

**LEENA ADHVARYU & ASSOCIATES**  
**ADVOCATES**

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2nd & 3rd Floor, Behramji Mansion, 4 Homji Street, Sir P. M. Road, Fort, Mumbai - 400 001.  
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LAA/138 /2016

30<sup>th</sup> June, 2016

To,

**1. Mr. Ashwin Mehta**

CA for the Applicant

Sir,

Re: Before the Special Court at Mumbai  
Misc. Application No. 8 of 2016

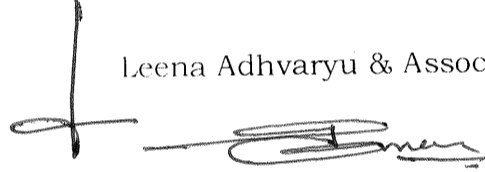
**Jyoti Mehta & Ors V/s The Custodian**

We are concerned for the Custodian Appointed under the provisions of Special Court (TORTS) Act, 1992.

Please find enclosed herewith a copy of the Affidavit in Reply on behalf of the Custodian. Dated 30<sup>th</sup> June, 2016 as & by way of service upon you.

Yours faithfully,

Leena Adhvaryu & Associates



Advocates for the Custodian

Encl: As Above

C.C.

To,

Mr. M. Valsankumar

O.S.D, Custodian Office, Mumbai.

BEFORE THE SPECIAL COURT (TRIAL FOR OFFENCES RELATING TO  
TRANSACTIONS IN SECURITIES) ACT, 1992

MISC. APPLICATION NO.8 OF 2016

Smt. Jyoti H. Mehta & Ors ...Applicant

v/s.

The Custodian ...Respondents

Affidavit in reply on behalf of the Custodian

I, Valsan Kumar, adult, Indian Inhabitant working as an Officer on Special Duty in the office of the Custodian and having my office at 10, Nariman Bhavan, Nariman Point, Mumbai 400 023, do hereby solemnly affirm and state as under:

1. I say that I have read a copy of the Application filed by the Applicants and in reply to the same wish to state as follows.
2. At the outset I say that the reliefs claimed in the present application are general in nature and the same are required to be rejected with appropriate directions. I say that the principal relief claimed by the Applicant, inter alia, relating to recovery of attached assets and disclosing the same can be best explained by the latest position of assets and liabilities of the Applicants. I say that by virtue of order dated 31<sup>st</sup> January 2013 passed in MA 62 of 2012 alongwith several companion applications this Hon'ble Court has held that the Applicants are part of a singular group. 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.
3. At the further outset I say that Exhibit "B" is a list of 46 applications out of which only application at S.No.46 appears to be a current matter wherein orders have been passed and compliance to the effect of filing regular reports is being carried out. I say that it is a impracticable and improper for the Applicants to approach this Hon'ble Court in respect of applications filed several years ago seeking status report without any reason or basis and without

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annexing any of the said orders. I say that the notified parties/applicants have all been parties to the various applications and for recovery the answering Respondent approaches this Hon'ble Court by filing execution applications as and when required. I say that such an omnibus relief requiring the answering Respondent to file a status report after so many years when this Hon'ble Court has passed several interim orders in distribution reports filed by the Custodian is highly improper. I say that the distribution reports filed are testimony to the fact that the recovered assets of the notified party have been applied for distribution. I also wish to state that there are several orders passed in various matters pertaining to sale of properties, shares etc belonging to the Applicants over the past several years which have been complied with.

4. I say that the only basis and/or charge contained in the present application is that the office of the Custodian has acted high handedly and arbitrarily in dealing with the assets of the Applicants. I say that this charge is not only denied but dismissed with contempt as office of Custodian always works under the directions and orders of the Hon'ble Court. I say that the office of Custodian has always adhered to the due process of law at all times and has never transgressed the limitations of law while dealing with attached assets. I therefore dismiss the aforesaid charge levied against the office of custodian and put the applicants to the strict proof of their various allegations contained in the application.
5. I say that insofar as recovery of attached assets is concerned the office of Custodian has always taken the lead to recover the attached assets however, it is at times non cooperative attitude of the notified parties that result into non realization of decrees. Despite this, office of Custodian is taking every step to recover the amount by writing to various authorities to ascertain the details of the judgment debtors. I say that in the last few years the Applicants have been represented by their constituted power of attorney Mr. Ashwin S. Mehta and the Applicants through Ashwin S. Mehta have filed several recovery applications wherein the Custodian has co-operated with the Applicants. I therefore say that the charges levied in the Application are false and incorrect.

