

ASHWIN S. MEHTA

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

M.A. NO. ^{D-27563} OF 2017
MA 1077 2017

CIVIL APPEAL NO.6326 OF 2010

IN THE MATTER OF:

JYOTI H. MEHTA & ORS.

... APPELLANTS/
APPLICANTS

VERSUS

THE CUSTODIAN & ORS.

... RESPONDENTS

**APPLICATION FOR CLARIFICATION OF ORDERS
DATED 02.05.2017 AND 08.05.2017 PASSED BY
THIS HON'BLE COURT IN CIVIL APPEAL NO. 6326
OF 2010**

PAPER - BOOK
(KINDLY SEE INDEX INSIDE)

Ms. KAMINI JAISWAL
ADVOCATE FOR THE APPELLANT/APPLICANTS

I N D E X

| SR | PARTICULARS | PAGES |
|----|--|---------|
| 1. | INTERIM APPLICATION FOR CLARIFICATION OF ORDERS DATED 02.05.2017 AND 08.05.2017 WITH AFFIDAVIT | 1 - 10 |
| 2. | <u>ANNEXURE A-1</u> A true copy of the Order dated 02.05.2017 passed by this Hon'ble Court in C.A. no. 6326 of 2010 | 11 - 16 |
| 3. | <u>ANNEXURE A-2</u> A true copy of the Order dated 08.05.2017 passed by this Hon'ble Court in C.A. no. 6326 of 2010 | 17 |
| 4. | <u>ANNEXURE A-3</u> Chart giving particulars and computation of underpayment made by revenue of Rs.453.84 crores | 18 |
| 5. | <u>ANNEXURE A-4</u> Chart presented by revenue before this Hon'ble Court offering refund of Rs.192.54 crores | 19 |
| 6. | <u>ANNEXURE A-5</u> Copy of letter dated 24.07.2017 and 25.07.2017 addressed by revenue to Custodian forwarding cheques for refund of Rs.329.71 crores | 20 - 25 |
| 7. | <u>ANNEXURE A-6</u> Chart disclosing the claim of the Applicants on revenue for refund of Rs.783.55 crores | 26 |
| 8. | <u>ANNEXURE A-7</u> Copy of letter dated 02.08.2017 addressed by Shri Ashwin S Mehta to revenue requesting them to furnish computation and break up of amounts of refund between tax and interest. | 27 - 53 |
| 9. | <u>ANNEXURE A-8</u> Copy of order dated 26.08.1996 passed by this Hon'ble Court in Civil Appeal No.5326 of 1995 and Civil Appeal No.5147 of 1995 | 54 - 58 |

10. **ANNEXURE A-9**
Copy of Undertaking dated 04.09.1996 filed by revenue in Civil Appeal No.5326 of 1995 59 – 60
11. **ANNEXURE A-10**
Chart disclosing complete details of monies released to revenue against their demand for tax 61 – 62
12. **ANNEXURE A-11**
Chart disclosing dates of orders of reliefs by Hon'ble C.I.T (A) and the dates of Order Giving Effect passed by A.O 63
13. **ANNEXURE A-12**
Sample copy of identical letters dated 26.05.2012 addressed by the Applicants to revenue calling upon them to refund monies due before Special Court 64 – 70
14. **ANNEXURE A-13**
Copies of orders of refund issued by the revenue to the Applicants in the year 2012 offering interest u/s 244-A of the Income Tax Act from the date of release of monies. 71 – 82

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

M.A. NO. OF 2017

IN

CIVIL APPEAL NO.6326 OF 2010

IN THE MATTER OF:

JYOTI H. MEHTA & ORS.

... APPELLANTS

VERSUS

THE CUSTODIAN & ORS.

... RESPONDENTS

AND IN THE MATTER OF:

| | | <u>POSITION OF PARTIES</u> | |
|----|---|-----------------------------------|--------------------|
| | | BEFORE SPECIAL | BEFORE THIS |
| | | COURT | COURT |
| 1. | Mrs. Jyoti Harshad Mehta Legal heir of Harshad S Mehta No.1a Madhuli, 3 rd & 4 th Floors, Dr Annie Besant Road, Worli, Mumbai 400 018 | Respondent No.1a | Appellant |
| 2. | Shri Ashwin S Mehta Madhuli, 3 rd & 4 th Floors, Dr Annie Besant Road, Worli, Mumbai 400 018 | Respondent No.2 | Appellant |
| 3. | Shri Hitesh S Mehta Madhuli, 3 rd & 4 th Floors, Dr Annie Besant Road, Worli, Mumbai 400 018 | Respondent No.3 | Appellant |
| 4. | Smt. Jyoti Harshad Mehta Madhuli, 3 rd & 4 th Floors, Dr Annie Besant Road, Worli, Mumbai 400 018 | Respondent No.4 | Appellant |
| 5. | Smt. Deepika A Mehta Madhuli, 3 rd & 4 th Floors, Dr Annie Besant Road, Worli, Mumbai 400 018 | Respondent No.5 | Appellant |
| 6. | Smt. Pratima H Mehta Madhuli, 3 rd & 4 th Floors, Dr Annie Besant Road, Worli, Mumbai 400 018 | Respondent No.6 | Appellant |
| 7. | M/s Aatur Holdings Pvt. Ltd Madhuli, 3 rd & 4 th Floors, Dr Annie Besant Road, Worli, Mumbai 400 018 | Respondent No.7 | Appellant |

8. Sudhir S Mehta
Madhuli, 3rd & 4th Floors,
Dr Annie Besant Road,
Worli, Mumbai 400 018 Respondent No.9 Appellant

VERSUS

1. The Custodian
Having Office at 10th Floor,
Nariman Bhavan,
Nariman Point,
Mumbai 400 021 Petitioner No. Contesting
Respondent
2. Commissioner of Income Tax
(Central II), Mumbai
Having Office at Aayakar
Bhavan, M K Road,
Mumbai 400 020 Respondent No.8 Contesting
Respondent
3. Standard Chartered Bank
Having its Branch Office at
23-25 Mahatma Gandhi Rd
Mumbai 400 001 Intervenor/
Respondent Proforma
Respondent
4. State Bank Of India
Having its local Head Office
At State Bank Bhavan,
Madam Cama Road,
Mumbai 400 001 Intervenor
Respondent Proforma
Respondent
5. SBI Capital Markets Ltd
Having its Registered Office
At 202 Maker Tower E,
Cuffe Parade
Mumbai 400 005 Intervenor
Respondent Proforma
Respondent
6. Smt Rasila S Mehta
Legal heir of Harshad S Mehta No.1b
Madhuli, 3rd & 4th Floors,
Dr Annie Besant Road,
Worli, Mumbai 400 018 Respondent No.1b Proforma
Respondent
7. Shri Aatur Harshad Mehta
Legal heir of Harshad S Mehta No.1c
Madhuli, 3rd & 4th Floors,
Dr Annie Besant Road,
Worli, Mumbai 400 018 Respondent No.1c Proforma
Respondent

**APPLICATION FOR CLARIFICATION ORDER
DATED 02.05.2017 AND 08.05.2017 PASSED
BY THIS HON'BLE COURT IN CIVIL APPEAL
NO. 6326 OF 2010**

To
The Hon'ble Chief Justice
And His Companion Justices of
Hon'ble Supreme Court of India

The Humble Application of the Applicant
above named.

MOST RESPECTFULLY SHEWETH

1. The Applicants are Appellants in the aforesaid Civil Appeal No. 6326 of 2010 which has culminated into two orders passed by this Hon'ble Court being orders dated 02.05.2017 and 08.05.2017. That in the said orders, directions were given to the revenue to refund a sum of Rs.192.54 crores together with interest @ 18% p.a. A true copy of the Order dated 02.05.2017 passed by this Hon'ble Court in C.a. No. 6326 of 2010 is annexed herewith and marked as **ANNEXURE A-1 (Pages Nos. 11 to 16)**. And A true copy of the Order dated 08.05.2017 passed by this Hon'ble Court in C.a. No. 6326 of 2010 is annexed herewith and marked as **ANNEXURE A-2 (Pages Nos. 17)**.
2. The Applicants are aggrieved that the revenue department has made payment of interest of Rs.329.71 crores on the last date of compliance of the order so passed by the Court on 02.05.2017 duly corrected on 08.05.2017. This Hon'ble Court directed to pay interest @ 18% p.a. from the date on which the amount was realized from the bank account of the Applicants. It appears that the Department wrongly interpreted the order and paid interest from the date of refund. Subsequently the Applicants found that there is a mistake that cropped up in the Court order itself, since it is stated from the date of refund. In fact, the Applicants could not point out the said error since the holidays intervened and due to

other circumstances, tried to apply to file this application for such a correction.

3. According to the Applicants, the revenue has underpaid a sum of Rs.453.84 crores. Hence the Applicants are constrained to file the present Application to bring to all the facts on record regarding non compliance by the revenue to the knowledge of this Hon'ble Court and seek appropriate reliefs in that regard. The Applicants enclose a chart at **ANNEXURE A-3 (Page Nos. 18)** giving particulars and computation of aforesaid amount of underpayment of Rs.453.84 crores.

4. The Applicants state that through the letter dated 01.05.2017, the revenue was presented facts and particulars regarding the release of Rs.3251.77 crores to it as well as particulars of their claims of refund of Rs.5552.70 crores. The Applicants state that the revenue was furnished with Computation of Claims of refund together with interest amounting to a sum of Rs.874.23 crores which was due and payable by revenue under orders of refund amounting to Rs.229.66 crores together with interest computed upto 31.03.2017. Thus the revenue was aware that we have made a claim for refund together with interest at Rs. 874.23 crores.

5. The Applicants state that on 2.5.2017, revenue confirmed before this Hon'ble Court and offered Rs.192.54 crores as per a chart, a copy of which is annexed herewith and marked as **ANNEXURE A-4 (Page Nos. 19)**. Based on the said chart, this Hon'ble Court on 02.05.2017 was pleased to pass the following directions:

Para 2 “During the course of hearing, we have been handed over a Report including a Chart, a perusal whereof would show that refund of tax due to the assessee amounts to Rs.192.54 crores”.

Para 3 “Therefore, we direct the Income Tax Authorities to pay the said amount of Rs.192.54 crores to the Custodian with interest at the rate of 18% from the date of passing of the refund order within a period of 12 weeks from today.”

The Applicants state that the aforesaid direction in Para 3 was thereafter modified on 08.05.2017 to clarify that the rate of interest would be 18% p.a.

6. The Applicants bona fide believed that in accordance with law and as per, orders earlier passed, and as per undertakings executed by the revenue, the revenue will refund the sum of Rs.192.54 crores together with interest computed at 18% p.a. from the date of receipt of monies till the date of refund i.e. 25.07.2017. However, the revenue has refunded only Rs.329.71 crores on 25.7.2017 without intimation to them and without furnishing the computation thereof and which is not furnished till date despite repeated request by the Applicants.

7. The Applicants state that earlier on 02.05.2017, the revenue had vehemently pleaded that the rate of interest may be reduced from 18% p.a to 15% p.a. and to grant them a moratorium for 3 months in payment of interest. However, the above prayers made by the revenue for relaxation in rate of interest were rejected by this Hon'ble Court.

8. The Applicants state that in the afternoon of 25.07.2017, upon enquiry, they were informed by the office of the Custodian about receipt of Rs.329.71 crores from revenue under cover of

letters dated 24.07.2017 and 25.07.2017, and a copy of each is annexed herewith and marked as **ANNEXURE A-5 (Pages Nos. 20 to 25).**

9. The Applicants state that the revenue has made payment to Custodian of only Rs.329.71 crores against the claim of the Applicants amounting to Rs.783.55 crores computed as per chart annexed herewith and marked as **ANNEXURE A-6 Pages Nos. 26).** The Applicants state that by paying a sum of Rs.329.71 crores the revenue has underpaid Rs.453.84 crores thereby committing a deliberate, conscious, and wilful default in making compliance with the orders of this Hon'ble Court dated 02.05.2017 and 08.05.2017 with an ulterior object to underpay the Applicants and create a dispute where none exists.

10. The Applicants state that being aggrieved by the aforesaid conduct of the revenue on 02.08.2017, they have addressed a letter to the revenue requesting it to furnish computation and break up of amounts of principal and interest refunded on an entity-wise basis. A copy of the said letter dated 02.08.2017 addressed by Shri Ashwin S. Mehta to revenue is annexed herewith and marked as **ANNEXURE A-7 (Page Nos. 27 to 53).** The Applicants state that revenue has failed to reply to the letters addressed by them.

11. The Applicants state that they have computed the refund amount of Rs. 783.55 crores in accordance with law and as per orders passed by this Hon'ble Court and Special Court, in respect of payment of interest and as per the undertakings filed by the revenue to seek release of monies. The Applicants in support of their claim for refund rely upon following:-

- i) The order of this Hon'ble Court dated 26.08.1996 in C.A. No.5326 of 1995 and C.A No.5147 of 1995, a copy whereof is annexed herewith and marked as **ANNEXURE A-8 (Page Nos. 54 to 58)**, whereby this Hon'ble Court released a sum of Rs.193.71 crores towards demands directing the revenue to pay interest at a rate of not less than 18% per annum from the date of receipt until the date of return thereof.
- ii) Undertaking of the revenue filed on 04.09.1996, a copy whereof is annexed herewith and marked as **ANNEXURE A-9 (Page Nos. 59 to 60)**.
- iii) A true copy of the Chart disclosing details of monies released to revenue against Undertakings executed by it for release against their demands for tax is annexed herewith and marked as **ANNEXURE A-10 (Page Nos. 61 to 62)**, giving complete particulars of the dates of orders of release and type of undertakings filed by the revenue. It can be seen from the above chart that atleast five undertakings are filed by the revenue stating that the interest will be paid by it from the date of receipt of monies till the date of return, and three undertakings have been filed that it will bring back the monies together with interest on such terms and conditions as may be directed by the Hon'ble Courts.
- iv) That even under the Income Tax Act they are entitled to refund of monies u/s.240 of the IT Act without any requirement of making a request to the Assessing Officer (A.O.). That in terms of Section 244 (a) of the Income Tax Act, interest is payable by the revenue covering the period for which the monies belonging to the assessee are enjoyed by the department.
- v) That infact they were entitled to refund of monies several years ago both under the Torts Act as well as Income Tax Act pursuant to reliefs granted by Hon'ble C.I.T (A) in 2012 and in support of above contentions a

true copy of the chart disclosing dates of orders of reliefs by Hon'ble C.I.T. (A) and the dates of Order giving effect passed by A.O. is annexed herewith and marked as **ANNEXURE A-11 (Page Nos. 63)**. A true sample copy of the letter dated 26.05.2012 addressed by the Applicants to revenue calling upon them to refund monies due to the Applicants before Special Court is annexed herewith and marked as **ANNEXURE A-12 (Page Nos. 64 to 70)**.

