

“The Advocate for Smt Jyoti Mehta made a ‘Without Prejudice’ offer to ANZ Grindlays Bank (now Standard Chartered Bank) to pay principal sum of Rs.506.53 Crores in discharge of the decree as and by way of full and final settlement.”

M/S. M.P. VASHI & ASSOCIATES

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

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

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

ADVOCATES - HIGH COURT

RESI. : 'ALANKAR'

59, SWAMI NITYANAND MARG,
ANDHERI (E), MUMBAI - 400 069.

PHONE : 2684 19 06

OFFICE :

1) JALARAM JYOT BLDG., 2nd FLOOR,
JANMABHOOMI STREET, FORT.
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 78
(Between 2-00 P.M. & 3-00 P.M.)

Date : 13th March, 2007

Ref. : _____

To

Mr Tim L'Estrange

Group General Counsel & Company Secretary,
ANZ Grindlays Bank,
Level 6, 100 Queen Street,
Melbourne, Vic 3000

Without Prejudice

Dear Sir,

Sub : **Offer of settlement of outstanding dues to your bank**

1. This has reference to the discussions your kindself and your colleagues had with my client Mr Ashwin S Mehta who had sought your audience to resolve outstanding issues with your bank and to convey to you the desire of Smt Jyoti H Mehta to meet the obligation to your bank of late Shri Harshad S Mehta. I am instructed by my clients to convey thanks for granting an opportunity of meeting.
2. Now I am addressing the present letter for an on behalf of late Shri Harshad S Mehta whose estate is represented by his three legal heirs viz Smt Rasila S Mehta (mother), Smt Jyoti H Mehta (wife), and Shri Aatur H Mehta (son). So far as the mother and son are concerned, they have already filed their affidavits before the Hon'ble Special Court to the effect

that they do not claim any right or title in the estate of late Shri Harshad S Mehta. Therefore for all practical purposes, Smt Jyoti H Mehta is the sole legal heir presently representing the interests of late Shri Harshad S Mehta. In any event, this offer of settlement of dues to your bank is also supported both by mother and son.

Your bank is presently holding a decree in the principal sum of Rs.5,06,53,49,115/- and interest on this sum @ 15% p.a with a further order that in the event there is any surplus left, then a further interest @ 3% p.a. may be awarded. The above decree has been awarded by the Hon'ble Special Court by an Order dated 25.07.2003. You are aware that Late Shri Harshad S Mehta had addressed a letter to your bank on 02.06.1992 unconditionally offering you payment of monies owed to your bank and a copy of this letter is enclosed at Annexure "A". By a letter dated 18.06.1992, your bank had responded to the offer of late Shri Harshad S Mehta whereby your bank declined that any monies were receivable by your bank from late Shri Harshad S Mehta. A copy of your letter dated 18.06.1992 is enclosed at Annexure "B". Thus the offer of my client late Shri Harshad S Mehta was made to your bank way back in June 1992 but for no fault of his, it was not accepted by your bank. Incidentally at that time, the offer was communicated to all the authorities.

4. Thereafter events have only complicated the matters. Despite the wish of my client, monies owed to your bank could never be repaid. In fact, my client late Shri Harshad S Mehta alongwith other entities also filed an application before the Hon'ble Special Court on 26.10.1993 containing a repayment plan outlined in his application being Misc. Application No.215 of 1993. Unfortunately even this effort of late Shri Harshad S Mehta did not bear fruit. Thus he had a clear will as well as capability to meet his

obligations to your bank which is very well documented. In fact, your bank was also a party to this application. Thereafter on several occasions, your Counsel was approached by Shri Ajay Khandhar, Advocate to convey the repayment offer but unfortunately no response was forthcoming.

Be that as it may, you are aware that since then, late Shri Harshad S Mehta have been laced up with totally unwarranted and patently illegal demands of the revenue. The present status of these demands as furnished by the revenue before Hon'ble Special Court in Misc. Petition No.41 of 1999 is enclosed. I am pleased to enclose a copy of the same at Annexure C. The demand for priority period net of payments made as per Section 11 of the Special Courts Act is Rs.1055,99,27,177/- (Rs.1055.99 crores) and for non-priority period is Rs.10075,05,93,052/- (Rs.10075.05 crores). Thus unless priorities are re-arranged or the demands contested, the banks would not receive any monies from the Hon'ble Special Court against the decrees held by them. Likewise, your claim for the interest would compete with other claims u/s 11(2)(c) of the Revenue and other creditors including in the main, the State Bank of India. As things stand today, since the decree for the principal sum is not executable therefore the chances of recovery of interest are totally non-existent.

6. It is obvious that the revenue has exploited the priority status given to it in the Special Courts Act to the hilt and usurped all the distributable funds which belong to your bank. Further claims have been made by it on existing and potential funds. Your bank is thus seeking re-arrangement in priorities. The delay in non-payment to your bank despite my client having means to repay is therefore not attributable to him or his heirs. Therefore in order to secure monies of your bank the only permanent solution could

lie in reducing the tax demands of late Shri Harshad S Mehta particularly for the priority period by contesting them vigorously which task can legally be carried only by Smt Jyoti H Mehta..

