

"The Hon'ble Special Court passed an order in MA 120 of 1993 directing Mehtas to disclose their assets and directing Custodian to take steps to appoint Chartered Accountants for drawing the books of accounts from 01.04.1990 to 08.06.1992."

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

APPLICATION NO. 120 OF 1993

The Custodian. Applicant.

Vs.

1. Zest Holding Pvt. Ltd.,
2. Central Bureau of Investigation,
3. The Chief Commnr. of Income Tax. Respondents.

APPLICATION NO. 125 OF 1993

The Custodian. Applicant.

Vs.

1. Velvet Holdings Pvt. Ltd.,
2. Central Bureau of Investigation,
3. The Chief Commnr. of Income Tax. Respondents.

APPLICATION NO. 127 OF 1993

The Custodian. Applicant.

Vs.

1. Mr. Harshad S. Mehta,
2. Central Bureau of Investigation,
3. The Chief Commnr. of Income Tax. Respondents.

APPLICATION NO. 128 OF 1993

The Custodian. Applicant.

Vs.

1. Harsh Estates Pvt. Ltd.,
2. Central Bureau of Investigation,
3. The Chief Commnr. of Income Tax. Respondents.

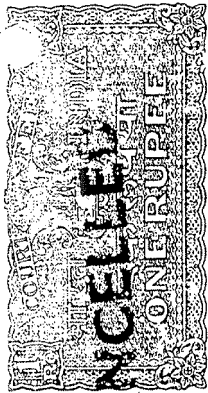
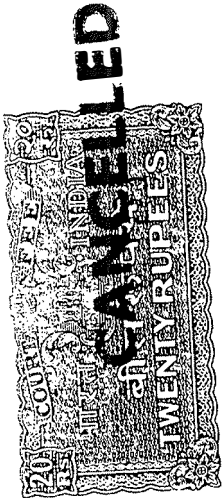
APPLICATION NO. 132 OF 1993

The Custodian. Applicant.

Vs.

1. Treasure Holdings Pvt. Ltd.,
2. Central Bureau of Investigation,
3. The Chief Commnr. of Income Tax. Respondents.

APPLICATION NO. 133 OF 1993



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The Custodian. Applicant.

Vs.

1. Mr. Hitesh S. Mehta,
2. Central Bureau of Investigation,
3. The Chief Commnr. of Income Tax. Respondents.

APPLICATION NO. 134 OF 1993

The Custodian. Applicant.

Vs.

1. Cascade Holdings Pvt. Ltd.,
2. Central Bureau of Investigation,
3. The Chief Commnr. of Income Tax. Respondents.

APPLICATION NO. 135 OF 1993

The Custodian. Applicant.

Vs.

1. Topaz Holdings Pvt. Ltd.,
2. Central Bureau of Investigation,
3. The Chief Commnr. of Income Tax. Respondents.

APPLICATION NO. 136 OF 1993

The Custodian. Applicant.

Vs.

1. Divine Holding Pvt. Ltd.,
2. Central Bureau of Investigation,
3. The Chief Commnr. of Income Tax. Respondents.

APPLICATION NO. 137 OF 1993

The Custodian. Applicant.

Vs.

1. Pallavi Holding Pvt. Ltd.,
2. Central Bureau of Investigation,
3. The Chief Commnr. of Income Tax. Respondents.

APPLICATION NO. 138 OF 1993

The Custodian. Applicant.

Vs.

1. Eminent Holding Pvt. Ltd.,



2. Central Bureau of Investigation,
The Chief Commnr. of Income Tax. Respondents.

APPLICATION NO. 142 OF 1993

The Custodian. Applicant.

Vs.

1. Aatur Holding Pvt. Ltd.,
2. Central Bureau of Investigation,
3. The Chief Commnr. of Income Tax. Respondents.

APPLICATION NO. 143 OF 1993

The Custodian. Applicant.

Vs.

1. Mr. Hitesh S. Mehta,
2. Central Bureau of Investigation,
3. The Chief Commnr. of Income Tax. Respondents.

APPLICATION NO. 144 OF 1993

The Custodian. Applicant.

Vs.

1. Mrs. Deepika A. Mehta,
2. Central Bureau of Investigation,
3. The Chief Commnr. of Income Tax. Respondents.

APPLICATION NO. 145 OF 1993

The Custodian. Applicant.

Vs.

