

“The I.T. department filed a combined application before Hon’ble Special Court being MA 272 of 2003 to seek release of monies from the attached accounts of Mehtas. It has consciously made false and misleading averments in violation of law laid down by Hon’ble Supreme Court in Harshad Mehta’s judgment dated 13.05.1998 that it is entitled to release of monies and incorrectly relied upon the Special Court order passed in MA 150 to 156 of 1999. It falsely averred that it was sure to succeed in the appeals challenging the assessment order and that even if the appellate authority concedes on certain issues it may not altogether set aside the assessment order.”

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

MISCELLANEOUS APPLICATION NO. 272 OF 2003

DEPUTY COMMISSIONER OF INCOME TAX)
CENTRAL CIRCLE.23, OLD CGO BUILDING)
ANNEXE, 7TH FLOOR, M.K.ROAD)
MUMBAI - 400 020.) APPLICANT

VS.

1. CUSTODIAN

CUSTODIAN APPOINTED UNDER THE)
SPECIAL COURT (TRIAL OF)
OFFENCES RELATING TO TRANSACTIONS)
IN SECURITIES ACT, 1992), NARIMAN)
BHAVAN, NARIMAN POINT,)
MUMBAI - 400 021.)

2. **LATE SHRI HARSHD S. MEHTA**
LEGAL HEIRS OF SHRI HARSHAD S. MEHTA.
2(a) **SMT. JYOTI H. MEHTA**
2(b) SMT. RASILA S. MEHTA
2(c) SHRI AATUR MEHTA
3. **SMT. DEEPIKA MEHTA**
4. **SMT. JYOTI MEHTA**
5. **SMT. PRATIMA MEHTA**
6. **SHRI SUDHIR S. MEHTA**
7. **SHRI ASHWIN S. MEHTA**
MUMBAI.
1205/06, 12th Floor, Maker Chambers V,
Nariman Pt, Mumbai 400021)..... RESPONDENTS

HUMBLE APPLICATION OF THE
APPLICANTS ABOVE NAMED

MOST RESPECTFULLY SHEWETH:

1. The applicant above is a Deputy Commissioner of Income Tax, Central Circle.23, Mumbai having his office at Old CGO Bldg., Annexe, 7th Floor, M.K.Road, Mumbai. Respondent No.1 is the Custodian appointed u/s. 3 of the Special Courts (Trial of offences Relating to Transactions In Securities) Act, 1992. Respondents No. 2, 3, 4, 5, 6, and 7, are the assesseees who are assessed under the Income Tax Act, 1961, by the applicant above named. The Respondents No. 2 to 7 are notified assessee under the Special Court (Trial of

Offences Relating to Transaction in Securities) Act, 1992 (hereinafter referred to as TORTS Act, 1992) as a result of which all his assets are vested in the Custodian under the provisions of the said Act.

2. The applicant states that the statutory notices for assessment were issued to Late Harshad S. Mehta but Late Harshad S. Mehta failed and neglected to comply with those notices in accordance with law. Therefore, assessment orders u/s. 144 was passed against Late Harshad S. Mehta on 27.03.95 for A.Yr. 92-93 and on 29.03.96 for A.Yr. 93-94. The applicant states that all the properties of Late Harshad S. Mehta stand vested and attached with the custodian under Special Court (TORTS) Act, 1992.

3. The applicant states that the statutory notices for assessment were issued to Respondent No. 3 but Respondent No. 3 failed and neglected to comply with those notices in accordance with law. Therefore, assessment orders u/s. 144 was passed against Respondent No. 3 on 27.03.95 for A.Yr. 92-93 and on 29.03.96 for A.Yr. 93-94. The applicant states that all the properties of Respondent No. 3 stand vested and attached with the custodian under Special Court (TORTS) Act, 1992.

4. The applicant states that the statutory notices for assessment were issued to Respondent No. 4 but Respondent No. 4 failed and neglected to comply with those notices in accordance with law. Therefore, assessment orders u/s. 144 was passed against Respondent No. 4 on 27.03.95 for A.Yr. 92-93 and on 29.03.96 for A.Yr. 93-94. The applicant states that all the properties of Respondent No. 4 stand vested and attached with the custodian under Special Court (TORTS) Act, 1992.

