

“In a joint declaration of income by all the family members on 24.01.1991 made to the Income Tax department the arrangement prevailing between the family members was fully explained and it was clarified that each and every member was separate entity and the ownership of assets rest in their own names. HSM also clarified that he was not the owner of their properties legally or beneficially.”

TRUE COPY

FINAL DECLARATION U/S 132(4) OF THE INCOME TAX ACT, 1961

This statement is being given in pursuance of the search and seizure action u/s 132 initiated against me and my family members on September 27, 1990.

First of all, I would like to put on record a few things about my family members. I take justifiable pride in asserting that it is the combination of the efforts of all the members of my family that has been responsible for our expansion and growth in terms of volume since 1988. Each and every member of the family is taking charge of some or the other vital functions in the organisation creating controls and checks which are so very essential for generating, maintaining and reaping the fruits of any business activity. Almost all of them are very well attained and qualified and do business in their individual capacities and possess a sound and thorough knowledge of Investments, Finance and are authorised agents of the Unit Trust of India or members of the recognised Stock Exchange in Bombay. All of them take active interest in Investments in the Stock Market. Ours is an investor family committed to growth through capital appreciation and holds a mix of both short term and long term portfolio of shares. In brief we owe our success to our coordinated endeavours and investment philosophy. The sharp growth in income in the last two years from 1988 is only after entering the Money Market.

At the time of search working papers on Computation of Income and Wealth together with challans for payment of tax, papers regarding filing of Returns of Income on an estimated basis (as our accounts were not ready) were found

at our Office No. 1518, Maker Chambers V, Nariman Point. Advance tax which fell due for payment by September 15, 1990 had also been paid. This will only indicate our honest intentions to pay taxes to the Government. As action was initiated by the Department before we could file the returns, we came forward with a declaration under section 132(4) of Income Tax Act, 1961.

The Income declared by me and my family members aggregating Rs.4.25 crores U/S 132(4) read with paragraph (5) of section 271(1)(C) of the Income Tax Act, 1961 relates to Income earned by me and my family members out of the Brokerage business, Shares trading activities, Dividend income, Money Market Brokerage, Money Market Trading, Long Term and Short Term Capital Gains earned from the previous year relevant to the Assessment Year 1988-89 to the date of search. From April 1, 1989 onwards our Accounts could not be finalised and the returns for Assessment Year 1988-89 onward could not be filed upto September 27, 1990, the date of commencement of search due to the breakdown in our accounts and computer departments. As the entire Income earned by me and my family members remained to be disclosed under the Return of Income, we came forward and declared the same for the Assessment Years 1988-89 to 1991-92, the break up of which has already been filed with you earlier. Here, I would like to declare emphatically and categorically that no Income is being earned by me and my family members outside the books of accounts and that they are routed through Bank Transactions with regular Bank Accounts held by me and my family members details of which are already submitted to you. Income declared U/S 132(4) is Income earned by each and everyone of my family

members, separately on their own which was to be declared under the Returns of Income which was to be filed for the Assessment Years 1988-89 to 1991-92.

While the process of working out the quantum of Income which could be offered for declaration under section 132(4) was on, we had included in our declaration the Income in respect of the Assessment Years 1988-89 and 1989-90 the returns for which were ready but not filed. We have since worked out the amount of income to be declared in the light of this background. All our income generating transactions were properly, fully and completely reflected in our books of accounts upto the Assessment Year 1989-90 and we therefore, have taken recourse to the declaration even in respect of the income relating to the previous assessment years.

All our accounting system are computerised. We suffered a severe setback in our accounting functions due to a near fatal attack by virus in our computers during the year 1989. All our data and program files were almost given up as lost. These files were being re-built / retrieved wherever possible involving enormous amount of time and labour and the process of re-keying in was continuing the whole of 1990 and is still continuing even today. The Computer Data were being re-validated with the primary inputs by comparing the computer outputs with them. We even tried to solve our problems of volume by going in for an IDM Mini-Computer system but even this attempt failed to deliver the desired results. In the course of the search and seizure many computer outputs were also taken. These are not purified data and I assert that these outputs do not represent the ultimate, validated

and corrected picture of our state of affairs and they were only the initial steps and means of the ultimate validation process as it can happen anywhere else. Our problems were also compounded by a very high degree of turnover of our accounting staff constantly which resulted in new and inexperienced sets of staff handling the accounts at various times. We could not also have a proper hierarchical set up for the accounts and computer divisions and we ourselves, especially the second brother Shri Ashwin Mehta had to be burdened with this problem.