- vi) That there exists several precedents where under the revenue has paid interest covering the period for which monies with lying with it under the orders of Special Court, and the Applicants crave leave to refer to and rely upon the proceedings in M.A No.510 of 2003, M.A No.504 of 2005, and M.A No.545 of 2005 as and when produced.
- vii) That the revenue itself in the orders of its refunds issued in the year 2012 offered interest u/s 244-A of the Income Tax Act from the date of release of monies, and in support of the above, copies of orders of refund are enclosed at **ANNEXURE A-13 (Page Nos. 71 to 82)**.
- viii) That after the law was laid down by this Hon'ble court in the year 1998, the revenue was not entitled to any release of monies and as such the monies have been enjoyed by revenue illegally since 1998 onward till 25.7.2017 when the refund was made only of a fraction of large refunds due to the Applicants.

12. The Applicants state that from the aforesaid facts, it becomes absolutely clear that the revenue has consciously violated the orders of this Hon'ble Court to underpay an amount of Rs.453.84 crores. That therefore the amount of Rs.329.71 crores paid by the revenue is first liable to be appropriated towards the claim of the Applicants for interest on refunds due to them as the revenue cannot enjoy the fruits of its own wrong and violations consciously committed by it of the orders of this Hon'ble Court.

13. The Applicants respectfully submit that when this Hon'ble Court did not grant the request repeatedly made by the revenue to award lower rate of interest the revenue has now circumvented the order to pay interest @ 18% p.a. by refunding much lesser amount on the last date without information and without providing the computation of interest to the Applicants so that they cannot take up the issue of compliance.

14. In the facts and circumstances, the Applicants state that this Hon'ble Court may be pleased to grant reliefs to the Custodian in the interest of justice by directing revenue to pay interest @ 18% p.a. from the date of receipt of monies instead of date of refund.

PRAYERS

15. In the facts narrated above the Applicants humbly pray to this Hon'ble Court as under:-

- a) That this Hon'ble Court may be pleased to direct revenue to forthwith refund the amounts due and payable to the Custodian with interest computed at the rate of 18% p.a. payable from the date of release of monies till the date of its repayment.
- b) That this Hon'ble Court may be pleased to direct and clarify that the sum of Rs.329.7 crores paid by the revenue may be first appropriated towards the claim of interest of the Applicants as filed by the Applicants at ANNEXURE A- to the present Application.
- c) Any other just and equitable orders be passed in the interest of justice.

FILED BY

Ms. KAMINI JAISWAL
ADVOCATE FOR THE APPELLANT
/APPLICANT

Drawn By:
Ashwin S. Mehta, Advocate

Filed On: 31.08.2017

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

M.A No. _____ OF 2017

IN

CIVIL APPEAL No. 6326 OF 2010

IN THE MATTER OF:

SMT JYOTI MEHTA & ORS. ...APPELLANTS

VERSUS

CUSTODIAN & ORS ...RESPONDENT

AFFIDAVIT

I, Jyoti H. Mehta, Appellant, Adult, Indian Inhabitant, R/o Madhuli, Dr. Annie Besant Road, Worli Mumbai - 400018, do hereby solemnly affirm and declare as under:

1. That I am the Appellant herein, well conversant with the facts and records of the Civil Appeal and therefore, competent to swear this affidavit.
2. That I have read and understood the contents of the accompanying Application for Clarification order Dated 02.05.2017 and 08.05.2017 and the contents thereof are true to my knowledge and records of the case.
3. I further state that all the Annexures to this Application for Clarification are true copies of their respective originals.

DEPONENT

VERIFICATION:

I the above named deponent do hereby verify that the contents of the aforesaid affidavit from Para 1 to 3 are true and correct to the best of my knowledge and belief, no part of it is false nothing material has been concealed there from.

Verified at Mumbai on this ____ day of August, 2017

DEPONENT

Annexure-A-1

11

1

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 6326 OF 2010

JYOTI H. MEHTA & ORS.

Appellant(s)

VERSUS

THE CUSTODIAN AND ORS

Respondent(s)

O R D E R

1) We have heard Ms. Kamini Jaiswal, learned Counsel appearing for the appellants and Mr. K.K. Venugopal, Mr. Subramonium Prasad, Mr. C.A. Sundaram, Mr. Beni Chatterji, learned Senior Counsel appearing for the respondents at considerable length.

2) During the course of hearing, we have been handed over a Report including a Chart, a perusal whereof would show that refund of tax due to the assessee amounts to Rs. 192.54 crores.

3) Therefore, we direct the Income Tax Authorities to pay the said amount of Rs.192.54 crores to the Custodian with interest at the rate of 18% from the date of passing of the refund order within a period of 12 weeks from today.

4) It is made clear that this direction has been given, having regard to the peculiar facts of this case, and shall not be treated as a precedent.

5) The orders (Ninety) which have already been passed by the ITAT
Signature valid
Digitally signed by
R. J. K. P. V. S. S.
Date: 2010.11.17:23:54:11
Reason:
affecting the Revenue to re-frame the assessment by taking into account the evidence of books of accounts should be decided by the Assessing Authority within a period of 12 weeks from today.

6) Insofar as the "group issue" is concerned, we find that it is covered against the appellants by this Court in Rasila S. Mehta and Others vs. Custodian, Nariman Bhavan, Mumbai, (2011) 6 SCC 220.

7) Insofar as the flats in question are concerned, no steps including selling of the same shall be taken until final distribution is made by the Custodian.

8) The status quo orders passed by this Court in C.A. No. 2579/2011 dated 14.03.2011, C.A. No. 8437/2011 dated 30.09.2011 and C.A. 2563/2012 dated 24.02.2012 stand vacated at this stage insofar as it pertains to the amounts due and payable to the banks as per chart submitted in the Court, excepting Canfina, which is reproduced hereunder:

"The total Principal Decree amount that is yet to be disbursed/released/distributed to the Banks/FIs is Rs. 639.09 crores.

| | |
|-----------------------------|----------------|
| 1. Standard Chartered Bank | Rs. 506.53 Cr. |
| 2. State Bank of India-Cap. | Rs. 16.25 Cr. |
| 3. State Bank of India | Rs. 91.31 Cr." |

9) The Custodian is directed to disburse the said amounts to the Banks subject to the usual Affidavit-cum-Undertaking stating therein that the concerned Bank (s) shall bring back the amount or any part thereof, if so directed by the concerned Court, on such terms and conditions as may be directed.

13

10) The appeal is disposed of in the above terms.

..... J.
(PINAKI CHANDRA GHOSE)

..... J.
(ROHINTON FALI NARIMAN)

New Delhi;
May 02, 2017.

14

ITEM NO.101

COURT NO.6

SECTION XVII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 6326/2010

JYOTI H.MEHTA & ORS.

Appellant(s)

VERSUS

THE CUSTODIAN AND ORS

Respondent(s)

(with appln. (s) for stay and ex-parte stay and office report)

WITH

C.A. No.9339/2010

(With appln.(s) for stay and permission to file addl. affidavit and office report)

C.A. No.9338/2010

(With office report)

C.A. No.9342/2010

(With appln.(s) for stay and permission to file addl. affidavit and office report)

C.A. No.3284/2011

(With office report)

C.A. No.3285/2011

(With office report)

C.A. No.3286/2011

(With office report)

C.A. No.2580/2011

(With office report)

C.A. No.2579/2011

(With appln. (s) for directions and office report)

C.A. No.8437/2011

(With appln.(s) for clarification/modification of Court's order and impleadment and office report)

C.A. No.2563/2012

(With office report)

C.A. No.799/2014
(With Office Report)

C.A. No.2672/2009
(With Office Report)

Date : 02/05/2017 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE PINAKI CHANDRA GHOSE
HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN

Counsel for parties:-

Ms. Kamini Jaiswal, AOR
Mr. Ashwin S. Mehta, Adv.
Ms. Rani Mishra, Adv.
Mr. Jatinderpal Singh, Adv.

Mr. K.K. Venugopal, Sr. Adv.
Mr. Jaideep Gupta, Sr. Adv.
Ms. Anindita Mitra, Adv.
Ms. B. Vijayalakshmi Menon, AOR
Ms. Anuradha Dutt, Adv.
Ms. Fereshte D. Sethna, Adv.
Mr. Munindra Dvivedi, Adv.
Mr. Anuj Shah, Adv.
Mr. Dhritiman Roy, Adv.
Mr. Chaitanya Kaushik, Adv.

Mr. Subramonium Prasad, Sr. Adv.
Mr. Arvind Kumar Tewari, Adv.
Mr. Utakrsh Srivastava, Adv.
Ms. Shama Sharma, Adv.

Ms. Pinky Anand, ASG
Mr. Beni Chatterji, Sr. Adv.
Mr. K. Radhakrishnan, Sr. Adv.
Ms. Shilpa Goel, Adv.
Mr. Atulesh Kumar, Adv.
Mr. Syed Abdul Haseeb, Adv.
Ms. Anil Katiyar, AOR
Ms. Sadhna Sandhu, Adv.
Ms. Snidha Mehra, Adv.
Mr. M.K. Maroria, Adv.

Mr. Shivendra Singh, Adv.
Mr. Ramendra Mohan Patnaik, AOR

Mr. A.B. Dial, Sr. Adv.
Mr. Rajiv Nanda, AOR

Mr. Kunal Anand, Adv.
 Mr. C.A. Sundaram, Sr. Adv.
 Mr. Tushad Cooper, Adv.
 Mr. Zubin Morris, Adv.
 Ms. Ramni Taneja, Adv.
 Mr. Anil Shrivastav, AOR

Mr. Shreekant N. Terdal, AOR

Mr. E.C. Agarwala, AOR

M/s Fox Mandal & Co.

Mr. B. V. Balaram Das, AOR

Mr. Anupam Lal Das, AOR

UPON hearing the counsel the Court made the following
 O R D E R

CIVIL APPEAL NO. 6326 OF 2010:

The appeal is disposed of in terms of the signed order.

C.A. No.9339/2010, C.A. No.9338/2010, C.A. No.9342/2010,

C.A. No.3284/2011, C.A. No.3285/2011, C.A. No.3286/2011,

C.A. No.2580/2011, C.A. No.2579/2011, C.A. No.8437/2011,

C.A. No.2563/2012, C.A. No.799/2014 and C.A. No.2672/2009:

List these appeals after Summer Vacation.

(R. NATARAJAN)
 Court Master

(SUMAN JAIN)
 Court Master

(Signed order is placed on the file)

Annexure-A-2

17

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6326 OF 2010

JYOTI H. MEHTA & ORS.

Appellant(s)

VERSUS

THE CUSTODIAN AND ORS

Respondent(s)

O R D E R

Learned Senior Counsel/Counsel appearing for the parties mentioned this matter today and submit that in the order passed by this Court on 02.05.2017 in para 3 after '18%' the word 'p.a.' may be added and in para 5 last line the word 'Assessing' may be deleted and the sentence "The Custodian is directed to take appropriate steps to recover the assets of the appellants" may be incorporated in the said order.

In view of the submissions made, the order dated 02.05.2017 passed by us in paras 3 and 5 are modified and a new para (9A) is incorporated as under:

"3) Therefore, we direct the Income Tax Authorities to pay the said amount of Rs.192.54 crores to the Custodian with interest at the rate of 18% p.a. from the date of passing of the refund order within a period of 12 weeks from today.

5) The orders (Ninety) which have already been passed by the ITAT directing the Revenue to re-frame the assessment by taking into account the evidence of books of accounts should be decided by the Authority within a period of 12 weeks from today.

9A) The Custodian is directed to take appropriate steps to recover the assets of the appellants.

Signature valid

Digitally signed by
R.N. CHANDRA
Date: 2017.05.16
11:05:05 AM
Reason:

..... J.
(PINAKE CHANDRA GHOSE)

Details of Refund received on 25.07.2017 by Custodian and Difference Receivable as per orders of Hon'ble SC

| Sr. No. | Entity | Assessment Year | Refund of Tax Amount (Rs.) | Interest on Refund Amount (Rs.) | Refund including interest till 25.07.2017 Amount (Rs.) | Refund received by Custodian on 25.07.2017 Amount (Rs.) | Difference Amount (Rs.) |
|---------|------------------------------|-----------------|-------------------------------|------------------------------------|---|--|----------------------------|
| 1 | Deepika A. Mehta | 1992-93 | 14,90,51,270 | 42,21,38,849 | 57,11,90,119 | 27,45,23,854 | 29,66,66,265 |
| 2 | Rasila S. Mehta | 1992-93 | 11,56,75,345 | 12,07,77,034 | 23,64,52,379 | 21,39,07,482 | 2,25,44,897 |
| 3 | Hitesh S. Mehta | 1992-93 | 12,38,04,308 | 39,74,96,567 | 52,13,00,875 | 22,77,18,521 | 29,35,82,354 |
| | | 1993-94 | 8,32,36,057 | 21,63,50,415 | 29,95,86,472 | 15,47,82,579 | 14,48,03,893 |
| 4 | Pratima H. Mehta | 1992-93 | 13,26,60,832 | 38,30,92,648 | 51,57,53,480 | 24,40,08,702 | 27,17,44,778 |
| | | 1993-94 | 1,65,77,921 | 4,09,26,118 | 5,75,04,039 | 3,08,27,666 | 2,66,76,373 |
| 5 | Jyoti H. Mehta | 1992-93 | 84,55,89,725 | 3,05,06,99,197 | 3,89,62,88,922 | 1,53,90,65,967 | 2,35,72,22,955 |
| 6 | Growmore Leasing & Inv. Ltd. | 1992-93 | 28,33,71,561 | 80,19,62,975 | 1,08,53,34,536 | 37,29,48,029 | 71,23,86,507 |
| 7 | Aatur Holdings Pvt. Ltd. | 1992-93 | 1,38,14,635 | 1,58,59,958 | 2,96,74,593 | 1,81,88,386 | 1,14,86,207 |
| 8 | Aatur Holdings Pvt. Ltd. | 1993-94 | 14,37,367 | 16,50,176 | 30,87,543 | 20,22,159 | 10,65,384 |
| 9 | Sudhir S. Mehta | 1992-93 | 16,02,04,949 | 45,91,69,213 | 61,93,74,162 | 21,91,42,814 | 40,02,31,348 |
| | Total | | 1,92,54,23,970 | 5,91,01,23,150 | 7,83,55,47,120 | 3,29,71,36,159 | 4,53,84,10,961 |
| | Rs. In Crores | | | | <u>783.55</u> | <u>329.71</u> | <u>453.84</u> |