6. At the further outset, I say that it is the charge of the Applicants that the Custodian has failed to recover claims of approximately Rs. 4156 crores as contained in Exhibit "C". I say that a glance through Ex. "C" will reveal that the entire claims are in respect of issues which are to the knowledge of the notified parties/applicants. I say that nothing prevented the applicants who were involved in first hand dealing of the securities concerned to initiate recovery proceedings. I say that the Custodian is a statutory authority appointed under the Special Court (Torts) Act, 1992 and was not in existence when the alleged transactions contained in the various applications mentioned in Ex."C" were transacted. Therefore to claim and expect the office of custodian to file recovery application without any tangible evidence for such claims is preposterous in law as the office of Custodian would never be in a position to prove such transactions thus onus is on the applicant to file such applications before the honble court and the office of custodian would take every step to follow it up to realize the amount. I say that the transactions that were effected during the statutory window period i.e. 1/4/1991 to 6/6/1992 and the onus thereof is on the Applicants to prove that the same and seek recovery. I say that the office of Custodian has always been helpful to the Applicants by providing them all details and inspection of data as required by them. In fact by order dated 3<sup>rd</sup> January 2006 in (2006) 2 SCC 385 - Ashwin Mehta Vs The Custodian, the Hon'ble Apex Court, at Para 77(vi), inter alia, directed the Applicants to not only take inspection of all data required by them from the Custodian's office, but also permitted the Applicants to take Xerox copies of the same. I say that pursuant to the above order Mr. Ashwin S. Mehta, inter alia, representing the Applicants visited the office of the Custodian alongwith a Xerox machine for several months for completing the inspection and taking copies of the documents as required by the Applicants. I therefore say that the charge of non-cooperation against the Custodian is untrue.

7. I say that the Custodian has filed distribution report no.26 of 2015, which was with reference to Hon'ble Special Court order dated 10<sup>th</sup> July 2015 in MA No. 135 of 2012, inter alia, pertaining to the Applicants under the provisions of Section 11 of the said Act. I say

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that the assets and liabilities position as on 30<sup>th</sup> September 2015 of the said distribution report is based on Statement of their Tax dues provided by the Income Tax Department. I say that the assertion of the Applicants to consider their version of the assets and liabilities cannot be considered in the absence of the orders of the Hon'ble Special Court. I say that the latest assets and liabilities position qua the Applicants, as on 31<sup>st</sup> March 2016, as furnished by the Income tax Department dated 05<sup>th</sup> April 2016 and 12<sup>th</sup> April 2016 is hereto annexed and marked as **Exhibit "A" and "B"**. I say that the entire liabilities are in excess of available assets. I say that there are several assets claimed by the Applicants which are yet to be crystalized and received in the attached account.

8. With reference to paragraph nos. 1 to 4, I do not wish to offer my comments on the same.
9. With reference to paragraph 5 and 7 I say that the allegations levelled by the Applicants in the aforementioned paragraphs are vague, uncertain, devoid of merit and not true. I say that the office of the Custodian has always discharged its duty as per the directions and orders passed by the Hon'ble Special court. I say that the Applicant by making such frivolous and repetitive Applications is trying to raise the same issue again and again so as to prejudice the Hon'ble Court and malign the office of the Custodian with wild allegations.
10. With reference to paragraph nos. 8 and 9, I say that in the foregoing paragraphs the Applicants have raised very serious issues and allegations without any proof thereof thus the Applicants may be put to the strict proof thereof. I say that the Applicant is merely interested in maligning the office of the Custodian by making such untrue, unsubstantiated, incorrect allegations. I say that all the allegations raised by the Applicants are completely baseless and without any relevance whatsoever. I say that the office of Custodian has always conducted itself on the basis of the various orders directions and guidelines made by the Hon'ble Special Court. I say that the Applicants are merely making false allegations with no documentary evidence of any kind.

11. In view of the above I say that the present application be dismissed and cost may be imposed upon the applicant for filing frivolous applications time and again.