7. Unfortunately these false demands could not be contested by Shri Harshad S Mehta as he was facing innumerable difficulties in his life time, and thereafter he met with tragic death in judicial custody at a young age of 47 years leaving behind survivors who are themselves notified and whose resources are also attached and the revenue has made high pitched demands against them also. Besides, they have limited capabilities both in terms of skill and knowledge to contest such heavy demands both their own and that of late Shri Harshad S Mehta. Therefore they have also succumbed to the coercive methods of the revenue. The Custodian has also been promoting the interest of revenue only.
8. In the meantime, the vast quantity of appreciating asset base has come to be liquidated at throw away prices thereby deeply hurting the interest of creditors like your bank. To give you a measure of losses already incurred by premature sale of portfolio of investments, I am pleased to enclose a sample chart of losses incurred on a set of bulk transactions of sale of equities which run into an amount of Rs.4738 crores at Annexure D. Such a distress sale of assets before crystallization of liabilities was never opposed by your bank and other creditors as a result of which irreparable loss has already been caused to the estate of late Shri Harshad S Mehta just to meet the false demands of revenue.
9. After the tragic demise of late Shri Harshad S Mehta, his machinery of defense has collapsed completely in as much as none of the matters of

late Shri Harshad S Mehta were represented including contesting the decree awarded your bank. However since last year, some of the members of Mehta family and corporate entities promoted by them have succeeded in securing reliefs from the Hon'ble Income Tax Appellate Tribunal. The final high pitched assessment orders have been set aside. I am pleased to enclose a list of such orders of relief secured by the Mehta family at **Annexure E**. Encouraged by this, lately Smt Jyoti H Mehta has also started contesting the demands made against late Shri Harshad S Mehta by filing cross objections where the appeals of the revenue are still pending before Hon'ble I.T.A.T. In matters which have been decided ex parte, applications have been and are being made for recalling of the ex parte orders so that the matters are heard on merits. In cases appeals have remained to be filed, the same are being preferred.

10. Besides the factual background narrated above, my clients are aggrieved that the Hon'ble Special Court has incorrectly awarded the interest decree in favour of your bank contrary to the law laid down by Hon'ble Justice Shri S N Variava by an Order dated 20.02.1995 in Misc. Application No.107 of 1993 where it has been held in terms that a notified party solvent at the time of notification should not be made liable to pay interest to the creditors because of the legal disability cast upon him by virtue of notification. This law has since then also been upheld by the Hon'ble Supreme Court in 5 SCC of 1998 wherein the law laid down by Justice Shri S N Variava is not controverted.
11. In the circumstances narrated above, my clients Smt Jyoti H Mehta is desirous of settling the outstanding dues to your bank and has instructed me to make an offer to your bank as under :-

a. That this offer is made without prejudice to rights and contentions of my client. That this offer is made in a spirit to resolve outstanding issues to the extent possible and to minimize avoidable litigation.

b. That your bank may agree to settle the entire decretal amount of both principal and interest by accepting only the principal sum of Rs.5,06,53,49,115/- awarded by the Hon'ble Special Court as and by way of full and final settlement of dues. Please note that this offer is without prejudice to the rights and contentions of my clients.

c. That my clients Smt Jyoti H Mehta upon your accepting the above amount as proposed in para (b) above, undertake the following :-

i) To file application before the Hon'ble Special Court to release existing bank balances in favour of your bank upon the settlement as proposed in this letter. The existing bank balances in various accounts of late Shri Harshad S Mehta are about Rs.360 crores. It is proposed to utilize the bank balances of other notified entities to meet this offer wherever monies are clearly owed to M/s Harshad S Mehta. by causing recoveries. To cite an example, M/s J H Mehta owes money to M/s Harshad S Mehta and therefore the bank balances of M/s J H Mehta could also be available for payment.

ii) Would claim refund of adhoc and interim monies released to the revenue with a view to release the principal monies owed to your bank under 11(2)(b)

iii) Will cause recovery of assets and monies to augment the liquid balance and the asset base of late Shri Harshad S Mehta.

iv) In case State Bank of India opposes any settlement with your bank, then she would contest the same on various grounds including taking a stand that the said bank has already caused substantial recovery.

v) Would file applications in the Special Court contesting incorrect decrees awarded in favour of State Bank of India which would include challenging the principal sums, filing counter claims, challenging the decree for damages awarded to them and challenging awarding of interest in all cases.

vi) That Smt Jyoti H Mehta would take all other necessary steps so as to realize the terms decided in this present settlement offer.

That in the event the above settlement offer is not acceptable to your bank or that the same does not meet the approval of the Hon'ble Special Court or the Hon'ble Supreme Court, then your bank is requested to support Smt Jyoti H Mehta and Shri Ashwin S Mehta in contesting the false demands of the revenue so that the distributable surplus of late Shri Harshad S Mehta enhances and the corpus becomes available for meeting your decree. In this regard, some reasonable monetary package for support to her to contest the demands may be worked out which will be largely made up of actual expenses required to contest the litigation. The terms of this alternative proposal can be discussed mutually.


13. I have also been instructed by Smt Jyoti H Mehta to inform your bank that she proposes to file suitable application before the Hon'ble Special Court to contest decree of interest awarded in favour of your bank if the present proposal does not work out or if the alternate offer is agreed to. The

object of preferring such applications is to arrive at only the genuine demands of creditors according to my clients.

14. In case your bank desires to have any discussion on the above offer of settlement, then you are requested to arrange a meeting for the said purpose. If any clarifications are required, then do not hesitate in letting my clients know for the furtherance of the above proposal.

Thanking you,

Yours faithfully,



(Mukesh Vashi)
Advocate for late Shri Harshad S Mehta
and Smt Jyoti H Mehta and other legal
heirs.

Encl : As above