5. The applicant states that the statutory notices for assessment were issued to Respondent No. 5 but Respondent No. 5 failed and neglected to comply with those notices in accordance with law. Therefore, assessment orders u/s. 144 was passed against Respondent No. 5 on 27.03.95 for A.Yr. 92-93 and on 29.03.96 for A.Yr. 93-94. The applicant states that all the properties of Respondent No.5 stand vested and attached with the custodian under Special Court (TORTS) Act, 1992.

6. The applicant states that the statutory notices for assessment were issued to Respondent No. 6 but Respondent No. 6 failed and neglected to comply with those notices in accordance with law. Therefore, assessment orders u/s. 144 was passed against Respondent No. 6 on 27.03.95 for A.Yr. 92-93 and on 29.03.96 for A.Yr. 93-94. The applicant states that all the properties of Respondent No. 6 stand vested and attached with the custodian under Special Court (TORTS) Act, 1992.

7. The applicant states that the statutory notices for assessment were issued to Respondent No. 7 but Respondent No. 7 failed and neglected to comply with those notices in accordance with law. Therefore, assessment orders u/s. 144 was passed against Respondent No. 7 on 27.03.95 for A.Yr. 92-93 and on 29.03.96 for A.Yr. 93-94. The applicant states that all the properties of Respondent No. 7 stand vested and attached with the custodian under Special Court (TORTS) Act, 1992.

8. The applicant states that the demand for the priority period against the Harshad S. Mehta as per the Supreme Court judgement is Rs.11,23,94,09,712/- (Rupees one thousand one hundred twenty three crores ninety four lakhs nine thousand seven hundred and twelve only) for A.Yr. 92-93 and Rs. 6,24,69,71,860/- (Rupees six hundred twenty four crores sixty nine lakhs seventy

one thousand eight hundred and sixty only) for A.Yr. 93-94. The applicant craves leave to refer to and rely upon the said assessment orders when produced. The substantial application for release of the said demand amount is already filed with this Hon'ble Court being application no. 231 of 1995 and 536 of 1998.

9. The chart for the outstanding demand for A.Yrs. 1992-93 and 1993-94 for Harshad Mehta is as per Exhibit 'A'.

10. The applicant states that the demand for the priority period against the Respondent No. 3 as per the Supreme Court judgement is Rs.15,17,55,543/- (Rupees fifteen crores seventeen lakhs fifty five thousand five hundred forty three only) for A.Yr. 92-93 and Rs. 6,30,57,803/- (Rupees six crores thirty lakhs fifty seven thousand eight hundred and three only) for A.Yr. 93-94. The applicant craves leave to refer to and rely upon the said assessment orders when produced. The substantial application for release of the said demand amount is already filed with this Hon'ble Court being application no. 231 of 1995 and 536 of 1998.

11. The chart for outstanding demand for A.Yrs. 1992-93 and 1993-94 for Dipika Mehta is as per Exhibit 'B'.

12. The applicant states that the demand for the priority period against the Respondent No. 4 as per the Supreme Court judgement is Rs.2,25,99,47,082/- (Rupees two hundred twenty five crores ninety nine lakhs forty seven thousand eighty two only) for A.Yr. 92-93 and Rs. 27,99,41,086/- (Rupees twenty seven crores ninety nine lakhs forty one thousand eighty six only) for A.Yr. 93-94. The applicant craves leave to refer to and rely upon the said assessment orders when produced. The substantial application for release of the said demand amount is

already filed with this Hon'ble Court being application no. 231 of 1995 and 536 of 1998.

13. The chart for the outstanding demand for A.Yrs. 1992-93 and 1993-94 for Jyoti Mehta is as per Exhibit 'C'.

14. The applicant states that the demand for the priority period against the Respondent No. 5 as per the Supreme Court judgement is Rs.20,28,15,462/- (Rupees twenty crores twenty eight lakhs fifteen thousand four hundred sixty two only) for A.Yr. 92-93 and Rs. 4,04,90,544/- (Rupees four crores four lakhs ninety thousand five hundred forty four only) for A.Yr. 93-94. The applicant craves leave to refer to and rely upon the said assessment orders when produced. The substantial application for release of the said demand amount is already filed with this Hon'ble Court being application no. 231 of 1995 and 536 of 1998.