1. Sunrise Enterprises,
2. Central Bureau of Investigation,
3. The Chief Commnr. of Income Tax. Respondents.

APPLICATION NO. 146 OF 1993

1. Mr. Ashwin S. Mehta,
2. Central Bureau of Investigation,
3. The Chief Commnr. of Income Tax. Respondents.

APPLICATION NO. 147 OF 1993

The Custodian. Applicant.

Vs.



1. Mrs. Pramila H. Mehta,
2. Central Bureau of Investigation,
3. The Chief Commnr. of Income Tax. Respondents.

APPLICATION NO. 148 OF 1993

The Custodian. Applicant.

Vs.

1. Orion Travels Pvt. Ltd.,
2. Central Bureau of Investigation,
3. The Chief Commnr. of Income Tax. Respondents.

APPLICATION NO. 149 OF 1993

The Custodian. Applicant.

Vs.

1. Growmore Exports Pvt. Ltd.,
2. Central Bureau of Investigation,
3. The Chief Commnr. of Income Tax. Respondents.

APPLICATION NO. 150 OF 1993

The Custodian. Applicant.

Vs.

1. Fortune Holdings Pvt. Ltd.,
2. Central Bureau of Investigation,
3. The Chief Commnr. of Income Tax. Respondents.

Mr. A. M. Setalwad with Mr. A. S. Rajadhyaksha and Mr. G. R. Joshi i/b P. M. Mithi & Co. for Applicant in all matters.

Mr. Mahesh R. Jethmalani with Mr. Milind Sathe i/b Kanga & Co. for Respondents No. in all matters.

Mr. P. R. Namjoshi with Mrs. T. Katdare for Respondent No. 2 in all matters.

Mr. L. D. Vyas with Mr. S. I. Shah for Respondent No. 3 in all matters.

CORAM: HON'BLE MR. JUSTICE
S. N. VARIAVA.

3rd August 1993.

ORAL JUDGMENT :

In all these Applications, the Custodian



is calling upon the 1st Respondents, all of whom are Notified Parties, the C. B. I. and the Income Tax Authorities to furnish all relevant information and details of properties belonging to these Notified Parties.

Mr. Namjoshi for the C. B. I. and Mr. Vyas for the Income Tax Authorities state that they have no objection and that their clients will supply whatever information is available with them to the Custodian within six weeks from today.

Mr. Jethmalani submits that the 1st Respondents in all these Applications are not involved in any offences. He points out that all these parties have taken out applications for de-Notification. He also points out that all these Applications have been adjourned to 10th January 1994.

He submits that before these parties can be called upon to disclose any of their assets or any Order can be passed against them, the Court must first consider and decide the de-Notification Applications. He submits that even if the Court does not want to take up the de-Notification Applications for early hearing, the Court must even in these Applications first decide whether or not these parties have been rightly Notified..

It must be mentioned that before Mr.

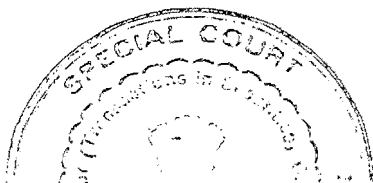


Jethmalani fully argued, this Court had informed him that it might be preferable if such submissions were made after the total picture of assets and liabilities was available before the Court. Mr. Jethmalani was informed that the Court would be in a better position to consider these submissions after the total picture was before the Court. Mr. Jethmalani was therefore informed that it was upto him and his clients to decide whether such submissions should be pressed at this stage or at a more appropriate stage. It was clarified to Mr. Jethmalani that if these were pressed at this stage, then it would not be open to these parties to again agitate these submissions prior to 10th January 1994, i.e., the date on which de-Notification Applications have been adjourned. Mr. Jethmalani suggested to the Court that these submissions would not be pressed at this stage, provided all these parties were allowed to operate their accounts after maintaining the present balances. This would imply modifying the statutory attachment as well as the Orders passed by the C. B. I. under Section 102 of the Criminal Procedure Code. These were not before the Court. This suggestion could hardly be accepted by this Court or any other party in these proceedings. Also the Court does not enter into bargains. The Court only



suggested what appeared to be in the interest of these parties. It was for Mr. Jethmalani and these parties to decide what they wanted to do without any bargaining. After taking instructions, Mr. Jethmalani informed the Court that he was pressing his submissions at this stage.