Annexure - A-4

19

Annexure 'C'

| Sl. No. | Name of the assessee | A.Y. | Date of Order giving effect | Excess of the principal recovered | Interest u/s 234 A/B/C/D/220(2) Charged from Assessee | Interest u/s 244A payable to Assessee | Net Demand as a result of appeal effect | Net Refund as a result of appeal effect |
|---------|---|---------|-----------------------------|-----------------------------------|---|---------------------------------------|---|---|
| 1. | Smt. Jyoti Mehta | 1992-93 | 12.10.2012 | (-)84,55,89,725 | 269,14,60,865 | 5,50,184 | 185,13,72,988 | |
| 2 | Smt. Pratima Mehta | 1992-93 | 03.09.2012 | (-)13,26,60,832 | 8,83,94,834 | 2,50,28,426 | | 6,92,64,424 |
| 3 | Smt. Pratima Mehta | 1993-94 | 24.07.2012 | (-)1,65,77,921 | 12,35,86,335 | | 10,70,08,414 | |
| 4 | Smt. Deepika Mehta | 1992-93 | 29.08.2012 | (-)14,90,51,270 | 1,68,11,829 | 7,69,41,212 | | 20,91,80,653 |
| 5 | Shri Hitesh Mehta | 1992-93 | 03.09.2012 | (-)12,38,04,308 | 4,63,06,306 | 5,37,48,734 | | 13,12,46,736 |
| 6 | Shri Hitesh Mehta | 1993-94 | 24.07.2012 | (-)8,32,36,057 | 7,08,36,494 | 69,64,090 | * | 1,93,63,653 |
| 7 | Smt. Rasila Mehta | 1992-93 | 14.08.2012 | (-)11,56,75,345 | 4,13,87,377 | 18,57,199 | | 7,61,45,167 |
| 8 | M/s Growmore Leasing & Investments Ltd. | 1992-93 | 31.07.2015 | (-)28,33,71,561 | 2,66,53,224 | 20,76,91,465 | | 47,39,44,690 |
| 9 | M/s Aatur Holdings P. Ltd. | 1992-93 | 30.07.2015 | (-)1,38,14,635 | 2,89,604 | 35,16,508 | | 1,70,41,539 |
| 10 | M/s Aatur Holdings P. Ltd. | 1993-94 | 14.01.2015 | (-)14,37,367 | 34,05,925 | | 19,68,558 | |
| 11 | Sh. Suchir Mehta | 1992-93 | 17.04.2015 | (-)16,02,04,949 | 42,09,40,072 | | 26,07,35,123 | |
| | Total | | | (-)192,54,23,970 | 376,96,72,865 | 37,62,97,818 | 222,10,85,083 | 99,61,86,862 |
| | Net demand | | | | | | 122,48,98,221 | |

..... J.
(ROHINTON FALI NARIMAN)

New Delhi;
May 08, 2017.

ITEM NO.804

COURT NO.6

SECTION XVII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 6326/2010

JYOTI H.MEHTA & ORS.

Appellant(s)

VERSUS

THE CUSTODIAN AND ORS

Respondent(s)

Date : 08/05/2017 This appeal was orally mentioned today.

CORAM :

HON'BLE MR. JUSTICE PINAKI CHANDRA GHOSE
HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN

For Appellant(s) Ms. Kamini Jaiswal, AOR

For Respondent(s) Ms. Ramni Taneja, Adv.
Mr. Anil Shrivastav, AOR

Mr. Jaideep Gupta, Sr. Adv.
Ms. Vijayalakshmi Menon, Adv.
Mr. Anuj Shah, Adv.
Mr. Dhritiman, Adv.

Mr. Arvind Kumar Tewari, AOR

UPON hearing the counsel the Court made the following
O R D E R

In view of the submissions made by the learned Senior Counsel/Counsel, the order dated 02.05.2017 passed by us in paras 3 and 5 are modified and a new para (9A) is incorporated in terms of the signed order.

(R. NATARAJAN)
Court Master

(SNEH LATA SHARMA)
Court Master

(Signed order is placed on the file)

Annexure-A-5

20



सत्यमेव जयते

GOVERNMENT OF INDIA
Office of the

**DEPUTY COMMISSIONER OF INCOME TAX,
Central Circle – 4(1), Central Range – 4,**

Room no. 1916, 19th floor, Air India Building, Nariman Point, Mumbai 400 021,
Tel : 022-2204 8352, Email : mumbai.dcit.cen4.1@incometax.gov.in

No. DCIT-CC-4(1)/HSM/RO/2017-18

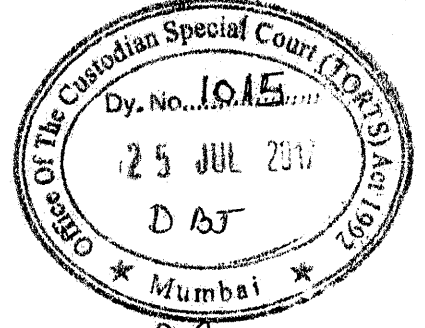
Date 24.07.2017

To,

✓ The office of the Custodian,
The Special Court (TORTS) Act, 1992,
Banking Division, DoFs, MoF,
Nariman Bhavan, 10th Floor,
Nariman Point, Mumbai.

Sir,

Sub.: Issue of refund in the case of Jyoti Mehta & Ors – reg.
Ref.: Civil Appeal No. 6326 of 2010 dated 02.05.2017



Kindly refer to the above and find enclosed herewith the following refund cheques, as per the directions issued by the Hon.'ble Supreme Court vide their order under reference:

| Sl. No. | Name of the assessee | A.Y. | Advice No. | Date of issue | Amount |
|---------|--------------------------------------|---------|------------|---------------|---------------|
| 1 | Custodian a/c. Smt. Jyoti H. Mehta | 1992-93 | 572647 | 24.07.2017 | 153,90,65,967 |
| 2 | Custodian a/c. Smt. Pratima H. Mehta | 1992-93 | 572648 | 24.07.2017 | 24,40,08,702 |
| 3 | Custodian a/c. Smt. Pratima H. Mehta | 1993-94 | 572649 | 24.07.2017 | 3,08,27,666 |
| 4 | Custodian a/c. Smt. Deepika A. Mehta | 1992-93 | 572650 | 24.07.2017 | 27,45,23,854 |
| 5 | Custodian a/c. Shri Hitesh S. Mehta | 1992-93 | 572651 | 24.07.2017 | 22,77,18,521 |
| 6 | Custodian a/c. Shri Hitesh S. Mehta | 1993-94 | 572652 | 24.07.2017 | 15,47,82,579 |
| 7 | Custodian a/c. Smt. Rasila S. Mehta | 1992-93 | 572653 | 24.07.2017 | 21,39,07,482 |
| 8 | Custodian a/c. Shri. Sudhir S. Mehta | 1992-93 | 572654 | 24.07.2017 | 21,91,42,814 |

2. Please acknowledge the receipt of the above.

Yours faithfully,

(Manpreet Singh Duggal)
Dy. Commissioner of Income Tax,
Cen.Cir.4(1), Mumbai

Encl.: as above.

Copy to : The Pr. Commissioner of Income Tax, Central-2, Mumbai: For kind information.
The Addl.CIT., Central Range-4, Mumbai: For kind information.

Dy. Commissioner of Income Tax,
Cen.Cir.4(1), Mumbai

21

(TO BE SENT BY BANK TO ASSESSEE)

आयकर प्रतिफल आदेश
INCOME TAX REFUND ORDER
(THE REFUND OF INCOME TAX ORDER)

सरकार
GOVERNMENT OF INDIA
आयकर विभाग (INCOME TAX OFFICE)
DCIT(C.C-411), Mumbai

आयकर से विना अन्य पर कर
REFUND OF INCOME OTHER
THAN CORPORATION TAX

दिनांक
DATE 24/07/2017
स्थान
PLACE Mumbai

बैंक का नाम
BANK AND No. of ASSESSEE 1992-93

भुगतान करने वाले का नाम
Custodian A/c - Smt. Jyoti H. Mehta
एक सौ बीस तीन करोड़ नब्बे लाख सत्तर हजार
One hundred thirty three Crore Ninety lakhs Sixty five
thousand nine hundred sixty seven only

₹ 153,90,65,967/-

भारतीय स्टेट बैंक, मुख्य शाखा, मुंबई
S. B. I., MAIN BR., MUMBAI
ITC/A10

आयकर से विना पर कर के हिसाब से प्रतिफल आदेश
NOT ABOVE ₹ 153,90,65,967/-

MANPREET SINGH DUGGAL, I.R.S.
उप आयकर आयुक्त, केंद्रीय मंडल-4(1), मुंबई

572647 400002010 49

आयकर प्रतिफल आदेश
INCOME TAX REFUND ORDER
(THE REFUND OF INCOME TAX ORDER)

सरकार
GOVERNMENT OF INDIA
आयकर विभाग (INCOME TAX OFFICE)
DCIT(C.C-411), Mumbai

आयकर से विना अन्य पर कर
REFUND OF INCOME OTHER
THAN CORPORATION TAX

दिनांक
DATE 24/07/2017
स्थान
PLACE Mumbai

बैंक का नाम
BANK AND No. of ASSESSEE 1992-93

भुगतान करने वाले का नाम
Custodian A/c - Smt. Pratima H. Mehta
बीस चार करोड़ चालीस लाख अठारह हजार
Twenty four Crore Forty lakhs Eight thousand
Seven hundred and two only

₹ 24,40,08,702/-

भारतीय स्टेट बैंक, मुख्य शाखा, मुंबई
S. B. I., MAIN BR., MUMBAI
ITC/A10

आयकर से विना पर कर के हिसाब से प्रतिफल आदेश
NOT ABOVE ₹ 24,40,08,702/-

MANPREET SINGH DUGGAL, I.R.S.
उप आयकर आयुक्त, केंद्रीय मंडल-4(1), मुंबई

572648 400002010 49

आयकर प्रतिफल आदेश
INCOME TAX REFUND ORDER
(THE REFUND OF INCOME TAX ORDER)

सरकार
GOVERNMENT OF INDIA
आयकर विभाग (INCOME TAX OFFICE)
DCIT(C.C-411), Mumbai

आयकर से विना अन्य पर कर
REFUND OF INCOME OTHER
THAN CORPORATION TAX

दिनांक
DATE 24/07/2017
स्थान
PLACE Mumbai

बैंक का नाम
BANK AND No. of ASSESSEE 1993-94

भुगतान करने वाले का नाम
Custodian A/c - Smt. Pratima H. Mehta
तीस करोड़ अठ्ठावन लाख बीस हजार सात सौ
Three Crore Eighty lakhs Twenty Seven thousand
Seven hundred and sixty seven only

₹ 3,08,27,667/-

भारतीय स्टेट बैंक, मुख्य शाखा, मुंबई
S. B. I., MAIN BR., MUMBAI
ITC/A10

आयकर से विना पर कर के हिसाब से प्रतिफल आदेश
NOT ABOVE ₹ 3,08,27,667/-

MANPREET SINGH DUGGAL, I.R.S.
उप आयकर आयुक्त, केंद्रीय मंडल-4(1), मुंबई

572649 400002010 49

23

भारत सरकार
GOVERNMENT OF INDIA
DIRECTOR GENERAL INCOME TAX OFFICE

DCIT(C-44), Mumbai

आयकर प्रतिफल आदेश
INCOME TAX REFUND ORDER
(RE. 280D) के अंतर्गत आयकर के लिए
(REFUND OF Rs. 280D & above)

निम्न कर से विना आय पर कर
ON TAXES ON INCOME OTHER
THAN CORPORATION TAX

(संकेतित क्र. सं. 280D के अंतर्गत में से)
(TO BE SENT BY BANK TO Z.A.O.)

दिनांक
DATE 24/07/2012
स्थान
PLACE Mumbai

खा. सं. बैंक का नं. आदेश संख्या
P. A. N. BANK A/C No. OF ASSESSOR

व. सं. आय.
AY. 1992-93

भुगतान
PAY TO
Custodian A/C - Smt Rasila S. Menka
रुपये
Rupees Twenty one Crore thirty nine Lakhs seven
thousand four hundred eighty two only

₹. 21,39,07,482/-

भारतीय स्टेट बैंक, मुख्य शाखा, मुंबई
S. B. I., MAIN BR., MUMBAI
ITC/A10

प्रतिफल के कारण से दिये गये ON ACCOUNT OF REFUND DUE

₹. 21,39,07,482/- से अधिक नहीं
NOT ABOVE Rs.

MANPREET SINGH DUGGAL, I.R.S
उप आयकर आयुक्त, केन्द्रीय मंडल-4(1), मुंबई

572653 4000020101

49

भारत सरकार
GOVERNMENT OF INDIA
DIRECTOR GENERAL INCOME TAX OFFICE

DCIT(C-44), Mumbai

आयकर प्रतिफल आदेश
INCOME TAX REFUND ORDER
(RE. 280D) के अंतर्गत आयकर के लिए
(REFUND OF Rs. 280D & above)

निम्न कर से विना आय पर कर
ON TAXES ON INCOME OTHER
THAN CORPORATION TAX

(संकेतित क्र. सं. 280D के अंतर्गत में से)
(TO BE SENT BY BANK TO Z.A.O.)

दिनांक
DATE 24/07/2017
स्थान
PLACE Mumbai

खा. सं. बैंक का नं. आदेश संख्या
P. A. N. BANK A/C No. OF ASSESSOR

व. सं. आय.
AY. 1992-93

भुगतान
PAY TO
Custodian A/C - Shri Sudhir S. Menka
रुपये
Rupees Twenty one Crore Ninty one Lakhs forty two
thousand eight hundred fourteen only

₹. 21,91,42,814/-

भारतीय स्टेट बैंक, मुख्य शाखा, मुंबई
S. B. I., MAIN BR., MUMBAI
ITC/A10

प्रतिफल के कारण से दिये गये ON ACCOUNT OF REFUND DUE

₹. 21,91,42,814/- से अधिक नहीं
NOT ABOVE Rs.

MANPREET SINGH DUGGAL, I.R.S
उप आयकर आयुक्त, केन्द्रीय मंडल-4(1), मुंबई

572654 4000020101

49



GOVERNMENT OF INDIA

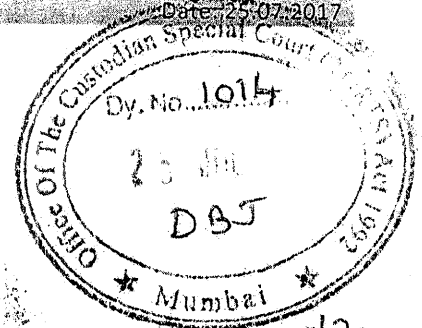
Office of the

**DEPUTY COMMISSIONER OF INCOME TAX,
Central Circle – 4(3), Central Range – 4,**

Room no. 19121, 19th floor, Air India Building, Nariman Point, Mumbai 400 021,
Tel : 022-2204 0230, Email : mumbai.dcit.cen4.3@incometax.gov.in

DCIT.C.C-4(3)/HSM:Group/Supreme Court Order-Refund/2017-18

The Office of the custodian
The Special Court (TORTS) Act, 1992
Banking Division, DoFs, MoF,
Nariman Bhawan, 10th Floor
Nariman Point
Mumbai-400 020



Sir,

Sub.: Issue of refund in compliance to the order of Hon.'ble S.C. in the case of Jyoti Mehta & Ors – request for approval – reg.