15. The chart for the outstanding demand for A.Yrs. 1992-93 and 1993-94 for Pratima Mehta is as per Exhibit 'D'.

16. The applicant states that the demand for the priority period against the Respondent No. 6 as per the Supreme Court judgement is Rs.30,28,31,919/- (Rupees thirty crores twenty eight lakhs thirty one thousand nine hundred nineteen only) for A.Yr. 92-93 and Rs. 4,40,97,938/- (Rupees four crores forty lakhs ninety seven thousand nine hundred thirty eight only) for A.Yr. 93-94. The applicant craves leave to refer to and rely upon the said assessment orders when produced. The substantial application for release of the said demand amount is already filed with this Hon'ble Court being application no. 231 of 1995 and 536 of 1998.

17. The chart for the outstanding demand for A.Yrs. 1992-93 and 1993-94 for Sudhir Mehta is as per Exhibit 'E'.

18. The applicant states that the demand for the priority period against the Respondent No. 7 as per the Supreme Court judgement is Rs.2,47,62,36,084/- (Rupees two hundred forty seven crores sixty two lakhs thirty six thousand eighty four only) for A.Yr. 92-93 and Rs. 10,17,35,314/- (Rupees ten crores seventeen lakhs thirty five thousand three hundred fourteen only) for A.Yr. 93-94. The applicant craves leave to refer to and rely upon the said assessment orders when produced. The substantial application for release of the said demand amount is already filed with this Hon'ble Court being application no. 231 of 1995 and 536 of 1998.

19. The chart for the outstanding demand for A.Yrs. 1992-93 and 1993-94 for Ashwin S. Mehta is as per Exhibit 'F'.

20. The Applicant further submits that after completion of assessments as above, notices u/s. 156 of the I.T.Act, and as required by law were duly served on the Late Harshad S. Mehta. Copies of the said notices are annexed hereto and marked as "Exhibit G". Harshad S. Mehta filed appeals against the said assessment orders which are pending before the Hon'ble ITAT. However, the amounts of taxes become due and payable to the department within 30 days after the service of demand notice u/s. 156 of the I. T. Act. This becomes an ascertained liability. The same has been held by the Hon'ble Court while disposing off the Miscellaneous Applications Nos. 150 to 156 of 1999.

21. The Applicant further submits that after completion of assessments as above, notices u/s. 156 of the I.T.Act, and as required by law were duly served on the Respondent No. 3. Copies of the said notices are annexed hereto and marked as "Exhibit H". Respondent No. 3 filed appeals against the said assessment orders which are pending before the Hon'ble ITAT. However, the amounts of taxes

became due and payable to the department within 30 days after the service of demand notice u/s. 156 of the I. T. Act. This becomes an ascertained liability. The same has been held by the Hon'ble Court while disposing off the Miscellaneous Applications Nos. 150 to 156 of 1999.

22. The Applicant further submits that after completion of assessments as above, notices u/s. 156 of the I.T.Act, and as required by law were duly served on the Respondent No. 4. Copies of the said notices are annexed hereto and marked "Exhibit I". Respondent No. 4 filed appeals against the said assessment orders which are pending before the Hon'ble ITAT. However, the amounts of taxes became due and payable to the department within 30 days after the service of demand notice u/s. 156 of the I. T. Act. This becomes an ascertained liability. The same has been held by the Hon'ble Court while disposing off the Miscellaneous Applications Nos. 150 to 156 of 1999.

23. The Applicant further submits that after completion of assessments as above, notices u/s. 156 of the I.T.Act, and as required by law were duly served on the Respondent No. 5. Copies of the said notices are annexed hereto and marked "Exhibit J". Respondent No. 5 filed appeals against the said assessment orders which are pending before the appellate authorities. However, the amounts of taxes became due and payable to the department within 30 days after the service of demand notice u/s. 156 of the I. T. Act. This becomes an ascertained liability. The same has been held by the Hon'ble Court while disposing off the Miscellaneous Applications Nos. 150 to 156 of 1999.