Solemnly affirmed at Mumbai, )

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This 30<sup>th</sup> day of Jun, 2016 ) Before me,

Leena Adhvaryu & Associates

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Advocates for the Custodian

**VERIFICATION**

I, M. Valsankumar, of Mumbai, Indian Inhabitant, O.S.D in the Office of the Custodian above named, solemnly declare that what is stated in the foregoing paragraphs is true to my knowledge.

Solemnly affirmed at Mumbai, )

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This 30<sup>th</sup> day of Jun, 2016 ) Before me,

Leena Adhvaryu & Associates

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Advocates for the Custodian

# Exhibit A



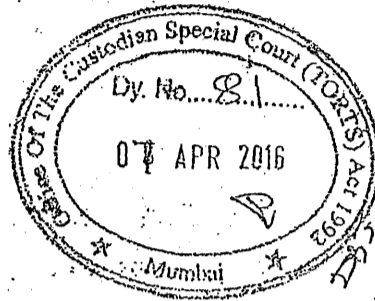
Office of the  
DEPUTY COMMISSIONER OF INCOME TAX,  
Central Circle – 4(3), Central Range – 4,  
Room No. 1921, 19<sup>th</sup> Floor, Air India Building,  
Nariman Point, Mumbai 400 021.

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No. DCIT-CC-4(3)/HSM Demand/2016-17

Date: 05.04.2016

Deputy Secretary,  
Office of the Custodian,  
The Special Court (TORTS) Act, 1992,  
Banking Division, DoFS, MoF,  
10th Floor, Nariman Bhavan, 227 V K Shah Marg,  
Nariman Point, Mumbai.



Sir,

Sub: Forwarding the demand of the Harshad Mehta Group Corporate as on 31.03.2016 – Reg.  
Ref: Your letter No 3347/CUS/BOM/OUTSTANDING IT LIABILITY OF HMG (2626) dated October 31, 2012 addressed to the CIT(C) – II, Mumbai.

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Kindly refer to the above.

- Please find enclosed a copy of the statement of the outstanding demand of the Harshad Mehta Group (Fifteen Corporate) as on 31.03.2016.
- The above demand is net of the disbursements made so far by the Hon'ble Special Court and the TDS credit allowed along with such disbursements. The above demand is also net of the effects given to the orders of the Income Tax Appellate Tribunal and the Commissioner of Income Tax (Appeals) received upto 31<sup>st</sup> March 2016.

Yours faithfully,

[ N. Ashok Babu ]  
Deputy Commissioner of Income Tax,  
Central Circle-4(3), CR-4, Mumbai.

Copy forwarded for information to:

- The Commissioner of Income Tax (Central) – 2, Mumbai.
- The Additional Commissioner of Income Tax, Central Range – 4, Mumbai.

TOTAL DEMAND OUTSTANDING AS ON 31.03.2016		DCIT -CC-4(3), Mumbai						
Sr.No	Name of the assessee	Amount in lacs					Priority Period Demand	Non Priority Period Demand
		Tax	Penalty	Interest	Total			
1	Zest Holdings P Ltd	51326761	8407533	57478494	117212788	18272623	98940165	
2	Treasure Holdings P Ltd	303395	716355	2822178	3841928	3269909	572019	
3	Velvet Holdings	23930065	13256477	17176343	54362885	6078256	48284629	
4	Topaz Holdings	872167	916320	2279406	4067893	1590530	2477363	
5	Pallavi Holdings	11364698	40000	12945008	24349706	0	24349706	
6	Orion Travels P Ltd	8004825	35412858	43475936	86893619	52685872	34207747	
7	Harsh Estates P Ltd	34542522	3592633	61272952	99408107	15136110	84271997	
8	Growmore leasing	464423820	115364474	534270208	1114058502	97372673	1016685829	
9	Growmore asset management	2154994015	24579013	4276557745	6456130773	1251947808	5204182965	
10	Growmore Exports	57642760	4587626	271767220	333997606	201563141	132434465	
11	Fortune Holdings	38861654	123752069	169963038	332576761	163512064	169064697	
12	Eminent Holdings	11338984	1834977	12774125	25948086	2157000	23791086	
13	Divine Holdings	18533642	22157557	44468263	85159462	48412582	36746880	
14	Cascade Holdings	25494463	650006747	2750467429	3425968639	3276900283	149068356	
15	Aatur Holdings	10037457	128454	10762979	20928890	5905486	15023404	
	<b>Total</b>	<b>2911671228</b>	<b>1004753093</b>	<b>8268481324</b>	<b>12184905645</b>	<b>5144804337</b>	<b>7040101308</b>	



