,78,78,182	CIT(A) order is set aside and the entire assessment is restored to the file of Assessing Officer to examine all the issues after examining books of accounts and other relevant documents
86	Orion Travels P Ltd	ITA/5879/M/2002 (D.A.)	1999-2000	20/10/05	249(4)(a)	C Bench	552082	Against CIT(A) order Dept. had preferred appeal which is dismissed.
87	Orion Travels P Ltd	ITA/8987/M/1995	1991-92	17/01/06	271B	E Bench	100000	CIT(A) order confirming penalty is cancelled.
88	Orion Travels P Ltd	ITA/4087/M/2002 (D.A.)	1996-97	21/03/06	144	K Bench	991969	Against CIT(A) order Dept. had preferred appeal which is dismissed.
89	Orion Travels P Ltd	ITA/4088/M/2002 (D.A.)	1997-98	21/03/06	144	K Bench	588786	Against CIT(A) order Dept. had preferred appeal which is dismissed.
90	Orion Travels Pvt. Ltd.	ITA/5035/M/2002 (D.A.)	1995-96	23-Sep-05	144	C Bench	13,97,382	CIT (A) order which is in assessee's favour is confirmed & Dept. Appeal is dismissed.
91	Orion Travels Pvt. Ltd.	ITA/5036/M/2002 (D.A.)	1998-99	23-Sep-05	144	C Bench	3,25,746	CIT (A) order which is in assessee's favour is confirmed & Dept. Appeal is dismissed.
92	Orion Travels Pvt. Ltd.	ITA/4151/M/1995 ITA/5045/M/2005	1991-92 1993-94	28-Apr-06	144 / 147	K Bench	75,78,66,1,80,62,27	Set aside CIT (A) orders & restore the matter to Assessing Officer with the direction to reframe the assessment de novo and considering the books of accounts.

Statement Showing Income Tax Appellate Tribunal Orders

Sr. No.	Assessee	ITA NO.	A.Y.	Order Date	U/S.	Bench	Amount of Tax Including Interest	Particulars
93	Pallavi Holdings P. Ltd	ITA/430/M/2002	1994-95	06/10/05	249(4)(a)	E Bench		CIT(A) refused to admit 249(4) now asked to comment on merit.
94	Pallavi Holdings P. Ltd	ITA/4464/M/2002 (D.A.)	1997-98	14/10/05	143(3)	E Bench		Against CIT(A) order Dept. had preferred appeal which is dismissed.
95	Pallavi Holdings P. Ltd	ITA/3551/M/2001	1999-20	19/10/2005	271(1)(b)	B Bench	10000	CIT(A) order confirming penalty is cancelled.
96	Pallavi Holdings P. Ltd	ITA/1912/M/2000 (D.A.) ITA/2607/M/2001 & ITA/1473/M/2002	1992-93	24-Aug-05	144	A Bench	13,89,23,138	Addition made on ground of presumed sale of shares is deleted which was also earlier sustained by the CIT (A). Our Appeal is allowed and D.A. is dismissed.
97	Pallavi Holdings P. Ltd	ITA/4878/M/2002 (D.A.)	1996-97	29-Sep-05	144	B Bench	72,47,650	I.T. Dept. Appeal dismissed which was against CIT (A) Order deleting the addition made on ground of presumed Dividend by A.O.
98	Pratima H. Mehta	ITA/4871/M/2003	1992-93	23-Feb-05	144	F Bench	45,83,62,868	Set aside CIT (A) order & restore the matter to Assessing Officer with direction to re-assess de novo on merit
99	Pratima H. Mehta	ITA/2203/M/2002	1995-96	25-May-05	249(4)(6)	C Bench	2,11,77,100	Set aside CIT (A) order & restore the matter to CIT (A) with direction to decide de novo on merit
100	Pratima H. Mehta	WTA/161/M/03	1992-93	20-Jun-05	16	WT Bench		Set aside CWT (A) order & restore the matter to A.O. with direction to make fresh assessment
101	Pratima H. Mehta	ITA/4599/M/2003	1991-92	15-Sep-05	144	C Bench	7,03,30,632	Set aside CIT (A) order & restore the matter to Assessing Officer with direction to decide the same afresh
102	Pratima H. Mehta	ITA/5192/M/2003	1993-94	17-03-06	144	K Bench	9,67,72,847	Set aside CIT (A) order & restore the matter to CIT (A) for a fresh decision on merit after considering the books of accounts
103	Pratima H. Mehta	WTA/203/M/2003	1993-94	17-03-06		K Bench		Set aside CIT (A) order & restore the matter to CIT (A) for a fresh decision.
104	Pratima H. Mehta	ITA/8202/M/1995	1990-91	17-10-05	143(3)	SMC		Set aside to the A.O. as the quantum appeal is also pending before A.O.
105	Pratima H. Mehta	ITA/3003/M/2001	1994-95	27-10-04	271(1)(b)	D Bench	10,000	Penalty for non-compliance of notice - deleted
106	Pratima H. Mehta	WTA/160/M/2003	1991-92	27-10-05	17	WT Bench	33,76,300	Set aside to the A.O. as the consequential IT appeal is pending before A.O.
107	Pratima H. Mehta	ITA/6108/M/2002	1998-97	23-10-05	144	C Bench	1,70,12,864	Matter restored to the file of CIT(A) as the CIT(A) had dismissed the appeal in limine applying u/s.249(4).
108	Pratima H. Mehta	ITA/6109/M/2002	1997-98	23-10-05	144	C Bench	1,39,40,486	Matter restored to the file of CIT(A) as the CIT(A) had dismissed the appeal in limine applying u/s.249(4).
109	Pratima H. Mehta	WTA/1140/M/1996	1989-90	25-11-05	17	G Bench		Part of the issue (AKSR) is restored to A.O. for fresh adjudication of the matter