24. The Applicant further submits that after completion of assessments as above, notices u/s. 156 of the I.T.Act, and as required by law were duly served on the Respondent No. 6. Copies of the said notices are annexed hereto and marked

“Exhibit K”. Respondent No. 6 filed appeals against the said assessment orders which are pending before the Hon’ble ITAT. However, the amounts of taxes become due and payable to the department within 30 days after the service of demand notice u/s. 156 of the I. T. Act. This becomes an ascertained liability. The same has been held by the Hon’ble Court while disposing off the Miscellaneous Applications Nos. 150 to 156 of 1999.

25. The Applicant further submits that after completion of assessments as above, notices u/s. 156 of the I.T.Act, and as required by law were duly served on the Respondent No. 7. Copies of the said notices are annexed hereto and marked “Exhibit L”. Respondent No. 7 filed appeals against the said assessment orders which are pending before the Hon’ble ITAT. However, the amounts of taxes became due and payable to the department within 30 days after the service of demand notice u/s. 156 of the I. T. Act. This becomes an ascertained liability. The same has been held by the Hon’ble Court while disposing off the Miscellaneous Applications Nos. 150 to 156 of 1999.

26. The applicant states and submits that pursuant to an interim order dated 24.08.96 of the Hon’ble Supreme Court, certain payments have been made to the Income Tax Authorities. As per the order dated 24.08.96 of the Hon’ble Supreme Court in Civil Appeal Nos. 5329, 5147, 5225, 5325 and 6080 of 1995, the Hon’ble Court was pleased to release the amount of Rs. 34,39,00,000/- (Rupees thirty four crores thirty nine lakhs only) which was adjusted towards the Income-Tax dues for A.Yr. 92-93 in the case of Late Harshad S. Mehta.

Subsequently, as per the order of Hon'ble Special Court dated 22.03.2000 in respect of Misc. Applications 150 to 156 of 1999, the Hon'ble Court was pleased to release the amount of Rs. 23,50,80,000/- (Rupees twenty three crores fifty lakhs eighty thousand only) which was also adjusted towards the Income Tax dues for A.Yr. 92-93 in the case of the assessee. Subsequently, Hon'ble Supreme Court vide order dated 13.02.2002 ordered to release a sum of Rs. 3,67,76,507/- (Rupees three crores sixty seven lakhs seventy six thousand five hundred seven only) which was adjusted against the Income Tax liabilities of Respondent No. 2 for A.Y. 1992-93. Subsequently, as per the order of Hon'ble Special Court dated 16.03.2002 the Hon'ble Court was pleased to release the amount of Rs. 15,00,00,000/- (Rupees fifteen crores only) which was also adjusted towards the Income Tax dues for A.Yr. 92-93 in the case of the assessee. Later, Hon'ble Special Court vide order dt. 16/01/2003 ordered for a release of sum of Rs. 276,78,10,664/- (Rupees two hundred seventy six crores seventy eight lakhs ten thousand six hundred sixty four only), which was adjusted against the Income-Tax liabilities of Respondent No. 2 for A.Yr. 1992-93 leaving balance amount of Rs. 770,58,42,541/- (Rupees seven hundred seventy crores fifty eight lakhs forty two thousand five hundred forty one only) for A.Yr. 92-93 and Rs. 6,24,69,71,860/- (Rupees six hundred twenty four crores sixty nine lakhs seventy one thousand eight hundred and sixty only) for A.Yr. 93-94 Income-Tax due and payable.

27. The applicant states and submits that pursuant to an interim order dated 24.08.96 of the Hon'ble Supreme Court, certain payments have been made to the Income Tax Authorities. As per the order dated 24.08.96 of the Hon'ble Supreme Court in Civil Appeal Nos. 5329, 5147, 5225, 5325 and 6080 of 1995, the Hon'ble Court was pleased to release the amount of Rs. 1,49,00,000/- (Rupees