Ref.: Civil Appeal No. 6326 of 2010 dated 02.05.2017

Kindly refer to the above.

2. Kindly find the enclosed herewith the refunds cheques in the following cases, as per direction of Hon'ble Supreme Court in the above mentioned civil appeal, for necessary action at your end.

| Sr No | Name of the case | A.Y. | Advice No. | Date of Issue | Total amount Refundable |
|-------|---------------------------------------|---------|------------|---------------|-------------------------|
| 1 | M/s Aatur Holdings Pvt Ltd | 1993-94 | 605200 | 24.07.2017 | 20,22,159 |
| 2 | M/s Aatur Holdings Pvt Ltd | 1992-93 | 605202 | 24.07.2017 | 1,81,88,386 |
| 3 | M/s Growmore Leasing & Investment Ltd | 1992-93 | 605203 | 24.07.2017 | 37,29,48,029 |

3. Kindly acknowledge the receipt of the above.

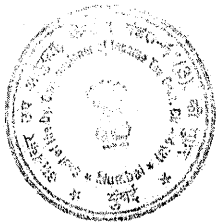
Yours faithfully,

(PANKAJ MEHTA)

Deputy Commissioner of Income tax,
Gen. Cir. 4(3), Mumbai

Copy to :-

1. The Pr CIT Central-2, Mumbai: For favour of kind information.
2. The Addl.CIT Central Range -4, Mumbai: For favour of kind information



Deputy Commissioner of Income tax,
Gen. Cir. 4(3), Mumbai

25

आयकर प्रतिदाय आदेश (TAX REFUND ORDER) को भेजने के लिए बैंक द्वारा भेजना है। (TO BE SENT BY BANK TO Z.A.O.)

आयकर प्रतिदाय आदेश
INCOME TAX REFUND ORDER
(Rs. 25000 व अधिक के प्रतिदाय के लिए)
(REFUND OF Rs. 25000/- & above)

(बैंक द्वारा शे. ले. अ. को भेजने के लिए)
(TO BE SENT BY BANK TO Z.A.O.)

भारत सरकार
GOVERNMENT OF INDIA
आयकर कार्यालय INCOME TAX OFFICE
DCIT.C.C.-4(3) Mumbai

निगम कर
020 CORPORATION TAX

दिनांक
DATE 24/07/2017
स्थान
PLACE Mumbai

करदाता का नाम P. A. N. करदाता की बैंक खाता संख्या BANK A/C No. of ASSESSEE नि.व. A.Y. 1993-94

PAY Custodian A/c - M/s. Aatur Holding Pvt. Ltd.
RUPEES Twenty lakhs twenty two thousand one hundred and fifty nine only
₹. 20,22,159/-

भारतीय स्टेट बैंक, मुख्य शाखा, मुंबई
S. B. I. MAIN BR., MUMBAI
CTC/A2

प्रतिदाय के कारण दे दीजिये ON ACCOUNT OF REFUND DUE
₹. 20,22,159/- से अधिक नहीं
NOT ABOVE Rs.

PANKAJ MEHTA
DCIT, CC-4(3) MUMBAI

605200 400002010 49

आयकर प्रतिदाय आदेश (TAX REFUND ORDER) को भेजने के लिए बैंक द्वारा भेजना है। (TO BE SENT BY BANK TO Z.A.O.)

आयकर प्रतिदाय आदेश
INCOME TAX REFUND ORDER
(Rs. 25000 व अधिक के प्रतिदाय के लिए)
(REFUND OF Rs. 25000/- & above)

(बैंक द्वारा शे. ले. अ. को भेजने के लिए)
(TO BE SENT BY BANK TO Z.A.O.)

भारत सरकार
GOVERNMENT OF INDIA
आयकर कार्यालय INCOME TAX OFFICE
DCIT.C.C.-4(3) Mumbai

निगम कर
020 CORPORATION TAX

दिनांक
DATE 24/07/2017
स्थान
PLACE Mumbai

करदाता का नाम P. A. N. करदाता की बैंक खाता संख्या BANK A/C No. of ASSESSEE नि.व. A.Y. 1992-93

PAY Custodian A/c - M/s. Growmore Leasing & Investment Ltd.
RUPEES Thirty Seven Crore twenty nine lakhs sixty eight thousand two hundred and ninety only
₹. 37,29,48,029/-

भारतीय स्टेट बैंक, मुख्य शाखा, मुंबई
S. B. I. MAIN BR., MUMBAI
CTC/A2

प्रतिदाय के कारण दे दीजिये ON ACCOUNT OF REFUND DUE
₹. 37,29,48,029/- से अधिक नहीं
NOT ABOVE Rs.

PANKAJ MEHTA
DCIT, CC-4(3) MUMBAI
हस्ताक्षर ए.ओ. SIGNATURE A.O.

605203 400002010 49

आयकर प्रतिदाय आदेश (TAX REFUND ORDER) को भेजने के लिए बैंक द्वारा भेजना है। (TO BE SENT BY BANK TO Z.A.O.)

आयकर प्रतिदाय आदेश
INCOME TAX REFUND ORDER
(Rs. 25000 व अधिक के प्रतिदाय के लिए)
(REFUND OF Rs. 25000/- & above)

(बैंक द्वारा शे. ले. अ. को भेजने के लिए)
(TO BE SENT BY BANK TO Z.A.O.)

भारत सरकार
GOVERNMENT OF INDIA
आयकर कार्यालय INCOME TAX OFFICE
DCIT.C.C.-4(3) Mumbai

निगम कर
020 CORPORATION TAX

दिनांक
DATE 24/07/2017
स्थान
PLACE Mumbai

करदाता का नाम P. A. N. करदाता की बैंक खाता संख्या BANK A/C No. of ASSESSEE नि.व. A.Y. 1992-93

PAY Custodian A/c - M/s. Aatur Holding Pvt. Ltd.
RUPEES One Crore eighty one lakhs eighty eight thousand three hundred eighty six only
₹. 1,81,88,386/-

भारतीय स्टेट बैंक, मुख्य शाखा, मुंबई
S. B. I. MAIN BR., MUMBAI
CTC/A2

प्रतिदाय के कारण दे दीजिये ON ACCOUNT OF REFUND DUE
₹. 1,81,88,386/- से अधिक नहीं
NOT ABOVE Rs.

PANKAJ MEHTA
DCIT, CC-4(3) MUMBAI

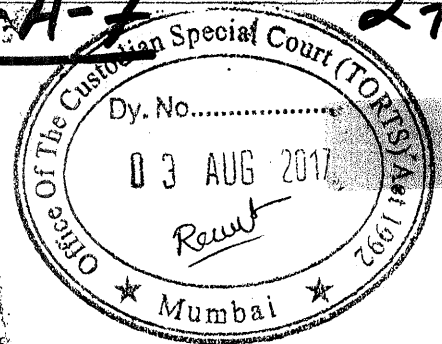
605202 400002010 49

Annexure A-6 26
Details of Refund received on 25.07.2017 by Custodian and Difference Receivable as per orders of Hon'ble SC

| Sr. No.- | Entity | Assessment Year | Refund of Tax | | Interest on Refund | | Refund including interest till 25.07.2017 | | Refund received by Custodian on 25.07.2017 | | Difference | |
|----------|------------------------------|-----------------|-----------------------|-----------------------|-----------------------|-----------------------|---|--------------|--|--------------|------------|--|
| | | | Amount (Rs.) | Amount (Rs.) | Amount (Rs.) | Amount (Rs.) | Amount (Rs.) | Amount (Rs.) | Amount (Rs.) | Amount (Rs.) | | |
| 1 | Deepika A. Mehta | 1992-93 | 14,90,51,270 | 42,21,38,849 | 57,11,90,119 | 27,45,23,854 | 29,66,66,265 | | | | | |
| 2 | Rasila S. Mehta | 1992-93 | 11,56,75,345 | 12,07,77,034 | 23,64,52,379 | 21,39,07,482 | 2,25,44,897 | | | | | |
| 3 | Hitesh S. Mehta | 1992-93 | 12,38,04,308 | 39,74,96,567 | 52,13,00,875 | 22,77,18,521 | 29,35,82,354 | | | | | |
| | | 1993-94 | 8,32,36,057 | 21,63,50,415 | 29,95,86,472 | 15,47,82,579 | 14,48,03,893 | | | | | |
| 4 | Pratima H. Mehta | 1992-93 | 13,26,60,832 | 38,30,92,648 | 51,57,53,480 | 24,40,08,702 | 27,17,44,778 | | | | | |
| | | 1993-94 | 1,65,77,921 | 4,09,26,118 | 5,75,04,039 | 3,08,27,666 | 2,66,76,373 | | | | | |
| 5 | Jyoti H. Mehta | 1992-93 | 84,55,89,725 | 3,05,06,99,197 | 3,89,62,88,922 | 1,53,90,65,967 | 2,35,72,22,955 | | | | | |
| 6 | Growmore Leasing & Inv. Ltd. | 1992-93 | 28,33,71,561 | 80,19,62,975 | 1,08,53,34,536 | 37,29,48,029 | 71,23,86,507 | | | | | |
| 7 | Aatur Holdings Pvt. Ltd. | 1992-93 | 1,38,14,635 | 1,58,59,958 | 2,96,74,593 | 1,81,88,386 | 1,14,86,207 | | | | | |
| 8 | Aatur Holdings Pvt. Ltd. | 1993-94 | 14,37,367 | 16,50,176 | 30,87,543 | 20,22,159 | 10,65,384 | | | | | |
| 9 | Sudhir S. Mehta | 1992-93 | 16,02,04,949 | 45,91,69,213 | 61,93,74,162 | 21,91,42,814 | 40,02,31,348 | | | | | |
| | Total | | 1,92,54,23,970 | 5,91,01,23,150 | 7,83,55,47,120 | 3,29,71,36,159 | 4,53,84,10,961 | | | | | |
| | Rs. In Crores | | | | 783.55 | 329.71 | 453.84 | | | | | |

Annexure - A-3 27

O/C



ASHWIN S. MEHTA

32 Madhuli, Dr Annie Besant Road, Worli, Mumbai 400 018

2nd August 2017

To,
Smt. Anu Krishna Agarwal
Joint Commissioner of Income Tax,
Central Circle 4,
19th Floor, Air India Building,
Nariman Point,
Mumbai 400 021.



Dear Madam,

Re: Compliance with directions of Hon'ble Supreme Court under orders dated 2.5.2017 and 8.5.2017 in Civil Appeal No.6326 of 2010.

1. This is further to my letter dated 25.07.2017 seeking your confirmation and disclosure of facts regarding the compliance made by your department with aforesaid orders of Hon'ble Supreme Court. The above letter has not been replied to by your kindself and therefore I have to address you further as under :-
 - a) That a period of more than 12 weeks have already elapsed since the aforesaid orders have been passed by Hon'ble Supreme Court but there has been no communication from your department regarding the compliance made with the above orders either suo-moto or even in response to my aforesaid letter. Your kindself will appreciate that as Appellants as also as assesseees we are entitled to the same and liable to be granted all our legitimate requests. Your kindself is therefore once again called upon to meet our legitimate requests as contained in the previous letter and the requests made through the present letter.
 - b) That since there was no response from your kindself to our letter we were constrained to make enquiries with the office of the Custodian to ascertain the facts who were thereupon pleased to inform me that your department on the last date for making compliance under two letters dated 24.07.2017 and 25.07.2017 copies of which are enclosed at **Annexure "A" Colly** has made payment of about Rs.329,71,36,159/- (Rs.329.71 crores) on 25.07.2017 in terms of the disclosure of particulars made in the above letters. That the copy of the said letters addressed to Custodian have not been marked to us

though we were entitled to the same being Appellants in the aforesaid Civil Appeal and also as assesseees we are entitled to the information relating to the said refunds. It is apparent that the crucial facts and material particulars are being held back from us by your department and we hope that your kindness will redress our grievance in this regard.

- c) That we find that while the above amounts have been paid to the Custodian, the particulars of computation of interest and how the said amounts have been arrived at by your department have not been explained even to the Custodian and even my request in this regard contained in my letter dated 25.7.2017 has also not been met. Your department is duty bound to furnish such computation to enable the Custodian and us to verify the accuracy of such computation and satisfy ourselves that proper amounts have been refunded to us.
- d) That without prejudice to the above, we find that the above amount of Rs.329.71 crores paid by your department are much less than the amounts due and payable by your department and therefore your department has failed to make compliance with the orders passed by Hon'ble Supreme Court by underpaying the amounts which fact can be further conclusively established by us only provided your department discloses the computation and working of the amounts of refunds paid by your department. Thus we are bound to be granted an opportunity to rebut by providing with the computation as sought for by us.
- e) That in the aforesaid circumstances we are requesting Custodian to appropriate the amounts paid by your department only towards our claim for interest which we are entitled to in terms of the provisions of the Torts Act and based on several precedents already set before the Hon'ble Special Court.
- f) I also record my grievance and protest that obviously much less amount was paid only on the last date in a secretive manner though your department is aware about the computation of interest since your prayers for seeking reduction in the rate of interest was rejected by Hon'ble Supreme Court. The material facts have been withheld from us so that we cannot raise the issue to proceed against your department.

- g) Your kindness would be aware that we already made grievance before Hon'ble Supreme Court that even after securing substantial reliefs from the Appellate authorities and even after Order Giving Effect's (OGE's) and refund orders were passed by the revenue in the year 2012 the department was not making refunds for years together due to us both under the Torts Act as well as under the Income Tax. That infact according to Section 240 of Income Tax Act the A.O. is supposed to refund the amounts due to the assessee without him seeking it but unfortunately the benefit of the said provisions have never been given to us by your department. In support of above contentions I am pleased to enclose a chart at **Annexure "B"** giving particulars of date of orders of reliefs passed by Hon'ble CIT (A) and the dates on which OGE's were passed by the assessing officer. I state that from the above chart it gets conclusively established that refunds have deliberately not been made by your department for past several years in gross violation of law governing it. I state that in this manner your department has retained monies for several years to which it was not entitled to in fact and law.
- h) I say that under the order of Hon'ble Supreme Court dated 27.04.2017, a copy of which is enclosed at **Annexure "C"** as directed I met your predecessor and not only furnished copies of 90 orders of Hon'ble ITAT but also presented complete facts regarding the refunds due to us amounting to Rs.5552.70 crores under cover of my letter dated 1st May 2017 which is already on your record. I state that under the first category I had presented to him claims of Rs.874.23 crores covering cases where orders of refund had already been passed by your department plus two corporate entities for an amount of Rs.229.66 crores and according to us a sum of Rs.874.23 crores was payable and the particulars in this regard were furnished in a chart at Annexure "B" to the letter, a copy of which is once again enclosed at **Annexure "D"**. I say that as against the aforesaid claims of Rs.229.66 crores your predecessor conceded before Hon'ble Supreme Court an amount of Rs.192.54 crores but surprisingly your department has now paid only a sum of Rs.329.71 crores vis a vis our claim and hence we are greatly aggrieved by the amounts paid by your department.