Statement Showing Income Tax Appellate Tribunal Orders

Sr. No.	Assessee	ITA NO.	A.Y.	Order Date	U/S.	Bench	Amount of Tax including Interest	Particulars
110	Rasila S. Mehta	ITA/8113/M/2003	1993-94	31-03-06	144	K Bench	10,62,44,592	Set aside CIT (A) order & restore the matter to CIT (A) for a fresh decision.
111	Rasila S. Mehta	WTA/105/M/2005	1993-94	31-03-06	17	K Bench	30,81,555	Set aside CIT (A) order & restc. a the matter to CIT (A) for a fresh decision as quantum is set aside.
112	Rasila S. Mehta	ITA/200/M/2004	1991-92	28-Apr-06	144	K Bench	6,25,82,448	Set aside CIT (A) orders & restore the matter to CIT (A) for a fresh decision on merits after considering books of accounts.
113	Rasila S. Mehta	ITA/400/M/2004 ITA/4119/M/2003 (D.A.)	1992-93	28-Apr-06	144	K Bench	29,31,11,388	Set aside CIT (A) orders & restore the matter to Assessing Officer with the direction to frame the assessment de novo and considering the books of accounts.
114	Smt. Rasila S. Mehta	WTA/224/M/2003	1993-94	27/10/2004	17	WT Bench		Against CIT(A) order Dept. had preferred appeal which is dismissed.
115	Smt. Rasila S. Mehta	ITA/2467/M/2002	1995-96	30/06/2005	249(4)(b)	E Bench		CIT(A) did not admit appeal. Now restored to CIT for adjudication de novo.
116	Smt. Rasila S. Mehta	WTA/293/M/1996	1989-90	30/06/2005	17	WT Bench		Against CIT(A) order Dept. had preferred appeal which is dismissed.
117	Smt. Rasila S. Mehta	WTA/727/M/1994	1990-91	30/06/2005	17	WT Bench		CIT(A) order dismissed & restored to A.O. to readjudicate afresh
118	Smt. Rasila S. Mehta	ITA/6114/M/2002	1996-97	12/09/05	249(4)(b)	F Bench	18717272	CIT(A) order dismissed & restored to CIT(A) to readjudicate afresh
119	Smt. Rasila S. Mehta	ITA/6115/M/2002	1997-98	12/09/05	249(4)(b)	F Bench	17176801	CIT(A) order dismissed & restored to CIT(A) to readjudicate afresh
120	Smt. Rasila S. Mehta	WTA/09/M/2004	1991-92	23/02/2006	16(5)	WT Bench		CIT(A) had dismissed which is restored to A.O. for fresh assessment.
121	Smt. Rasila S. Mehta	WTA/04/M/2004	1992-93	23/02/2006	16(5)	WT Bench		CIT(A) had dismissed which is restored to A.O. for fresh assessment.
122	Sudhir S. Mehta	ITA/4833/M/2003 (D.A.) CO/118/M/2006	1991-92	25-Apr-06	144	K Bench	11,35,21,144	Set aside CIT (A) order & restore the matter to CIT (A) for a fresh adjudication after considering books of accounts.
123	Sudhir S. Mehta	ITA/4921/M/2003 (D.A.) CO/119/M/2006	1992-93	28-Apr-06	144	K Bench	69,65,13,389	Set aside CIT (A) orders & restore the matter to Assessing Officer with the direction to frame the assessment de novo and considering the books of accounts.