one crore forty nine lakhs only) which was adjusted towards the Income Tax dues for A.Yr. 92-93 in the case of Respondent No.3. Subsequently, as per the order of Hon'ble Special Court dated 22.03.2000 in respect of Misc. Applications 150 to 156 of 1999, the Hon'ble Court was pleased to release the amount of Rs. 2,50,20,000/- (Rupees two crores fifty lakhs twenty thousand only) which was also adjusted towards the Income Tax dues for A.Yr. 92-93 in the case of the assessee. Subsequently, as per the order of Hon'ble Supreme Court dated 13/02/2002 the Hon'ble Court was pleased to release the amount of Rs.25,96,895/- (Rupees twenty five lakhs ninety six thousand eight hundred ninety five only) which was also adjusted towards the Income Tax dues for A.Yr. 92-93 in the case of the assessee. Subsequently, Hon'ble Special Court vide order dated 16.03.2002 ordered to release a sum of Rs. 3 crores which was adjusted against the Income Tax liabilities of Respondent No. 3 for A.Yr. 1992-93. Subsequently, as per the order of Hon'ble Special Court dated 28/01/2003, the Hon'ble Court was pleased to release the amount of Rs. 4,47,22,676/- (Rupees four crores forty seven lakhs twenty two thousand six hundred seventy six only) which was also adjusted towards the Income Tax dues for A.Yr. 93-94 in the case of the assessee. Later, Hon'ble Special Court vide order dt. 28/01/2003 ordered for a release of sum of Rs. 7,92,38,648/-(Rupees seven crores ninety two lakhs thirty eight thousand six hundred forty eight only), which was adjusted against the Income-Tax liabilities of Respondent No. 3 for A.Yr. 1992-93 leaving balance amount of Rs. 1,83,35,127/- (Rupees One crore eighty three lakhs thirty five thousand one hundred and twenty seven only) for A.Yr. 93-94 Income Tax due and payable.

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28. The applicant states and submits that pursuant to an interim order dated 24.08.96 of the Hon'ble Supreme Court, certain payments have been made to the Income Tax Authorities. As per the order dated 24.08.96 of the Hon'ble Supreme Court in Civil Appeal Nos. 5329, 5147, 5225, 5325 and 6080 of 1995, the Hon'ble Court was pleased to release the amount of Rs. 71,05,00,000/- (Rupees seventy one crores five lakhs only) which was adjusted towards the Income Tax dues for A.Yr. 92-93 in the case of Respondent No. 4. Subsequently, as per the order of Hon'ble Special Court dated 22.03.2000 in respect of Misc. Applications 150 to 156 of 1999, the Hon'ble Court was pleased to release the amount of Rs. 5,04,00,000/- (Rupees five crores four lakhs only) which was also adjusted towards the Income Tax dues for A.Yr. 92-93 in the case of the assessee. Subsequently, as per the order of Hon'ble Supreme Court dated 13/02/2002 the Hon'ble Court was pleased to release the amount of Rs. 2,80,11,120/- (Rupees two crores eighty lakhs eleven thousand one hundred twenty only) which was also adjusted towards the Income Tax dues for A.Yr. 92-93 in the case of the assessee. Subsequently, Hon'ble Special Court vide order dated 16.03.2002 ordered to release a sum of Rs. 6,00,00,000/- (Rupees six crores only) which was adjusted against the Income Tax liabilities of Respondent No. 4 for A.Yr. 1992-93. Later, Hon'ble Special Court vide order dt. 16/01/2003 ordered for a release of sum of Rs. 30,41,76,872/- (Rupees thirty crores forty one lakhs seventy six thousand eight hundred seventy two only), which was adjusted against the Income-Tax liabilities of Respondent No. 4 for A.Yr. 1992-93 leaving balance amount of Rs. 110,68,59,090/- (Rupees one hundred ten crores sixty eight lakhs fifty nine thousand ninety only) for A.Yr. 92-93 and Rs. 27,99,41,086/- (Rupees twenty seven crores ninety nine lakhs forty one thousand eighty six only) for A.Yr. 93-94 Income Tax due and payable.