- i) I understand that even the office of the Custodian is separately seeking disclosure of the computation of the amount as they have been merely furnished the Pay Orders with the covering letter by your department. However, I am also marking a copy of this letter to the office of the Custodian with a request to take appropriate steps to safeguard and protect our interest and ensure compliance with the orders of Hon'ble Supreme Court at the earliest.
2. Awaiting an early response and thanking you in advance for it.

Yours truly,



(ASHWIN S. MEHTA)

Encl : As above

CC: Smt. Molly Sengupta, Director, Office of the Custodian, 221 Nariman Bhavan, Nariman Point, Mumbai 400 021.

We are greatly aggrieved by the conduct of the revenue for the reasons already explained above and request you to take appropriate step at the earliest to protect our interest and to recover the amounts due to us from the revenue in terms of the orders of Hon'ble Supreme Court. Please note that we have always nursed a strong apprehension that monies once released to the revenue, same will not be brought back by it under one pretext or the other and even therefore your office having strongly advocated release of monies to revenue has become duty bound to secure the refunds due to us.

Annexure 31 A



GOVERNMENT OF INDIA
Office of the

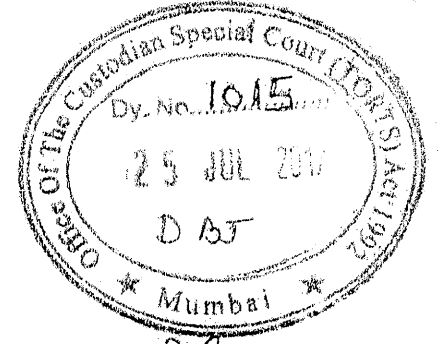
**DEPUTY COMMISSIONER OF INCOME TAX,
Central Circle – 4(1), Central Range – 4,**

Room no. 1916, 19th floor, Air India Building, Nariman Point, Mumbai 400 021,
Tel : 022-2204 8352, Email : mumbai.dcit.cen4.1@incometax.gov.in

No. DCIT-CC-4(1)/HSM/RO/2017-18

Date: 24.07.2017

To,
The office of the Custodian,
The Special Court (TORTS) Act, 1992,
Banking Division, DoFs, MoF,
Nariman Bhavan, 10th Floor,
Nariman Point, Mumbai.



Sir,

Sub.: Issue of refund in the case of Jyoti Mehta & Ors – reg.
Ref.: Civil Appeal No. 6326 of 2010 dated 02.05.2017

Kindly refer to the above and find enclosed herewith the following refund cheques, as per the directions issued by the Hon.'ble Supreme Court vide their order under reference:

| Sl. No. | Name of the assessee | A.Y. | Advice No. | Date of issue | Amount |
|---------|--------------------------------------|---------|------------|---------------|---------------|
| 1 | Custodian a/c. Smt. Jyoti H. Mehta | 1992-93 | 572647 | 24.07.2017 | 153,90,65,967 |
| 2 | Custodian a/c. Smt. Pratima H. Mehta | 1992-93 | 572648 | 24.07.2017 | 24,40,08,702 |
| 3 | Custodian a/c. Smt. Pratima H. Mehta | 1993-94 | 572649 | 24.07.2017 | 3,08,27,666 |
| 4 | Custodian a/c. Smt. Deepika A. Mehta | 1992-93 | 572650 | 24.07.2017 | 27,45,23,854 |
| 5 | Custodian a/c. Shri Hitesh S. Mehta | 1992-93 | 572651 | 24.07.2017 | 22,77,18,521 |
| 6 | Custodian a/c. Shri Hitesh S. Mehta | 1993-94 | 572652 | 24.07.2017 | 15,47,82,579 |
| 7 | Custodian a/c. Smt. Rasila S. Mehta | 1992-93 | 572653 | 24.07.2017 | 21,39,07,482 |
| 8 | Custodian a/c. Shri. Sudhir S. Mehta | 1992-93 | 572654 | 24.07.2017 | 21,91,42,814 |

2. Please acknowledge the receipt of the above.

Yours faithfully,

(Manpreet Singh Duggal)
Dy. Commissioner of Income Tax,
Cen.Cir.4(1), Mumbai

Encl.: as above.

Copy to : The Pr. Commissioner of Income Tax, Central-2, Mumbai: For kind information.
The Addl.CIT., Central Range-4, Mumbai: For kind information.

Dy. Commissioner of Income Tax,
Cen.Cir.4(1), Mumbai

32

सरकार भारत
GOVERNMENT OF INDIA
सरकारी राजस्व आयकर कार्यालय
DIRECTOR (C-4(U)) Mumbai

आयकर प्रतिफल आदेश
INCOME TAX REFUND ORDER
(सं. 25, 100 या 200 के अधिकाधिक के लिए)
(REFUND ORDER 25/100 & above)
जिसमें आयकर (अन्य आयकर से अलग)
अथवा आयकर (अन्य आयकर से अलग)
अथवा आयकर (अन्य आयकर से अलग)

दिनांक
DATE 24/07/2017
स्थान
PLACE Mumbai

प्रा. सं. सं. बैंक खाता संख्या
P.A.N. BANK A/C No. of ASSESSEE
वि. सं.
A.Y. 1992-93

प्रा. सं. सं. बैंक खाता संख्या
P.A.N. BANK A/C No. of ASSESSEE
वि. सं.
A.Y. 1992-93

भारतीय स्टेट बैंक, मुख्य शाखा, मुंबई
S. B. I. MAIN BR., MUMBAI
ITC/A10

भारतीय स्टेट बैंक, मुख्य शाखा, मुंबई
S. B. I. MAIN BR., MUMBAI
ITC/A10

MANPREET SINGH DUGGAL, I.R.S.
उप आयकर आयुक्त, केन्द्रीय मंडल-4 (1), मुंबई

572647 400002010 49

सरकार भारत
GOVERNMENT OF INDIA
सरकारी राजस्व आयकर कार्यालय
DIRECTOR (C-4(U)) Mumbai

आयकर प्रतिफल आदेश
INCOME TAX REFUND ORDER
(सं. 25, 100 या 200 के अधिकाधिक के लिए)
(REFUND ORDER 25/100 & above)
जिसमें आयकर (अन्य आयकर से अलग)
अथवा आयकर (अन्य आयकर से अलग)
अथवा आयकर (अन्य आयकर से अलग)

दिनांक
DATE 24/07/2017
स्थान
PLACE Mumbai

प्रा. सं. सं. बैंक खाता संख्या
P.A.N. BANK A/C No. of ASSESSEE
वि. सं.
A.Y. 1992-93

प्रा. सं. सं. बैंक खाता संख्या
P.A.N. BANK A/C No. of ASSESSEE
वि. सं.
A.Y. 1992-93

भारतीय स्टेट बैंक, मुख्य शाखा, मुंबई
S. B. I. MAIN BR., MUMBAI
ITC/A10

भारतीय स्टेट बैंक, मुख्य शाखा, मुंबई
S. B. I. MAIN BR., MUMBAI
ITC/A10

MANPREET SINGH DUGGAL, I.R.S.
उप आयकर आयुक्त, केन्द्रीय मंडल-4 (1), मुंबई

572648 400002010 49

सरकार भारत
GOVERNMENT OF INDIA
सरकारी राजस्व आयकर कार्यालय
DIRECTOR (C-4(U)) Mumbai

आयकर प्रतिफल आदेश
INCOME TAX REFUND ORDER
(सं. 25, 100 या 200 के अधिकाधिक के लिए)
(REFUND ORDER 25/100 & above)
जिसमें आयकर (अन्य आयकर से अलग)
अथवा आयकर (अन्य आयकर से अलग)
अथवा आयकर (अन्य आयकर से अलग)

दिनांक
DATE 24/08/2017
स्थान
PLACE Mumbai

प्रा. सं. सं. बैंक खाता संख्या
P.A.N. BANK A/C No. of ASSESSEE
वि. सं.
A.Y. 1993-94

प्रा. सं. सं. बैंक खाता संख्या
P.A.N. BANK A/C No. of ASSESSEE
वि. सं.
A.Y. 1993-94

भारतीय स्टेट बैंक, मुख्य शाखा, मुंबई
S. B. I. MAIN BR., MUMBAI
ITC/A10

भारतीय स्टेट बैंक, मुख्य शाखा, मुंबई
S. B. I. MAIN BR., MUMBAI
ITC/A10

MANPREET SINGH DUGGAL, I.R.S.
उप आयकर आयुक्त, केन्द्रीय मंडल-4 (1), मुंबई

572649 400002010 49

33

सरकार भारत
GOVERNMENT OF INDIA
भारतीय स्टेट्स इनकम टैक्स ऑफिस
DIRECTOR (U), Mumbai

सरकार भारत
INCOME TAX REFUND ORDER
(The Income Tax Refund Order)
आयकर रिफंड ऑर्डर
TAXES ON INCOME OTHER THAN CORPORATION TAX

दिनांक
DATE 24/07/2017
स्थान
PLACE Mumbai

पं. सं. / बैंक खाते नंबर
P.A.N. / BANK A/C No. of ASSEESSEE नि. सं. / आय
AY 1992-93

आय
PAY Custodian A/c Smt. Deepika A. Mehta
रुपय
RUPEES Twenty Seven Crore sixty five lakhs twenty
three thousand eight hundred sixty four only

रु. सं.
Rs. 27,45,23,854/-

भारतीय स्टेट बैंक, मुख्य शाखा, मुंबई
S. B. I., MAIN BR., MUMBAI
ITC/A10

आयकर रिफंड देणे वरून (ON ACCOUNT OF REFUND DUE)
27,45,23,854/-
NOT ABOVE Rs.

MANPREET SINGH DUGGAL, I.R.S
उप आयकर अधिकारी, केंद्रीय मंडळ (1), मुंबई

572650 4000020101 49

सरकार भारत
GOVERNMENT OF INDIA
भारतीय स्टेट्स इनकम टैक्स ऑफिस
DIRECTOR (U), Mumbai

सरकार भारत
INCOME TAX REFUND ORDER
(The Income Tax Refund Order)
आयकर रिफंड ऑर्डर
TAXES ON INCOME OTHER THAN CORPORATION TAX

दिनांक
DATE 24/07/2017
स्थान
PLACE Mumbai

पं. सं. / बैंक खाते नंबर
P.A.N. / BANK A/C No. of ASSEESSEE नि. सं. / आय
AY 1992-93

आय
PAY Custodian A/c - Shri. Hitesh S. Mehta
रुपय
RUPEES Twenty two Crore Seventy Seven Lakhs Eighteen
thousand five hundred twenty one only

रु. सं.
Rs. 22,77,18,521/-

भारतीय स्टेट बैंक, मुख्य शाखा, मुंबई
S. B. I., MAIN BR., MUMBAI
ITC/A10

आयकर रिफंड देणे वरून (ON ACCOUNT OF REFUND DUE)
22,77,18,521/-
NOT ABOVE Rs.

MANPREET SINGH DUGGAL, I.R.S
उप आयकर अधिकारी, केंद्रीय मंडळ (1), मुंबई

572650 4000020101 49

सरकार भारत
GOVERNMENT OF INDIA
भारतीय स्टेट्स इनकम टैक्स ऑफिस
DIRECTOR (U), Mumbai

सरकार भारत
INCOME TAX REFUND ORDER
(The Income Tax Refund Order)
आयकर रिफंड ऑर्डर
TAXES ON INCOME OTHER THAN CORPORATION TAX

दिनांक
DATE 24/07/2017
स्थान
PLACE Mumbai

पं. सं. / बैंक खाते नंबर
P.A.N. / BANK A/C No. of ASSEESSEE नि. सं. / आय
AY 1993-94

आय
PAY Custodian A/c - Shri Hitesh S. Mehta
रुपय
RUPEES Fifteen Crore sixty Seven Lakhs Eighty two
thousand five hundred Seventy nine only

रु. सं.
Rs. 15,47,82,579/-

भारतीय स्टेट बैंक, मुख्य शाखा, मुंबई
S. B. I., MAIN BR., MUMBAI
ITC/A10

आयकर रिफंड देणे वरून (ON ACCOUNT OF REFUND DUE)
15,47,82,579/-
NOT ABOVE Rs.

MANPREET SINGH DUGGAL, I.R.S
उप आयकर अधिकारी, केंद्रीय मंडळ (1), मुंबई

572650 4000020101 49

34

सरकार भारत
GOVERNMENT OF INDIA
भारतीय आयकर विभाग
DIRECTOR GENERAL OF INCOME TAX OFFICE
DLIT/C-4(U), Mumbai

आयकर वापस का आदेश
INCOME TAX REFUND ORDER
(स. 2500 के अंतर्गत आयकर वापस के लिए)
(REFUND OF Rs. 25000-A above)
विगत वर्ष से विभिन्न आय पर कर
201 TAXES ON INCOME OTHER
THAN CORPORATION TAX

(भारतीय स्टेट बैंक, मुख्य शाखा, मुंबई)
(TO BE SENT BY BANK TO Z.A.O.)

दिनांक
DATE 24/07/2012
स्थान
PLACE Mumbai

पत्र सं. 1992-93

भारतीय स्टेट बैंक, मुख्य शाखा, मुंबई
S. B. I., MAIN BR., MUMBAI
ITC/A10

₹. 21,39,07,482/-

भारतीय स्टेट बैंक खाते में जमा करने के लिए
₹. 21,39,07,482/- से अधिक नहीं
NOT ABOVE Rs.

MANPREET SINGH DUGGAL, I.R.
उप आयकर आयुक्त, केन्द्रीय मंडल-4 (1), मुंबई

॥ 572653॥ 40000 20 10॥ 49

सरकार भारत
GOVERNMENT OF INDIA
भारतीय आयकर विभाग
DIRECTOR GENERAL OF INCOME TAX OFFICE
DLIT/C-4(U), Mumbai

आयकर वापस का आदेश
INCOME TAX REFUND ORDER
(स. 2500 के अंतर्गत आयकर वापस के लिए)
(REFUND OF Rs. 25000-A above)
विगत वर्ष से विभिन्न आय पर कर
201 TAXES ON INCOME OTHER
THAN CORPORATION TAX

(भारतीय स्टेट बैंक, मुख्य शाखा, मुंबई)
(TO BE SENT BY BANK TO Z.A.O.)