It must be mentioned that all the de-Notification Applications were filed in 1992. Most of them were not numbered because of non-removal of office objections for a period of at least three months. Thus parties themselves have seen no urgency in these Applications. It must also be mentioned that after this Court was established, Mr. Harshad Mehta, members of his family, Private Limited Companies, firms, etc. have from time to time filed numerous Applications before this Court. Almost all those Applications/Petitions are generally in the names of Harshad Mehta or his brothers Ashwin Mehta or Sudhir Mehta. All such Applications/Petitions were filed as if all these persons/firms/Companies were one group. These Applications are too numerous to be listed but for example Application No. 3 of 1992 may be set out. In this, the Applicant is Mr. Ashwin Mehta. By this Application ~~this~~ permission was sought for release of monies for applying for right shares on behalf of Ashwin Mehta, Deepika Mehta, Harshad



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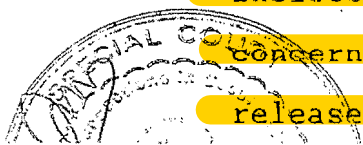
Mehta, Jyoti Mehta, Hitesh Mehta, Pratima Mehta, Rasila Mehta, Sudhir Mehta and Rina Mehta. The payment of amount for shares of all the Mehtas was asked for from Account of Ashwin Mehta, i.e., Account No. 015/BP/07502/00 in Grindlays Bank and Account of Hitesh Mehta in Account No. 015/BP/07493/00 in Grindlays Bank. Another example is Application No. 9 of 1992. This Application was filed by Mr. Ashwin Mehta. Shares to be purchased were of Mr. Harshad Mehta, Jyoti Mehta, Mr. Sudhir Mehta, Rasila Mehta and Rina Mehta. Release of money was sought for from the Account of Mr. Hitesh Mehta, i.e., Account No. 015/BP/7493/00 and the Account of Mr. Ashwin Mehta, i.e., Account No. 015/BP/07502/00 with Grindlays Bank. To be noted that Mr. Ashwin Mehta (the Applicant in that Application) and Mr. Hitesh Mehta were not even share holders in that case. Before it can be argued that this was only in respect of individual Application No. 4 of 1992 can be seen. This Application is by Velvet Holdings Pvt. Ltd., i.e., Respondents No. 1 in Application No. 125 of 1993 on board today. This Application was for permission to complete a contract entered into by this 1st Respondents. For



completing this contract, release of Rs.4.75 crores was sought. This from the money of Mrs. Jyoti Mehta lying with the Stock Exchange. This was granted by the Court. Therefore, upto the date of filing of these Applications, these persons/firms/Companies considered and treated themselves as one group.

When all these de-Notification Applications reached before me on 26th April 1993, it was pointed out to Counsel then appearing that in this state of affairs, and considering the fact that the C. B. I. enquiry was still going on, as well as the fact that the assets and liabilities position of the group was not available before the Court, whether these de-Notification Applications could be taken up by the Court at this stage. At that stage, after some discussion, it was fairly conceded that the Court could not take up the Applications at that stage. It was for that reason that a long date was given and the Applications were adjourned to 10th January 1994.

Thereafter the Court thought it advisable that Applications by one person, for and on behalf of others asking for release of monies from somebody else's account should no longer be allowed. This because on final accounting complications would arise. This Court therefore, insisted that separate Applications be made by the concerned individual/firm/Company and only for release of monies out of the account/s of



that individual/firm/Company. Undoubtedly this has given these parties an idea. Now they are seeking to detach themselves from, to use Mr. Jethmalani's words, "the prime Accused". It must be mentioned that the Court has noticed that today, for all these 1st Respondents, Mr. Jethmalani is taking instructions from Mr. Ashwin Mehta.

Mr. Jethmalani after taking instructions from Mr. Ashwin Mehta, who is present in Court, admitted that all the 1st Respondents are either family members or Private Limited Companies whose only Directors and share holders are family members or partnership firms whose only partners are family members. This Court has been established because public monies have been siphoned out from Financial Institutions and/or Banks into private pockets. Apart from criminal trials, the Court has under Section 11 of the Special Court Act, ^{to} pay off liabilities in the manner set out therein. This from property belonging to Notified Parties. Today the Court cannot ignore the fact that generally speaking when these family members run businesses as a group, there is a large amount of interlinking. Today the Court does not have before it the assets and liabilities picture of any of these 1st Respondents. In my view, the Court must for the present not forget that all these

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individuals/Firms/Private Limited Companies are part of the same family group and were carrying on various businesses as such.