29. The applicant states and submits that pursuant to an interim order dated 24.08.96 of the Hon'ble Supreme Court, certain payments have been made to the Income Tax Authorities. As per the order dated 24.08.96 of the Hon'ble Supreme Court in Civil Appeal Nos. 5329, 5147, 5225, 5325 and 6080 of 1995, the Hon'ble Court was pleased to release the amount of Rs. 1,83,00,000/- (Rupees one crore eighty three lakhs only) which was adjusted towards the Income Tax dues for A.Yr. 92-93 in the case of Respondent No. 5. Subsequently, as per the order of Hon'ble Special Court dated 22.03.2000 in respect of Misc. Applications 150 to 156 of 1999, the Hon'ble Court was pleased to release the amount of Rs. 2,03,40,000/- (Rupees two crores three lakhs forty thousand only) which was also adjusted towards the Income Tax dues for A.Yr. 92-93 in the case of the assessee. Subsequently, as per the order of Hon'ble Supreme Court dated 13/02/2002, the Hon'ble Court was pleased to release the amount of Rs.22,26,589/- (Rupees twenty two lakhs twenty six thousand five hundred eighty nine only) which was also adjusted towards the Income Tax dues for A.Yr. 92-93 in the case of the assessee. Subsequently, Hon'ble Special Court vide order dated 16.03.2002 ordered to release a sum of Rs. 4,00,00,000/- (Rupees four crores only) which was adjusted against the Income Tax liabilities of Respondent No. 5 for A.Yr. 1992-93. Later, Hon'ble Special Court vide order dt. 16/01/2003 ordered for a release of sum of Rs. 10,27,00,389/- (Rupees ten crores twenty seven lakhs three hundred eighty nine only), which was adjusted against the Income-Tax liabilities of Respondent No. 5 for A.Yr. 1992-93 leaving balance amount of Rs. 1,92,48,484/- (Rupees one crore ninety two lakhs forty eight thousand four hundred eighty four only) for A.Yr. 92-93 and Rs.4,04,90,544/- (Rupees four crores four lakhs ninety thousand five hundred and forty four only) for A.Yr. 93-94 Income Tax due and payable

30. The applicant states and submits that pursuant to an interim order dated 24.08.96 of the Hon'ble Supreme Court, certain payments have been made to the Income Tax Authorities. As per the order dated 24.08.96 of the Hon'ble Supreme Court in Civil Appeal Nos. 5329, 5147, 5225, 5325 and 6080 of 1995, the Hon'ble Court was pleased to release the amount of Rs. 2,03,00,000/- (Rupees two crores three lakhs only) which was adjusted towards the Income Tax dues for A.Yr. 92-93 in the case of Respondent No. 6. Subsequently, as per the order of Hon'ble Special Court dated 22.03.2000 in respect of Misc. Applications 150 to 156 of 1999, the Hon'ble Court was pleased to release the amount of Rs. 2,77,20,000/- (Rupees two crores seventy seven lakhs twenty thousand only) which was also adjusted towards the Income Tax dues for A.Yr. 92-93 in the case of the assessee. Subsequently, as per the order of Hon'ble Supreme Court dated 13/02/2002, the Hon'ble Court was pleased to release the amount of Rs. 25,21,888/- (Rupees twenty five lakhs twenty one thousand eight hundred eighty eight only) which was also adjusted towards the Income Tax dues for A.Yr. 93-94 in the case of the assessee. Subsequently, Hon'ble Special Court vide order dated 16.03.2002 ordered to release a sum of Rs. 3,00,00,000/- (Rupees three crores only) which was adjusted against the Income Tax liabilities of Respondent No. 6 for A.Yr. 1992-93. Later, Hon'ble Special Court vide order dt. 16/01/2003 ordered for a release of sum of Rs. 21,49,69,625/- (Rupees twenty one crores forty nine lakhs sixty nine thousand six hundred twenty five only), which was adjusted against the Income-Tax liabilities of Respondent No. 6 for A.Yr. 1992-93 leaving balance amount of Rs. 98,42,294/- (Rupees ninety eight lakhs forty two thousand two hundred ninety four only) for A.Yr. 92-93 and Rs.4,15,76,050/- (Rupees four crores fifteen lakhs seventy six thousand and fifty only) for A.Yr. 93-94 Income Tax due and payable