दिनांक
DATE 24/07/2012
स्थान
PLACE Mumbai

पत्र सं. 1992-93

भारतीय स्टेट बैंक, मुख्य शाखा, मुंबई
S. B. I., MAIN BR., MUMBAI
ITC/A10

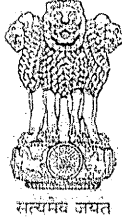
₹. 21,91,42,814/-

भारतीय स्टेट बैंक खाते में जमा करने के लिए
₹. 21,91,42,814/- से अधिक नहीं
NOT ABOVE Rs.

MANPREET SINGH DUGGAL, I.R.
उप आयकर आयुक्त, केन्द्रीय मंडल-4 (1), मुंबई

॥ 572654॥ 40000 20 10॥ 49

35



GOVERNMENT OF INDIA
Office of the

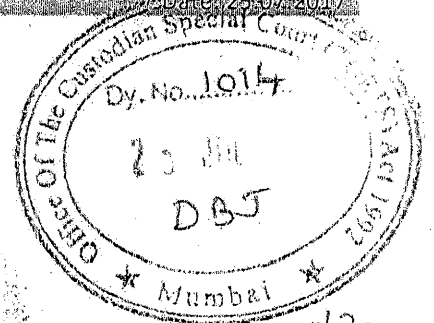
**DEPUTY COMMISSIONER OF INCOME TAX,
Central Circle – 4(3), Central Range – 4,**

Room no. 19121, 19th floor, Air India Building, Nariman Point, Mumbai 400 021,
Tel : 022-2204 0230, Email : mumbai.dcit.cen4.3@incometax.gov.in

DCIT.C.C-4(3)/HSM/Group/Supreme Court Order Refund/2017-18

Date: 25.07.2017

The Office of the custodian
The Special Court (TORTS) Act, 1992
Banking Division, DoFs, MoF,
Nariman Bhawan, 10th Floor
Nariman Point
Mumbai-400 020



Sir,

Sub.: Issue of refund in compliance to the order of Hon.'ble S.C. in the case of Jyoti Mehta & Ors – request for approval – reg.

Ref.: Civil Appeal No. 6326 of 2010 dated 02.05.2017

Kindly refer to the above.

2. Kindly find the enclosed herewith the refunds cheques in the following cases, as per direction of Hon'ble Supreme Court in the above mentioned civil appeal, for necessary action at your end.

| Sr No | Name of the case | A.Y. | Advice No. | Date of issue | Total amount Refundable |
|-------|---------------------------------------|---------|------------|---------------|-------------------------|
| 1 | M/s Aatur Holdings Pvt Ltd | 1993-94 | 605200 | 24.07.2017 | 20,22,159 |
| 2 | M/s Aatur Holdings Pvt Ltd | 1992-93 | 605202 | 24.07.2017 | 1,81,88,386 |
| 3 | M/s Growmore Leasing & Investment Ltd | 1992-93 | 605203 | 24.07.2017 | 37.29.48,029 |

3. Kindly acknowledge the receipt of the above.

Yours faithfully,

(PANKAJ MEHTA)

Deputy Commissioner of Income tax,
Cen. Cir. 4(3), Mumbai

Copy to :-

1. The Pr CIT Central-2, Mumbai: For favour of kind information.
2. The Addl.CIT Central Range -4, Mumbai: For favour of kind information



Deputy Commissioner of Income tax,
Cen. Cir. 4(3), Mumbai

36

NOT NEGOTIABLE
PAYABLE WITHIN 3 MONTHS OF DATE OF ISSUE

आयकर प्रतिदाय आदेश
INCOME TAX REFUND ORDER
(Rs. 25000 से अधिक के प्रतिदाय के लिए)
(REFUND OF Rs. 25000/- & above)

(बैंक द्वारा शे. ले. अ. को भेजने के लिए)
(TO BE SENT BY BANK TO Z.A.O.)

भारत सरकार
GOVERNMENT OF INDIA
आयकर कार्यालय INCOME TAX OFFICE
DCIT, CC-4(2), Mumbai

निगम कर
020 CORPORATION TAX

दिनांक
DATE 24/07/2017
स्थान
PLACE Mumbai

शे. ले. सं. करदाता की बैंक खाता संख्या
P. A. N. BANK A/C No. of ASSESSEE नि. व.
A.Y. 1993-94

PAY Custodian A/c - M/s. Aatus Holding Pvt. Ltd.
रुपये Twenty lakhs twenty two thousand one hundred
Fifty nine only

₹. 20,22,159/-

भारतीय स्टेट बैंक, मुख्य शाखा, मुंबई
S. B. I., MAIN BR., MUMBAI
CTC/A2

प्रतिदाय के कारण दे दीजिये ON ACCOUNT OF REFUND DUE
₹. 20,22,159/- से अधिक नहीं
NOT ABOVE Rs.

PANKAJ MEHTA
DCIT, CC-4 (2) MUMBAI

॥ 605200॥ 400002010॥ 49

NOT NEGOTIABLE
PAYABLE WITHIN 3 MONTHS OF DATE OF ISSUE

आयकर प्रतिदाय आदेश
INCOME TAX REFUND ORDER
(Rs. 25000 से अधिक के प्रतिदाय के लिए)
(REFUND OF Rs. 25000/- & above)

(बैंक द्वारा शे. ले. अ. को भेजने के लिए)
(TO BE SENT BY BANK TO Z.A.O.)

भारत सरकार
GOVERNMENT OF INDIA
आयकर कार्यालय INCOME TAX OFFICE
DCIT, CC-4(3), Mumbai

निगम कर
020 CORPORATION TAX

दिनांक
DATE 24/07/2017
स्थान
PLACE Mumbai

शे. ले. सं. करदाता की बैंक खाता संख्या
P. A. N. BANK A/C No. of ASSESSEE नि. व.
A.Y. 1992-93

PAY Custodian A/c - M/s. Growmore Leasing & Investment Ltd.
रुपये Thirty Seven Crore twenty nine lakhs sixty
Eight thousand twenty nine only

₹. 37,29,48,029/-

भारतीय स्टेट बैंक, मुख्य शाखा, मुंबई
S. B. I., MAIN BR., MUMBAI
CTC/A2

प्रतिदाय के कारण दे दीजिये ON ACCOUNT OF REFUND DUE
₹. 37,29,48,029/- से अधिक नहीं
NOT ABOVE Rs.

PANKAJ MEHTA
DCIT, CC-4 (3) MUMBAI
हस्ताक्षर ए. ओ. SIGNATURE A.O.

॥ 605203॥ 400002010॥ 49

NOT NEGOTIABLE
PAYABLE WITHIN 3 MONTHS OF DATE OF ISSUE

आयकर प्रतिदाय आदेश
INCOME TAX REFUND ORDER
(Rs. 25000 से अधिक के प्रतिदाय के लिए)
(REFUND OF Rs. 25000/- & above)

(बैंक द्वारा शे. ले. अ. को भेजने के लिए)
(TO BE SENT BY BANK TO Z.A.O.)

भारत सरकार
GOVERNMENT OF INDIA
आयकर कार्यालय INCOME TAX OFFICE
DCIT, CC-4(3), Mumbai

निगम कर
020 CORPORATION TAX

दिनांक
DATE 20/07/2017
स्थान
PLACE Mumbai

शे. ले. सं. करदाता की बैंक खाता संख्या
P. A. N. BANK A/C No. of ASSESSEE नि. व.
A.Y. 1992-93

PAY Custodian A/c - M/s. Aatus Holding Pvt. Ltd.
रुपये One Crore eighty one lakhs eighty eight
thousand three hundred eighty six only

₹. 1,81,88,386/-

भारतीय स्टेट बैंक, मुख्य शाखा, मुंबई
S. B. I., MAIN BR., MUMBAI
CTC/A2

प्रतिदाय के कारण दे दीजिये ON ACCOUNT OF REFUND DUE
₹. 1,81,88,386/- से अधिक नहीं
NOT ABOVE Rs.

PANKAJ MEHTA
DCIT, CC-4 (3) MUMBAI

॥ 605202॥ 400002010॥ 49

37

Annexure "B"

**Details of CIT (Appeals) and its Orders giving effect for
refund of Tax**

| Sr. No. | Entity | Assessment Year | C.I.T. (Appeals) Order Date | Date of Order giving Effect |
|---------|------------------------------|-----------------|-----------------------------|-----------------------------|
| 1 | Deepika A. Mehta | 1992-93 | 20-01-2012 | 29.08.2012 |
| 2 | Rasila S. Mehta | 1992-93 | 29-02-2012 | 14.08.2012 |
| 3 | Hitesh S. Mehta | 1992-93 | 30-12-2011 | 03.09.2012 |
| | | 1993-94 | 29-03-2012 | 24.07.2012 |
| 4 | Pratima H. Mehta | 1992-93 | 29-02-2012 | 03.09.2012 |
| | | 1993-94 | 30-03-2012 | 24.07.2012 |
| 5 | Jyoti H. Mehta | 1992-93 | 29-02-2012 | 12.10.2012 |
| 6 | Growmore Leasing & Inv. Ltd. | 1992-93 | 21-01-2015 | 31.07.2015 |
| 7 | Aatur Holdings Pvt. Ltd. | 1992-93 | 05-11-2014 | 30.07.2015 |
| 8 | Aatur Holdings Pvt. Ltd. | 1993-94 | 29-12-2014 | 14.01.2015 |
| 9 | Sudhir S. Mehta | 1992-93 | 11-03-2014 | 17.04.2015 |

ITEM NO.101

COURT NO.6

SECTION XVII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 6326/2010

JYOTI H.MEHTA & ORS.

Appellant(s)

VERSUS

THE CUSTODIAN AND ORS

Respondent(s)

(With appln.(s) for stay and ex-parte stay and stay and office report)

WITH

C.A. No. 9339/2010

(With appln.(s) for stay and permission to file additional affidavit and Office Report)

C.A. No. 9338/2010

(With Office Report)

C.A. No. 9342/2010

(With appln.(s) for stay and permission to file additional affidavit and Office Report)

C.A. No. 3284/2011

(With Office Report)

C.A. No. 3285/2011

(With Office Report)

C.A. No. 3286/2011

(With Office Report)

C.A. No. 2580/2011

(With Office Report)

C.A. No. 2579/2011

(With appln.(s) for directions and Office Report)

C.A. No. 8437/2011

(With appln.(s) for clarification/modification of Court's Order and impleadment and impleadment and Office Report)

C.A. No. 2563/2012

(With Office Report)

C.A. No. 799/2014

(With Office Report)

C.A. No. 2672/2009

(With Office Report)

Date: 27/04/2017 These appeals were called on for hearing today.

CORAM :

Signature Not Verified
Digitally signed by
VISHAL ANAND
Date: 2017.04.29
12:02:11
Reason:

HON'BLE MR. JUSTICE PINAKI CHANDRA GHOSE

HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN

Counsel appearing for the parties:-

Ms. Kamini Jaiswal, AOR
Mr. Ashwin H. Mehta, Adv.

Ms. Rani Mishra, Adv.
Mr. Jatinder Pal Singh, Adv.

Mr. Santhosh Krishnan, Adv.
Mr. A. Venayagam Balan, Adv.

Mr. K.K. Venugopal, Sr. Adv.
Mr. Jaideep Gupta, Sr. Adv.
Ms. B. Vijayalakshmi Menon, AOR
Ms. Anuradha Dutt, Adv.
Ms. Fereshte D. Sethna, Adv.
Mr. Dhritiman Roy, Adv.
Mr. Munindra Dvivedi, Adv.
Mr. Chaitanya Kaushik, Adv.
Ms. Anindita Mitra, Adv.

Mr. Beni Chatterji, Sr. Adv.
Mr. Tushad Cooper, Adv.
Mr. Zubin Morris, Adv.
Mr. Anil Shrivastav, AOR

Mr. Shreekant N. Terdal, Adv.

Mr. E.C. Agrawala, AOR

Ms. Pinky Anand, ASG
Mr. Beni Chatterji, Sr. Adv.
Mr. K. Radhakrishnan, Sr. Adv.
Mr. Subramonium Prasad, Sr. Adv.
Mr. S.A. Haseeb, Adv.
Mr. Utkarsh Srivastava, Adv.
Ms. Shama Sharma, Adv.
Ms. Sadhana Sandhu, Adv.
Mr. R. Harishanker, Adv.
Mr. Atulesh Kumar, Adv.
Mrs. Anil Katiyar, Adv.
Mr. B. V. Balaram Das, Adv.
Mr. Arvind Kumar Tewari, Adv.
Mr. M.K. Maroria, AOR
Ms. Shilpa Goel, Adv.

M/s Fox Mandal & Co., Advts.

Mr. A.B. Dial, Sr. Adv.
Mr. Kunal Anand, Adv.
Mr. Rajiv Nanda, AOR

Mr. Arvind Kumar Sharma, AOR

Mr. Anupam Lal Das, AOR

Mr. Shivendra Singh, Adv.
Mr. Ramendra Mohan Patnaik, Adv.

Mr. C.A. Sundaram, Sr. Adv.
Mr. Tushad Cooper, Adv.
Mr. Zubin Morris, Adv.
Ms. Ramni Taneja, Adv.
Mr. Anil Shrivastav, AOR

UPON hearing the counsel the Court made the following
O R D E R

Heard Ms. Kamini Jaiswal and Mr. Ashwin H. Mehta, learned counsel appearing for the appellants, Mr. Subramonium Prasad, learned Senior counsel, Mr. K.K. Venugopal, learned Senior counsel, Mr. Jaideep Gupta, learned Senior counsel, Mr. Tushad Cooper, learned counsel and other learned counsel appearing for the respondents at length.

We direct Mr. Ashwin H. Mehta, learned counsel to supply copies of 91 refund orders to the learned Senior counsel appearing for the respondents immediately.

We also direct Mr. Mehta to sit with Mr. Beni Chatterji, learned Senior counsel appearing for the Revenue to sort out the issue.

Let these matters appear on Board on Tuesday, the 2nd May, 2017 as Part-Heard.