Also in my view, the Court is not sitting here to take up and hear matters, only because parties desire that that must be done. If any person has any submissions to make it must be at the time when the matter is before the Court. In this case, if these parties wanted that their de-Notification Applications should have been taken up expeditiously, it should have been so urged and argued before they were adjourned. On that day Counsel appearing for these parties, for reasons best known to him, chose not to oppose a long adjournment. Merely because the parties have had a re-thinking or are otherwise advised by different Advocates does not mean that the Court must now take up the Applications out of turn. The Application of Mr. Jethmalani that this question be decided in these Applications is nothing else but an attempt to have the de-Notification Applications heard at this stage. So far as the Court is concerned, the situation today is no different from what it was on 26th April 1993, i.e., the date on which these Applications were adjourned to 10th January 1994.

Further in my view, the Court is not



just constituted merely to conduct trials. Under Section 11 of this Act, the Court is also entrusted with the task of paying off liabilities in the manner laid down therein. Today it prima facie appears to Court that monies which have been siphoned off have gone into private pockets. All these 1st Respondents are closely linked to the "Prime Accused". Therefore, ^{whether} they are Notified or not, the Court is entitled to and/or bound to call upon these parties to disclose their assets and to explain as to how they have come in possession of these various assets. Even if these parties had not been Notified, I fail to see how they could have refused to give the relevant information to the Custodian ^{or the Court.} This information is necessary to find out whether any monies siphoned off have gone into the pockets any of these parties. For this reason also I see no substance in the contention of Mr. Jethmalani.

Under these circumstances, the following Orders are passed :

- (a) Applications are made absolute in terms of prayer (a).
- (b) There will also be an Order in terms of prayers (b) and (c). Respondents 2 and 3 to furnish the information within six weeks from today.



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(c) To enable the 1st Respondents to furnish the said information, one or more of the following persons, viz., Mr. Harshad Mehta, Mr. Ashwin Mehta, Mr. Pankaj Shah and Mr. Atul Parekh and a computer specialist will be entitled to attend the office/s of the 1st Respondents between 10 a.m. and 6 p.m. A representative of the Custodian and the C. B. I. will remain present. Prior intimation of intended visit will be given to these parties ~~to~~, to the C. B. I., ~~and~~ the Custodian, and where necessary Income Tax Department. The said persons will be entitled to operate the computers only in the presence of the Officers of Respondents 2 and 3. If necessary Applicant to hire a personal computer to enable compilation of the requisite information.

(d) The Court has been repeatedly told that these parties do not have the requisite staff and/or man power to complete their accounts and therefore cannot give a full and true picture. Presuming this to be correct, I direct that the Custodian will appoint one or more Auditors to prepare and audit the accounts of the 1st Respondents with effect from 1st April 1990. The Auditors will be entitled to obtain all requisite information and documents from the Respondents or any other person/s in possession of the same. They will be entitled to use the computers of



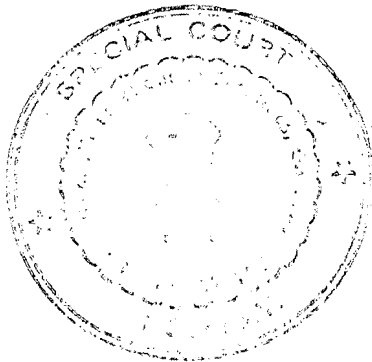
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Respondents No. 1 and the requisite hard discs and floppy discs will be made available to the Auditors by Respondents 2 and 3. The remunerations of the Auditors will be determined by the Custodian. The persons named in clause (c) above will assist the Auditors. The Auditors will complete the work and submit a report to Court as expeditiously as possible and preferably within three months. Auditors will be entitled to furnish reports from time to time as the work is completed.

(e) The remuneration payable to the Auditors to be released from the bank accounts of the Respondents No. 1.

(f) Liberty to apply.

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Applied on 6.8.93
 Pages 14
 Examined by R.M. Kulkarni
 Compared with P.S. Kadam
 Ready on 18.8.93
 Delivered on 19.8.93

Certified to be a true copy
[Handwritten signature]
 OFFICER ON SPECIAL DUTY
 Office of the Special Court
 Bombay.