Exhibit B

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**INCOME-TAX DEPARTMENT**

**OFFICE OF THE**

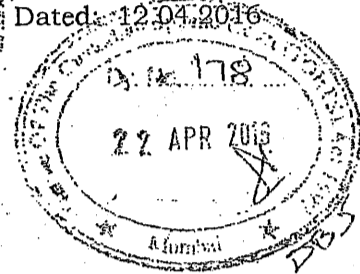
**Jt. COMMISSIONER OF INCOME-TAX, (OSD) CENTRAL CIRCLE 4(1)**

**Room No. 1916, 19th Floor, Air India Building, Nariman Point,  
Mumbai- 400 021.**

No. JCIT(OSD) C.C.4(1)/2016-17

Dated: 12.04.2016

**Shri V C SADARANGANI,**  
Deputy Secretary,  
Office of the Custodian,  
The Special Court (TORTS) Act, 1992,  
Banking Division, DoFS, MoF,  
10<sup>th</sup> Floor, Nariman Bhavan, 227 V K Shah Marg,  
Nariman Point, Mumbai.



Sir,

**Subject: Forwarding the demand of the Harshad Mehta Group  
Individuals as on 31.3.2016 - Regarding**

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Kindly refer to the above.

2. Please find enclosed a copy of the statement of the outstanding demand of the **Harshad Mehta Group (nine individuals) as on 31.3.2016.**

The above demand is net of the disbursements made so far by the Hon'ble Special Court and the TDS credit allowed along with such disbursements. The above demand is also net of the effects given to the orders of the Income Tax Appellate Tribunal and the Commissioner of Income Tax (Appeals) received up to 31.3.2016.

Yours faithfully,



**(RAJNI RANI ROY)**

Jt. Commissioner of Income-tax  
(OSD) Central Circle -4(1), Mumbai.

Copy forwarded for information to:

1. The Commissioner of Income Tax (Central) - II, Mumbai.
2. The Additional Commissioner of Income Tax, Central Range - 4, Mumbai.

Jt. Commissioner of Income-tax  
(OSD) Central Circle -4(1), Mumbai.

Enclosures as above.

TOTAL DEMAND IN THE CASE OF HSM GROUP INDIVIDUALS 31.3.2016								
Sr. No.	Name of the Assessee	Income tax priority period	income tax non priority period	Total income tax demand	wealth tax priority period	wealth tax non priority period	total wealth tax demand	TOTAL(in Rs)
1	Harshad mehta	153670308106.00	19158651378	172828959484.00	2576236290	697841176	3274077466	176103036950.00
2	Jyoti Mehta	3362622826	1316070143	4678692969.00	1066462486	4366137	1070828623	5749521592.00
3	Hitesh Mehta	0	735094835	735094835.00	18981271	3444079	22425350	757520185.00
4	Pratima Mehta	115893452	761789250	877682702.00	63823498	8116730	71940228	949622930.00
5	Deepika mehta	99279605	493436589	592716194.00	76817918	11945478	88763396	681479590.00
6	Sudhir Mehta	470926672	986047840	1456974512.00	117281248	14952460	132233708	1589208220.00
7	Ashwin Mehta	19736986335	1029606703	20766593038.00	40237319	9534751	49772070	20816365108.00
8	Rasila Mehta	194675360	595198747	789874107.00	32650614	5000089	37650703	827524810.00
9	Rina Mehta	878832100	602045156	1480877256.00	20131721	0	20131721	1501008977.00

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**BEFORE THE SPECIAL COURT  
CONSTITUTED UNDER THE  
SPECIAL COURT (TRIAL OF OFFENCES  
RELATING TO TRANSACTIONS IN  
SECURITIES) ACT, 1992**

MISC. APPLICATION NO. 8 OF 2016

Jyoti H. Mehta & Ors , ...Applicant

Versus

The Custodian & Ors. ...Respondents

**Affidavit- in Reply on behalf of the  
Custodian**

Dated 30<sup>th</sup> day of Jun , 2016

Leena Adhvaryu & Associates  
Advocates for the Custodian  
2<sup>nd</sup> & 3<sup>rd</sup> floor, Behramji Mansion,  
4 Homji Street, Sir P.M. Road,  
Fort, Mumbai - 400 001.