(VISHAL ANAND)
COURT MASTER

(SNEH LATA SHARMA)
COURT MASTER

Annexure HI Di.
1

O/C

ASHWIN S MEHTA

32 Madhuli, Dr Annie Besant Road, Worli, Mumbai 400 018

01.05.2017

To
Shri Airiju Jaikaran,
Joint Commissioner of Income Tax,
Central Circle 4,
19th Floor, Air India Building,
Nariman Point,
Mumbai 400 021



MOST URGENT

Dear Sir,

Ref : **Civil Appeal No.6326 of 2010**

Sub : Compliance with the oral directions given by Hon'ble Supreme Court in the matter of claims of the revenue

1. As you are already aware, the Hon'ble Special Court and the Hon'ble Supreme Court of India have released till date, a sum of Rs.3,251.77 crores under various orders, a chart of which is enclosed at **Annexure "A"**. Besides above, a large sum of more than Rs.200 crores has already been paid by way of Advance Tax and Tax Deducted at Source (T.D.S).
2. In respect of the above, we wish to represent as under :-
 - a) **Refunds due but not being given by revenue :**
We are aggrieved that now for past several years, we have secured reliefs from the appellate authorities and in this respect, orders of refund have been issued, but no refund is being offered by your Department which are liable to be granted automatically even under the I.T. Act. I am pleased to enclose a chart at **Annexure "B"**, disclosing facts of these cases for claims of Rs.874.23 crores computed according to us. I am also pleased to enclose at **Annexure "C"**, a chart for claim for refund in respect of recent two orders of relief given by Hon'ble C.I.T (A) in the sum of Rs.126.02 crores in the case of Ashwin S Mehta for A.Y 1992-93 and a sum of Rs.116.03 crores in the case of Smt Jyoti H Mehta for A.Y 1992-93. However, it may be clarified that the above two orders have been received from Hon'ble C.I.T (A) recently and your Department

remains to pass the Order Giving Effect (O.G.E) in respect of the same.

b) **Refundable for scaled down item :**

That the Hon'ble Supreme Court of India under their order dated 03.12.2008 in the case of D.C.I.T Vs State Bank of India reported as (2009) 2 SCC 451 have been pleased to scale down one of your addition in the sum of Rs.253 crores from Section 11(2)(a) to 11(2)(c) of Torts Act. That your Department and the Custodian was required to comply with the above Judgment but have failed to do so for past 9 years. In fact, your Department has sought release of monies u/s 11(2)(a) by presenting charts to the Custodian who have presented them to the Hon'ble Special Court who have thereafter been pleased to release the demands including against the above addition under its order dated 25.02.2011 in Report No.9 of 2010. The aforesaid violation and non compliance has been brought to the notice of your Department, but yet neither the amounts are being refunded, nor compliance have been made. According to us, your Department ought to refund the monies collected against the above addition, and therefore we are pleased to enclose at **Annexure "D"**, a claim in this regard of Rs.296.23 crores.

c) **Refund on account of release of monies against additions on account of Money Market Oversold Position (MMOP):**

That in the aforesaid Judgment, the Hon'ble Supreme Court has also laid down that the entire sale consideration under the head of Money Market Oversold Position cannot be treated as income of Harshad S Mehta, but yet release of monies have been secured against additions under the above head for A.Y 1992-93 and A.Y 1993-94. It is our case that the monies collected against the above additions ought to be refunded by revenue together with interest. Please find enclosed at **Annexure "E" colly**, two claims for refund amounting to Rs.1265.23 crores and Rs.1111.23 crores respectively for monies released in violation of judgment of Hon'ble Supreme Court.

d) Refundable amount on account of release of monies against the entire demand instead of broken period for A.Y 1993-94

Your attention is drawn to the law laid down by the Hon'ble Supreme Court of India in the case of Harshad S Mehta Vs Custodian reported in (1998) 5 SCC 1, wherein it is laid down that the demands covering the statutory period between the period from 01.04.1991 to 06.06.1992 only qualify to fall u/s 11(2)(a) of Torts Act. However, your Department has been claiming monies against the entire demand for A.Y 1993-94 instead of for the proportionate period covering 01.04.1992 to 06.06.1992. I am pleased to enclose a chart at Annexure "F", the claim for excess amounts released in the sum of Rs.1763.73 crores against the law laid down by Hon'ble Supreme Court.

3. I am also pleased to enclose a chart at Annexure "G", giving a summary of all the aforesaid claims in the total sum of Rs.5552.70 crores. I must hasten to add that in the above amount, there is a duplication between the claim under the head of "Money Market Oversold Position" and excess monies paid for A.Y 1993-94, and to that extent, the claim would stand revised as it is granted.
4. Please note that besides above, we would raise claims for monies released against patently illegal addition of Rs.1342.60 crores made under the head of enhancement of income after 15 years from the date of original assessment under new head against the law laid down by Hon'ble Supreme Court. There would also be a claim on account of excess monies paid by way of T.D.S where the order of Hon'ble Supreme Court dated 13.02.2002 in Civil Appeal No.7572 of 1999 has not been complied with by your department now for past fifteen years.
5. We are also aggrieved that the benefit of C.B.D.T Circular dated 29.02.2016 in respect of disputed demand of tax upto a maximum of 15% is being denied though we have filed applications for stay in respect of the major demands raised by you in view of which further amount would also become refundable and a claim of refund lie for excess Taxes paid to revenue. Please also note that

we are enclosing charts giving computations wherever consolidated figures have been used in the above chart alongwith the relevant charts.

- 6. Please also note that the above list is not exhaustive and does not cover all the grounds already urged by us. In case you have any query, kindly let us know.

Yours faithfully,

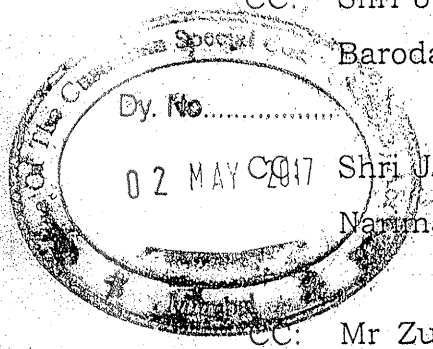
Handwritten signature

(ASHWIN S MEHTA)

Encl : As above

CC: Ms Kamini Jaiswal, Advocate, 43 Lawyers Chamber, Supreme Court of India, New Delhi 110 001

CC: Shri Jayanti Prasad, Custodian, Office of the Custodian, Bank of Baroda Bhuwan, Parliament Street, New Delhi 110 001.



Shri J. A Mahale, Under Secretary, Office of Custodian, 10th Floor, Nariman Bhavan, Nariman Point, Mumbai 400 021

CC: Mr Zubin Morris, M/s Little & Co, Central Bank Building, M G Road, Fort, Mumbai 400 023.

Handwritten notes:
 Draft
 02/05/17
 2:40
 Messrs Little & Co.

Ms Vijaya Laxmi Menon, Advocate for Standard Chartered Bank, Supreme Court of India.

CC. Mr. Benni Chatterji, Senior Counsel, Representing Revenue, Sonawala Building, 2nd Floor, 19 Bank Street, Fort, Mumbai 400 023.

Handwritten notes:
 Recd
 25/5/17
 15:25

CHATTERJI
Sr. Advocate

75
Ann. - A

Monies released as per various Supreme Court and Special Court Orders to Income Tax Authorities

| Sr. No. | Entity | Amount Released | Rs. In Crores |
|---------|---------------------------------------|-------------------------------|------------------------|
| 1 | Harshad S Mehta | 23,22,10,08,532 | 2,322.10 |
| 2 | Ashwin S Mehta | 2,81,36,71,628 | 281.37 |
| 3 | Hitesh S Mehta | 29,60,35,704 | 29.60 |
| 4 | Sudhir S Mehta | 42,22,38,208 | 42.22 |
| 5 | Jyoti H Mehta | 2,73,29,49,846 | 273.29 |
| 6 | Deepika A Mehta | 26,60,20,384 | 26.60 |
| 7 | Pratima H Mehta | 29,09,10,679 | 29.09 |
| 8 | Rina S Mehta | 12,55,77,211 | 12.56 |
| 9 | Rasila S Mehta | 16,13,61,257 | 16.14 |
| 10 | Growmore Research & Assets Mgmt. Ltd. | 99,18,37,802 | 99.18 |
| 11 | Growmore Leasing & Investments Ltd. | 32,01,49,293 | 32.01 |
| 12 | Growmore Exports Ltd. | 4,12,01,624 | 4.12 |
| 13 | Aatur Holdings Pvt. Ltd. | 1,53,49,060 | 1.53 |
| 14 | Harsh Estates Pvt. Ltd. | 1,28,32,942 | 1.28 |
| 15 | Orion Travels Pvt. Ltd. | 97,42,064 | 0.97 |
| 16 | Pallavi Holdings Pvt. Ltd. | 4,62,18,032 | 4.62 |
| 17 | Topaz Holdings Pvt. Ltd. | 3,66,34,657 | 3.66 |
| 18 | Cascade Holdings Pvt. Ltd. | 61,67,88,793 | 61.68 |
| 19 | Divine Holdings Pvt. Ltd. | 1,41,02,367 | 1.41 |
| 20 | Eminent Holdings Pvt. Ltd. | 23,59,338 | 0.24 |
| 21 | Fortune Holdings Pvt. Ltd. | 6,55,31,405 | 6.55 |
| 22 | Treasure Holdings Pvt. Ltd. | 10,82,776 | 0.11 |
| 23 | Velvet Holdings Pvt. Ltd. | 6,54,168 | 0.07 |
| 24 | Zest Holdings Pvt. Ltd. | 1,34,33,057 | 1.34 |
| | <u>Total</u> | <u>32,51,76,90,827</u> | <u>3,251.77</u> |

46
Ann - A

| Chart Showing Particulars of Income Tax Released / Paid as per Various Orders of Hon'ble Supreme Court and Hon'ble Special Court | | | | | |
|--|--|--|--------------------------------|-------------------------------|-----------------------------------|
| Sr. No. | Order Date | Matter No. | Rate of Interest on Refund | Amount of Tax Released / Paid | Period |
| 1 | Special Court Order dated 24/08/1993 | M.A. No.41 of 1993 | * As per Spcl. Court Direction | 42,08,672 | 1993-94 |
| 2 | Special Court Order dated 21/03/1995 | M.A.No.107 of 1993 | | 18,55,667 | Pre-Notofication |
| 3 | Supreme Court Order dated 26/08/1996 | Civil Appeal No. 5326 of 1996 with C.A.No.5147 of 1995 | 18% | 1,93,71,00,000 | 1992-93 |
| 4 | Special Court Order dated 22/03/2000 | M.A. No. 150 to 156 of 1999 | 18% | 44,92,80,000 | 1992-93 |
| 5 | Supreme Court Order dated 13/02/2002 | Civil Appeal No. 7572 of 1999 with C.A.No.1175 of 2002 | I.T.Section 244 (1) - 9% | 24,49,75,618 | 1992-93 |
| 6 | Special Court Order dated 16.03.2002 | M.A.Nos.342 to 348 of 2001 | 9% | 70,00,00,000 | 1992-93 |
| 7 | Special Court Order dated 26/11/2002 & 22/01/2003 | M.A.Nos.75 to 85 of 2001 | * As per Spcl. Court Direction | 4,46,03,576 | Post-Notification (Corporates) |
| 8 | Sppecial Court Order dated 16/01/2003 & 28/01/2003 | M.A.Nos. 469 to 489 of 2002 | I.T.Section 244 (1) - 8% | 4,35,50,65,686 | 1992-93 1993-94 |
| 9 | Sppecial Court Order dated 11/02/2003 | M.A.Nos. 553, 555 to 561 of 2002 | I.T.Section 244 (1) - 8% | 32,45,45,709 | Post-Notification (Individuals) |
| 10 | Special Court Order dated 03/10/2003 | M.A.No.272 of 2003 | * As per Spcl. Court Direction | 4,21,59,65,754 | 1992-93 1993-94 |
| 11 | Special Court Order dt.25.02.2011 | Custodian Report No.9 of 2010 | * As per Spcl. Court Direction | 19,95,66,79,684 | 1992-93 1993-94 IT & WT |
| 12 | Hon'ble Supreme Court Order dated 26th March 2012 | C.A.No.8437 of 2011 | | 28,34,10,461 | 1992-93 1993-94 RSM & RISM |
| | Total tax Released / Paid | | | <u>32,51,76,90,827</u> | |

Note :- * denotes that the rate of Interest on the amount released has not been decided by the Hon'ble Special Court.

List of cases where orders of refund issued but refund not made though due both under TDS Act and Income Tax Act plus two cases of refunds.

| Sr. No. | Entity | Assessment Year | Assessed Income (Rs.) | Relief (Rs.) | Relief (%) | C.I.T. (Appeals) Order Date | Date of Order giving Effect | Original Demand | Refund of Tax paid | Refund of Tax including interest till 31.03.2017 |
|---------|---------------------------------------|-----------------|-----------------------|----------------|------------|-----------------------------|-----------------------------|-----------------|--------------------|--|
| | | | | | | | | | | 41,04,67,704 |
| 1 | Deepika A. Mehta | 1992-93 | 29,53,91,212 | 26,30,83,189 | 89 | 20-01-2012 | 29.08.2012 | 2,63,99,53,777 | 14,90,51,270 | 22,15,19,270 |
| 2 | Rasila S. Mehta | 1992-93 | 24,65,02,868 | 20,76,08,192 | 84 | 29-02-2012 | 14.08.2012 | 90,94,83,602 | 11,56,75,345 | 45,91,50,400 |
| 3 | Hitesh S. Mehta | 1992-93 | 22,59,48,341 | 17,89,96,365 | 79 | 30-12-2011 | 03.09.2012 | 1,12,35,77,428 | 12,38,04,308 | 18,23,69,319 |
| | | 1993-94 | 25,30,15,505 | 18,36,84,069 | 73 | 29-03-2012 | 24.07.2012 | 58,60,75,906 | 8,32,36,057 | 37,97,77,082 |
| 4 | Pratima H. Mehta | 1992-93 | 36,75,72,411 | 23,68,94,373 | 64 | 29-02-2012 | 03.09.2012 | 2,03,91,25,264 | 13,26,60,832 | 5,65,55,691 |
| | | 1993-94 | 13,99,10,820 | 3,70,44,793 | 26 | 30-03-2012 | 24.07.2012 | 10,70,08,414 | 1,65,77,921 | 3,73,32,56,267 |
| 5 | Jyoti H. Mehta | 1992-93 | 4,06,89,84,089 | 1,51,40,13,494 | 37 | 29-02-2012 | 12.10.2012 | 21,09,81,48,682 | 84,56,35,605 | 1,04,75,17,630 |
| 6 | Growmore Leasing & Inv. Ltd. | 1992-93 | 21,59,29,544 | 18,09,58,665 | 84 | 21-01-2015 | 31.07.2015 | 58,48,18,752 | 27,75,70,625 | 2,88,64,320 |
| | | 1992-93 | 2,72,70,576 | 2,40,25,452 | 88 | 05-11-2014 | 30.07.2015 | 7,06,14,853 | 1,38,14,635 | 30,05,318 |
| 7 | Aatur Holdings Pvt. Ltd. | 1992-93 | 30,79,570 | 24,99,770 | 81 | 29-12-2014 | 14.01.2015 | 84,02,214 | 14,37,367 | 45,38,27,865 |
| 8 | Aatur Holdings Pvt. Ltd. | 1993-94 | 56,59,80,814 | 28,00,67,846 | 49 | 11-03-2014 | 17.04.2015 | 1,83,44,25,878 | 16,02,04,949 | 19,16,29,386 |
| 9 | Sudhir S. Mehta | 1992-93 | | | | | | | 4,09,00,000 | 1,57,43,11,676 |
| 10 | Growmore Leasing & Inv. Ltd. | 1991-92 | | | | | | | 33,60,09,778 | 8,74,22,71,928 |
| 11 | Growmore Research & Assets Mgmt. Ltd. | 1991-92 | | | | | | | 2,29,65,78,692 | (Rs.874.23 Cr) |
| | | | | | | | | (Rs.229.66 Cr) | | |

47

Note: 1) (*) These two amounts have been released by Hon'ble Supreme Court under order dated 26.08.1996 in C.A.No.5326 of 1996 with C.A.No.5147 of 1995 for A.Y.1991-92 and therefor refundable as not falling u/s.11(2)(a) and also because additions are substantially deleted.