Statement Showing Income Tax Appellate Tribunal Orders

Sr. No.	Assessee	ITA NO.	A.Y.	Order Date	U/S.	Bench	Amount of Tax Including Interest	Particulars
124	Topaz Holdings P. Ltd	ITA/3550/M/2001	1999-2000	19/10/2005	271(1)(b)	B Bench	10000	CIT(A) order confirming penalty is cancelled.
125	Topaz Holdings P. Ltd	ITA/3234/M/2002 (D.A.)	1997-98	14/09/2005	144	J Bench	1177249	Against CIT(A) order Dept. had preferred appeal which is dismissed.
126	Topaz Holdings P. Ltd	ITA/5877/M/2002 (D.A.)	1996-97	24/11/2005	143(3)	A Bench		Against CIT(A) order Dept. had preferred appeal which is dismissed.
127	Topaz Holdings P. Ltd	ITA/3247/M/2001	1994-95	21/03/2006	143(3)	K Bench		Against CIT(A) order the matter is restored to A.O. as per directions.
128	Topaz Holdings P. Ltd.	ITA/2828/M/2001	1992-93	24-Aug-05	144	A Bench	38,75,11,251	Addition made on ground of presumed sale of shares is deleted which was also earlier sustained by the CIT (A)
129	Topaz Holdings P. Ltd.	ITA/5036/M/2005	1993-94	31-03-06	143-147	K Bench	73,42,158	Set aside CIT (A) order & restore the matter to CIT (A) for a fresh decision.
130	Treasure Holdings P. Ltd.	ITA/1325/M/2000 (D.A.)	1994-95	24-Feb-05	143(3)	I Bench	79,792	Revenue Appeal is dismissed and CIT (A) order for deleting presumed dividend on shares is upheld
131	Zest Holdings P. Ltd.	ITA/3331/M/2002 (D.A.)	1995-96	15-Jul-05	143(3)	B Bench	56,10,092	Revenue Appeal is dismissed and CIT (A) order for deleting presumed dividend on shares is upheld

Harshad S. Mehta A.Y.1992-93

Monies released as per various Court Orders and computation of Interest thereon

Sr. No.	Particulars	Date of Payment	Amount Released	Rate of Interest on deposit	No. of days till 31/05/2006	Interest Amount	Total Amount
1	Supreme Court Order dated 26/08/1996 in Civil Appeal No.5326 of 1996 with C.A.NO.5147 of 1995.	14/10/1996	343900000	18%	3517	596463929	
2	Special Court order dated 22/03/2000 in 150 to 156 of 1999	29/03/2000	235080000	18%	2255	261421841	
3	Spl. Court Order dated 16/03/2002 in M.A.Nos 342 to 348 of 2001.	26/03/2002	150000000	9%	1528	56515068	
4	Spl. Court order dated 16/01/2003 & 28/01/2003 in MA 469 to 489 of 2002	24/02/2003	2767810664	8%	1193	723725616	
5	TDS released as per Civil Appeal No. 7572 of 1999 with CA No. 1175 of 2002 Supreme Court order dated 13/02/2002.	13/02/2002	36776507	9%	1569	14227974	
6	Income Tax released as per Special Court order in M. A. No. 272 of 2003 dt. 03/10/2003	11/10/2003	3246686932	(*) 18%	964	1543466072	
			6780254103			3195820501	9976074604

(*) As the rate of interest on refund of deposit released to Revenue is not specified by the Hon'ble Judge in the Order, I have assumed the same at 18% p.a.

IN THE SPECIAL COURT (TRIAL OF
OFFENCES RELATING TO
TRANSACTIONS IN SECURITIES)
ACT, 1999 AT MUMBAI.

MISC.PETITION NO.41 OF 1999

THE CUSTODIAN ..PETITIONER

V/s

HARSHAD S MEHTA & ORS

..RESPONDENTS

AFFIDAVIT OF MRS. JYOTI HARSHAD
MEHTA, RESPONDENT NO.1(a) LEGAL
HEIR OF SHRI HARSHAD S MEHTA

Dated this 13th day of June, 2006.

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