31. The applicant states and submits that pursuant to an interim order dated 24.08.96 of the Hon'ble Supreme Court, certain payments have been made to the Income Tax Authorities. As per the order dated 24.08.96 of the Hon'ble Supreme Court in Civil Appeal Nos. 5329, 5147, 5225, 5325 and 6080 of 1995, the Hon'ble Court was pleased to release the amount of Rs. 10,24,00,000/- (Rupees ten crores twenty four lakhs only) which was adjusted towards the Income Tax dues for A.Yr. 92-93 in the case of Respondent No. 7. As per the order of Hon'ble Special Court dated 24/08/93, the Hon'ble Court was pleased to release the amount of Rs. 6,14,078/- (Rupees six lakhs fourteen thousand seventy eight only) which was also adjusted towards the Income Tax dues for A.Yr. 93-94 in the case of the assessee. Subsequently, as per the order of Hon'ble Special Court dated 22.03.2000 in respect of Misc. Applications 150 to 156 of 1999, the Hon'ble Court was pleased to release the amount of Rs. 4,91,40,000/- (Rupees four crores ninety one lakhs forty thousand only) which was also adjusted towards the Income Tax dues for A.Yr. 92-93 in the case of the assessee. Subsequently, as per the order of Hon'ble Supreme Court dated 13/02/2002, the Hon'ble Court was pleased to release the amount of Rs. 84,48,303/- (Rupees eighty four lakhs forty eight thousand three hundred three only) which was also adjusted towards the Income Tax dues for A.Yr. 92-93 in the case of the assessee. Subsequently, Hon'ble Special Court vide order dated 16.03.2002 ordered to release a sum of Rs. 9,00,00,000/- (Rupees nine crores only) was adjusted against the Income Tax liabilities of Respondent No. 7 for A.Yr. 1992-93. Later, Hon'ble Special Court vide order dt. 28/01/2003 ordered for a release of sum of Rs. 29,50,15,162/- (Rupees twenty nine crores fifty lakhs fifteen thousand one hundred sixty two only), which was adjusted against the Income-Tax liabilities of Respondent No. 7 for A.Yr. 1992-93 leaving balance amount of Rs. 193,12,32,619/- (Rupees one hundred ninety three crores twelve lakhs thirty two thousand six hundred nineteen only) for A.Yr. 92-93 and Rs. 10,11,21,236/ (Rupees ten crores eleven lakhs

twenty one thousand two hundred thirty six only) for A.Yr. 93-94 Income Tax due and payable.

32. The applicant states that the scheme for sale of shares is being formulated by the appropriate authorities as per the order of the Supreme Court and this Hon'ble Court, to dispose off the shares of Respondent No. 2, 3, 4, 5, 6, & 7 and meet the tax liabilities and other priority liabilities. The applicant understands that it may take time, as it is a massive exercise to be undertaken by Custodian and other committee members. The applicant has also come to understand that the distribution is not likely to take place in near future. Under the circumstances this applicant humbly prays for release of some interim amounts towards the outstanding tax liabilities of the priority period of Respondent No. 2, 3, 4, 5, 6 & 7 under such conditions as this Hon'ble Court deems fit and proper.

33. The applicant states that though the appeals are pending before the Hon'ble ITAT, Mumbai, against the above assessment orders, the applicant is sure that the department is going to succeed in these appeals. The Hon'ble Tribunal is not able to dispose off the appeals as the Respondents No. 2, 3, 4, 5, 6 & 7 have been seeking adjournments after adjournments in the pending appeals. Without prejudice to this, Applicant states that even if the appellate authority concedes on certain issues with the Respondent No. 2, 3 4, 5, 6 & 7 it may not altogether set aside the assessment order. In any event I. T. Act, 1961 is a code by itself and the provisions of refunds with interest enshrined therein takes care of all eventualities.

34. Under the circumstances the applicant humbly prays that the Hon'ble Court may be pleased to release an interim amount towards the tax liability of Respondent No.2, 3, 4, 5, 6, & 7.

PRAYER

35. The Applicant most humbly and respectfully prays:

(a) that this Hon.Court would be pleased u/s. 11(2)(a) of Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992 to direct the Custodian to disburse from the attached assets of the notified assessee, such amount as this Hon'ble Court deems fit and proper on interim basis against balance tax liabilities of the Respondent No. 2 (Late Shri Harshad S. Mehta) to Income Tax Department for the A.yrs. 92-93 and 93-94 of the outstanding demand due and payable amounting to Rs.1395,28,14,401/- (Rupees one thousand three hundred ninety five crores twenty eight lakhs fourteen thousand four hundred and one only).

