

**"The Hon'ble Special Court passed an order on 23.12.2016 in MA 8 of 2016 filed by Mehtas against the Custodian and made strong adverse observations in regard to the averment made by the Custodian in his Affidavit dated 30.06.2016. It was observed that with the passage of time, the Custodian's office has taken for granted delays that have occasioned and the Affidavit dodges the main issue. The deponent was directed to remain present on the next date of hearing and Custodian himself was directed to file an elaborate Affidavit explaining the manner in which records are maintained and recoveries made and the casual statement made by the deponent shall be placed before the Custodian to take a view of the steps that need to be taken regarding compliance with orders of Court."**

rrpillai

8-spma-8-2016

**IN THE SPECIAL COURT (TRIAL OF OFFENCES RELATING TO  
TRANSACTIONS IN SECURITIES) ACT, 1992\_  
MISCELLANEOUS APPLICATION NO. 8 OF 2016**

Jyoti Mehta ... Applicant  
vs.  
The Custodian ... Respondent

...

Ms.Ashwin Mehta for the Applicant.

Mr. Milind Jadhav a/w. Ms. Shilpa Bhate i/b Leena Adhvaryu &  
Associates for the Custodian.

...

**CORAM : A.K. MENON, J.**

**Judge, Special Court**

**Date : 23<sup>rd</sup> DECEMBER, 2016.**

**P.C. :**

1. **In this application the applicant seeks particulars of the status regarding recovery of attached assets said to be belonging to the applicant. On a query from the Court Mr. Jadhav, learned Counsel for the manner in which records are maintained as to recovery and compliance to the orders passed by Court from time to time, he states that he will seek instructions. It appears that with passage of time, the Custodian's Office has taken for granted delays that have occasioned and have chosen to now contend that the relief sought in the**

application is "impracticable for compliance". On behalf of the custodian a reply is filed dated 30<sup>th</sup> June, 2016 of one Mr. Valsan Kumar Officer on Special Duty in which the deponent inter alia states as follows:

*"I say that it is absolutely waste of time without any meaningful purpose to look at each and every order passed since 8<sup>th</sup> June 1992 and the principal relief is impracticable for compliance. I however wish to say that this office has always been complying every order of this hon'ble Court."*

2. It is surprising an officer said to be on Special Duty in the Office of the Custodian is choosing to depose that it is waste of time and without any meaningful purpose to look at orders passed by the Court. It is obvious that the office of the Custodian needs to be reminded of its duties cast upon him. The affidavit dodges the main issue in the application. Mr. Jadhav seeks to explain away the affidavit by stating that it is an erroneous statement. However, in my view this cannot be accepted.

3. The deponent shall personally remain present on the next date of hearing and in the mean time to explain the manner in which

compliance with orders passed by the Court, the Office of the Custodian shall depute an Officer who has personal knowledge of the working of the Office of the Custodian to place before the Custodian steps taken for recovery and the manner in which records are maintained by the Office of the Custodian. Let Mr. Jayanti Prasad, the Custodian file an affidavit, explaining the manner in which records are maintained or recoveries made and how the Custodian Office is maintaining records of Orders of the Court and their compliance. The affidavit shall contain all details of how files are maintained in the Office of the Custodian and whether there is any audit of these records at any level.

4. The casual statement made by the deponent in the affidavit dated 30<sup>th</sup> June, 2016 shall be placed before the Custodian in order to take a view as to steps that need to be taken in the matter of maintenance of records and compliance with Orders of Court. Mr. Jadhav seeks some time to comply with this direction. Accordingly, let such affidavit be filed on or before 18<sup>th</sup> January, 2017.

5. Stand over to 20<sup>th</sup> January, 2017.

(A.K. MENON, J.)