During the course of action, your department had deployed computer experts who examined all our computers and took relevant details both in the form of root directory and file structure and also transaction data from certain machines. Even now we are deputing our own Computer Personnel to your department to witness printing of data which is being carried out by you in your department. The final Books of Accounts has to be prepared on the basis of primary books, validated data and by audit process.

During the course of the search and seizure process some allocation and delivery books also have been seized as per the inventory list signed by me. Here I would like to point out that we operate from multiple locations – the Nariman Point office receives orders from clients, these orders are conveyed to the Cama Building office by way of Buy/Sell instructions, these transactions are recorded in another office in Nariman Point (Office No. 1518 in Maker Chambers V) and deliveries are finally settled from the office section at “Madhuli” building at Worli. These multiple locations create gaps in the flow of information relating to our transactions and any given point of time,

the records relating to transactions or deliveries cannot be accepted as correct without completing the final reconciliation. Pending this, the staff at various locations maintain Kutcha Books / Registers for operational convenience which should not be treated as part of the final Books of Accounts.

From our Cama Bldg office, miscellaneous shares of an aggregate value of about Rs. 5 Lacs were seized. These shares were received and were awaiting to be returned under objection as there were some defects in the certificates or transfer deeds of these shares calling for rectification/replacement of these shares by the delivering broker. These shares are in small/odd lots and are largely fragmented in value. All these shares are held on account of clients and we request that these shares be released.

It is no gainsaying the fact, that our problems were compounded by failures both on the part of men and machines and the complexity of the operations in the capital and money markets which members of our young team could not comprehend clearly and fully. So much so quite a few accounts had also got vitiated under the complete breakdown of men and machines not to mention the computer virus. The process of re-constructing these records are still on and me and the other members of my family are sure that you will bear with us and condone the delay, which has been caused unintentionally and beyond our physical means.

Our family is run as a Joint Hindu Family. We, all live together. Our joint efforts is one of the most important factors that has contributed to the growth

of our business. Our business is such that it requires very close control at the operational level. The different members of the family have taken charge of various areas of crucial importance in our business e.g. Research, On-the-floor trading, dealing in Money Market, Share Handling, Accounts, Finance, etc. My wife Mrs. Jyoti Mehta and Ashwin's wife Mrs. Deepika Mehta while handling other functions in the office, also work as authorised clerks and hold the necessary badge for entry into the trading floor of the Stock Exchange, Bombay. The members of my family have been earning incomes from these sources using their own capital, intellect and labour.

Seizure of documents has handicapped the process of producing in time a complete picture of the state of affairs. While we appreciate the co-operation we have been extended all through the action by the department, we would have felt greatly obliged had all these copies been made available to us.

Since the last few days, you have been generating printouts of the data from the floppies collected from our computers reflecting the position of accounts as on the date of search i.e. September 27, 1990. We request that a copy of all these outputs be provided to us.

In respect of purchase of flats, we have to submit as follows:

- i) When the flats at Maduli were acquired, the acquisition department had accepted the individual and several ownership of each of my family members in respect of the various flats.
- ii) The payments were effected through their individual personal bank accounts.

- iii) The advances for acquiring the flats were made partly out of their own Accounts and through their Current account drawings from my books.

As regards purchase and sale of shares by each family member we would like to bring the following also to your kind notice.

- i) The purchases and sales of shares have been backed by Contract Notes which is again supported by purchases and sales through the Stock Exchange.
- ii) The shares acquired by the respective family members had already been registered by the various companies after going through the transfer deeds and satisfying themselves about the ownership.

In view of the above it will be noticed that each and every member of my family is a separate entity by himself or herself having distinct functions in the business and separate accounts, the ownership of various assets rest in their own names and I am not the owner of their self-acquired properties legally or beneficially. The income out of such amounts have been enjoyed by the respective individuals only.

As regards the explanation of source of payments for acquisition of flats in "Madhuli", Worli by the entities of my family and acquisition of shares, we would once again draw your kind attention to our letters of January 11, 1991 and letter ref. 0029 of January 21, 1991 where our operations have been clearly delineated.

We have made this declaration U/S 132(4) of the Income Tax Act on the

assurance that we shall be granted total immunity from penalty and prosecution under the various provisions of Direct Taxes and other laws.

I have made this statement on behalf of me and all my family members subscribe to the same by signing on their own and we would submit that a lenient view be taken of the matter given the entire background, clarifications and circumstances.

Thank you,

BOMBAY

JANUARY 24, 1991

HARSHAD S. MEHTA	_____
ASHWIN S. MEHTA	_____
HITESH S. MEHTA	_____
SUDHIR S. MEHTA	_____
RASILA S. MEHTA	_____
JYOTI H. MEHTA	_____
DEEPIKA A. MEHTA	_____
PRATIMA H. MEHTA	_____