(b) that this Hon.Court would be pleased u/s. 11(2)(a) of Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992 to direct the Custodian to disburse from the attached assets of the notified assessee, such amount as this Hon'ble Court deems fit and proper on interim basis against balance tax liabilities of the Respondent No. 3 (Smt. Deepika Mehta) to Income Tax Department for the A.yrs. 93-94 of the outstanding demand due and payable amounting to Rs.1,83,35,127/- (Rupees one crore eighty three lakhs thirty five thousand one hundred and twenty seven only).

(c) that this Hon.Court would be pleased u/s. 11(2)(a) of Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992 to direct the Custodian to disburse from the attached assets of the notified assessee, such amount as this Hon'ble Court deems fit and proper on interim basis against balance tax liabilities of the Respondent No. 4 (Smt. Jyoti Mehta) to Income Tax Department for the A.yrs. 92-93 and 93-94 of the outstanding demand due and payable amounting to

(Rs.138,68,00,176/-) (Rupees one hundred thirty eight crores sixty eight lakhs one hundred seventy six only).

(d) that this Hon.Court would be pleased u/s. 11(2)(a) of Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992 to direct the Custodian to disburse from the attached assets of the notified assessee, such amount as this Hon'ble Court deems fit and proper on interim basis against balance tax liabilities of the Respondent No. 5 (Smt. Pratima Mehta) to Income Tax Department for the A.yrs. 92-93 and 93-94 of the outstanding demand due and payable amounting to Rs.5,97,39,028/- (Rupees five crores ninety seven lakhs thirty nine thousand and twenty eight only)

(e) that this Hon.Court would be pleased u/s. 11(2)(a) of Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992 to direct the Custodian to disburse from the attached assets of the notified assessee, such amount as this Hon'ble Court deems fit and proper on interim basis against balance tax liabilities of the Respondent No. 6 (Shri Sudhir S. Mehta) to Income Tax Department for the A.yrs. 92-93 and 93-94 of the outstanding demand due and payable amounting to Rs.5,14,18,344/- (Rupees five crores fourteen lakhs eighteen thousand three hundred and forty four only).

(f) that this Hon.Court would be pleased u/s. 11(2)(a) of Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992 to direct the Custodian to disburse from the attached assets of the notified assessee, such amount as this Hon'ble Court deems fit and proper on interim basis against balance tax liabilities of the Respondent No. 7 (Shri Ashwin S. Mehta) to Income Tax Department for the A.yrs. 92-93 and 93-94 of the outstanding demand due and payable

amounting to Rs.203,23,53,855/- (Rupees two hundred three crores twenty three lakhs fifty three thousand eight hundred fifty five only)

(g) for such further and other orders as the Hon.Court may deem fit and proper in the circumstances of the case.

(h) Cost of application.

Dated this 19th day of August, 2003.



(SHISHIR SRIVASTAVA)
DCIT, CC.23, MUMBAI.

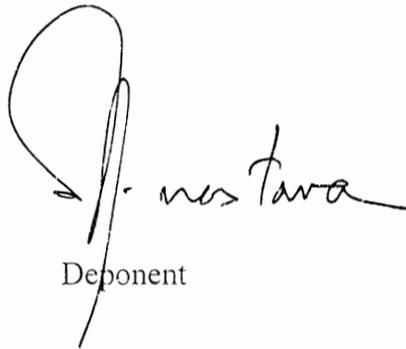
VERIFICATION

I, Shishir Srivastava, Deputy Commissioner of Income Tax, Central Circle.23, Mumbai do solemnly declare and state that the statements made in paras 1 to 34 of the above application are based on information available from the records of the case and I believe the same to be true and the statements in para 35 of the application contains submissions to this Hon. Court and I believe the same to be true.

Solemnly declared at Mumbai)
This 19th day of August, 2003)


(S.S. SARKER)

Advocate for the Applicant
Senior C.G.Advocate,
Aayakar Bhavan, 2nd Floor,
Mumbai.


Deponent

Before me,

Special Court, Mumbai.