2) The revenue has not given full credit for Tax Deducted at Source (TDS) paid which figure is still to be reconciled by revenue with the Custodian.

Ashwin S. Mehta

Computation of claim of refund for reliefs granted by Hon'ble CIT (A) by order dated 28.02.2017 for
A.Y.1992-93

| Sr. No. | Particulars of Orders | Date of Amount Released | Amount Released | Rate of Interest on deposit | No. of days till 31/03/2017 | Interest Amount | Total Amount |
|---------|---|-------------------------|---------------------|-----------------------------|-----------------------------|---------------------|-----------------------|
| 1 | Supreme Court Order dated 26/08/1996 in Civil Appeal No. 5326 of 1996 with C.A. NO. 5147 of 1995 | 14-10-1996 | 10,24,00,000 | 18% | 7,473 | 37,73,76,263 | |
| 2 | Special Court order dated 22/03/2000 in 150 to 156 of 1999 | 29-03-2000 | 4,91,40,000 | 18% | 6,211 | 15,05,13,801 | |
| 3 | Spl. Court Order dated 16/03/2002 in M.A. Nos. 342 to 348 of 2001 | 26-03-2002 | 9,00,00,000 | 9% | 5,484 | 12,16,99,726 | |
| 4 | TDS released as per Civil Appeal No. 7572 of 1999 with CA No. 1175 of 2002 Supreme Court order dated 13/02/2002 | 13-02-2002 | 94,52,159 | 9% | 5,525 | 1,28,76,948 | |
| | Spl. Court order dated 16/01/2003 & 28/01/2003 in MA 469 to 489 of 2002 | 24-02-2003 | 16,29,08,360 | 8% | 5,149 | 18,38,49,895 | |
| | TOTAL AMOUNT | | 41,39,00,519 | | | 84,63,16,633 | 1,26,02,17,152 |

Department is yet to issue Order Giving Effect (OGE)

Jyoti H. Mehta

Computation of claim of refund fo relief granted by Hon'ble CIT (A) by order dated 24.03.2017 for

A.Y.1992-93

| Sr. No. | Particulars | Date of Payment | Amount Released | Rate of Interest on deposit | No. of days till 31/03/2017 | Interest Amount | Total claim |
|---------|--|-----------------|---------------------|-----------------------------|-----------------------------|---------------------|-----------------------|
| 1 | TDS released as per Civil Appeal No. 7572 of 1999 with CA No. 1175 of 2002 Supreme Court order dated 13/02/2002. | 13-02-2002 | 32,75,515 | 9% | 5525 | 44,62,328 | |
| 2 | Spl. Court order dated 16/01/2003 & 28/01/2003 in MA 469 to 489 of 2002 | 24-02-2003 | 30,41,76,872 | 8% | 5149 | 34,32,78,184 | |
| 3 | Income Tax released as per Special Court order in M. A. No. 272 of 2003 dt. 03/10/2003 | 10-11-2003 | 14,80,63,133 | (*) 18% | 4890 | 35,70,55,259 | |
| | | | 45,55,15,520 | | | 70,47,95,772 | 1,16,03,11,292 |

(*) As the rate of interest on the deposits released to the Revenue is not specified by the Hon'ble Special Court in the Order, the Applicant has made the claim at 18% p.a.

Department is yet to issue Order Giving Effect (OGE)

49

Amount refundable with interest as falsely released to revenue in violation of Judgment of Hon'ble Supreme Court in the cas of DCIT v/s. SBI reported as (2009) 2 SCC 451 on account of scaled down item of Rs. 253 Crores

| Sr. No. | Particulars of Orders | Date of Amount Released | Amount Released | Rate of Interest on deposit | No. of days till 31/03/2017 | Interest Amount | Total Amount |
|---------|---|-------------------------|-----------------------|-----------------------------|-----------------------------|-----------------------|-----------------------|
| | Income Tax | | | | | | |
| 1 | Income Tax released as per Special Court order dated 25.02.2011 in Report No.9 of 2010. | 11-03-2011 | 1,41,68,00,000 | (*) 18% | 2,212 | 1,54,55,15,310 | |
| | TOTAL AMOUNT | | 1,41,68,00,000 | | | 1,54,55,15,310 | 2,96,23,15,310 |

31-03-2017

As the rate of interest on refund of deposit released to Revenue is not specified by the Hon'ble Judge in the Order, I have assumed the same at (*) 18% p.a.

Amount refundable as on 31.03.2017 with interest as monies falsely released to revenue in violation of judgement of Hon'ble SC in the case of DCIT vs. SBI reported as (2009) 2 SCC 451 on account of Money Market Oversold Position of Rs. 1080.59 Crores and Rs. 1181.05 Crores totalling to Rs. 2261.64 Crores

Mr. Harshad S. Mehta A.Y.1992-93

| Sr. No. | Particulars of Orders | Date of Amount Released | Amount Released | Rate of Interest on deposit | No. of days till 31/03/2017 | Interest Amount | Total Amount |
|---------|---|-------------------------|-----------------------|-----------------------------|-----------------------------|-----------------------|------------------------|
| | <u>Income Tax</u> | | | | | | |
| 1 | Income Tax released as per Special Court order dated 25.02.2011 in Report No.9 of 2010. | 11-03-2011 | 6,05,12,98,227 | (*) 18% | 2,212 | 6,60,10,54,526 | |
| | | | <u>6,05,12,98,227</u> | | | <u>6,60,10,54,526</u> | <u>12,65,23,52,753</u> |

Mr. Harshad S. Mehta A.Y.1993-94

| Sr. No. | Particulars of Orders | Date of Amount Released | Amount Released | Rate of Interest on deposit | No. of days till 31/03/2017 | Interest Amount | Total Amount |
|---------|--|-------------------------|-----------------------|-----------------------------|-----------------------------|-----------------------|------------------------|
| | <u>Income Tax</u> | | | | | | |
| 1 | Income Tax released as per Special Court order dated 25.02.2011 in Report No.9 of 2010. | 11-03-2011 | 5,31,47,45,590 | (*) 18% | 2,212 | 5,79,75,86,587 | |
| | | | <u>5,31,47,45,590</u> | | | <u>5,79,75,86,587</u> | <u>11,11,23,32,177</u> |
| (*) | As the rate of interest on refund of deposit released to Revenue is not specified by the Hon'ble Judge in the Order, I have assumed the same at 18% p.a. | | | | | | |

(1) That the Hon'ble Special Court under order dated 29.09.2007 in Report 15 of 2006 has held that entire sale consideration of securities cannot be income of Harshad Mehta

(2) That Hon'ble Supreme Court upheld the above in para 44 of its judgement

Claim of Refund on account of monies released to Revenue against entire demands for A. Y. 1993-94 in violation of law laid down in the case of Harshad Mehta vs. Custodian reported as (1998) 5 SCC 1

| Sr.No. | Name of the Entity | Spl. Court Order dated 26/11/2002 & 22/01/2003 in MA 75 to 85 of 2001 | Special Court Order dated 16/01/2003 & 28/01/2003 in M.A.Nos. 469 to 489 of 2002 | Special Court Order dated 03/10/2003 in M.A.No.272 of 2003 | Special Court Order dt.25.02.2011 in Custodian Report No.9 of 2010 | Hon'ble Supreme Court Order dated 26th March 2012 in C.A.No.8437 of 2011 | Total Tax paid for A.Y.1993-94 | Tax for the Period upto 06-06-1992 | Balance Tax for No-Priority Period | Interest @ 18% on Tax to be refunded for Non-priority period for 6 years | Total Refund Amount |
|--------|--------------------------------------|---|--|--|--|--|--------------------------------|------------------------------------|------------------------------------|--|------------------------|
| 1 | Harshad S. Mehta | 0 | 0 | 0 | 9,55,67,42,612 | 0 | 9,55,67,42,612 | 1,75,42,51,384 | 7,80,24,91,228 | 8,42,66,90,527 | 16,22,91,81,755 |
| 2 | Jyoti H. Mehta | 0 | 0 | 0 | 27,86,33,938 | 0 | 27,86,33,938 | 5,11,46,504 | 22,74,87,434 | 24,56,86,429 | 47,31,73,863 |
| 3 | Ashwin S. Mehta | 0 | 0 | 0 | 12,34,74,235 | 0 | 12,34,74,235 | 2,26,65,134 | 10,08,09,101 | 10,88,73,830 | 20,96,82,931 |
| 4 | Deepika A. Mehta | 0 | 4,47,22,676 | 1,83,35,127 | 15,90,994 | 0 | 6,46,48,797 | 1,18,67,039 | 5,27,81,758 | 5,70,04,298 | 10,97,86,056 |
| 5 | Hitesh S. Mehta | 0 | 7,97,17,017 | 0 | 15,97,865 | 0 | 8,13,14,882 | 1,49,26,293 | 6,63,88,589 | 7,16,99,676 | 13,80,88,264 |
| 6 | Pratima H. Mehta | 0 | 0 | 4,04,90,544 | 20,48,714 | 0 | 4,25,39,258 | 78,08,576 | 3,47,30,682 | 3,75,09,136 | 7,22,39,818 |
| 7 | Sudhir S. Mehta | 0 | 0 | 4,15,76,050 | 41,79,318 | 0 | 4,57,55,368 | 83,98,931 | 3,73,56,437 | 4,03,44,952 | 7,77,01,390 |
| 8 | Rina S. Mehta | 0 | 0 | 0 | 0 | 2,39,05,166 | 2,39,05,166 | 43,88,072 | 1,95,17,094 | 2,10,78,462 | 4,05,95,556 |
| 9 | Rasila S. Mehta | 0 | 0 | 0 | 0 | 1,88,71,020 | 1,88,71,020 | 34,63,995 | 1,54,07,025 | 1,66,39,587 | 3,20,46,611 |
| 10 | Growmore Research & Assets Mgmt. Ltd | 0 | 5,49,07,620 | 0 | 0 | 0 | 5,49,07,620 | 1,00,78,933 | 4,48,28,687 | 4,84,14,982 | 9,32,43,669 |
| 11 | Growmore Leasing & Investments Ltd. | 0 | 1,52,27,477 | 0 | 0 | 0 | 1,52,27,477 | 27,95,181 | 1,24,32,296 | 1,34,26,880 | 2,58,59,176 |
| 12 | Growmore Exports Ltd. | 0 | 6,55,265 | 0 | 0 | 0 | 6,55,265 | 1,20,282 | 5,34,983 | 5,77,782 | 11,12,766 |
| 13 | Aatur Holdings Pvt. Ltd. | 0 | 0 | 0 | 17,57,702 | 0 | 17,57,702 | 3,22,647 | 14,35,055 | 15,49,860 | 29,84,915 |
| 14 | Harsh Estates Pvt. Ltd. | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 15 | Orion Travels Pvt. Ltd. | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 16 | Cascade Holdings Pvt. Ltd. | 22,89,675 | 0 | 0 | 3,11,58,908 | 0 | 3,34,48,583 | 61,39,877 | 2,73,08,706 | 2,94,93,403 | 5,68,02,109 |
| 17 | Fortune Holdings Pvt. Ltd. | 0 | 3,84,62,087 | 0 | 0 | 0 | 3,84,62,087 | 70,60,164 | 3,14,01,923 | 3,39,14,077 | 6,53,16,000 |
| 18 | Topaz Holdings Pvt. Ltd. | 4,96,645 | 0 | 0 | 0 | 0 | 4,96,645 | 91,165 | 4,05,480 | 4,37,918 | 8,43,398 |
| 19 | Pallavi Holdings Pvt. Ltd. | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 20 | Divine Holdings Pvt. Ltd. | 1,55,286 | 0 | 0 | 10,87,336 | 0 | 12,42,622 | 2,28,098 | 10,14,524 | 10,95,686 | 21,10,210 |
| 21 | Eminent Holdings Pvt. Ltd. | 4,42,567 | 1,22,955 | 0 | 0 | 0 | 5,65,522 | 1,03,808 | 4,61,714 | 4,98,651 | 9,60,365 |
| 22 | Velvet Holdings Pvt. Ltd. | 5,81,884 | 0 | 0 | 0 | 0 | 5,81,884 | 1,06,812 | 4,75,072 | 5,13,078 | 9,88,151 |
| 23 | Treasure Holdings Pvt. Ltd. | 10,000 | 0 | 0 | 7,40,133 | 0 | 7,50,133 | 1,37,696 | 6,12,437 | 6,61,432 | 12,73,870 |
| 24 | Zest Holdings Pvt. Ltd. | 19,59,479 | 0 | 0 | 0 | 0 | 19,59,479 | 3,59,685 | 15,99,794 | 17,27,777 | 33,27,571 |
| | Total Tax Amount | 59,35,536 | 23,38,15,097 | 10,04,01,721 | 10,00,30,11,755 | 4,27,76,186 | 10,38,59,40,235 | 1,90,64,60,273 | 8,47,94,80,022 | 9,15,78,38,423 | 17,63,73,18,445 |

The Appellants seek benefit of law laid down by this Hon'ble Court

52

53
Ann - G

**Before the Honble Supreme Court
In C. A. No. 6326 of 2010**

**Monies bound to be refunded by the Revenue in terms of
settled law**

| <u>Sr.</u> | <u>Particulars</u> | <u>Rs. In Crs.</u> |
|------------|--|------------------------|
| 1 | Cases where orders of refund issued but refund not made | 874.23 |
| 2 | Cases of refunds for reliefs granted by Hon'ble CIT (A) in case of ASM for A. Y. 1992-93 | 126.02 |
| 3 | Cases of refunds for reliefs granted by Hon'ble CIT (A) in case of JHM for A. Y. 1992-93 | 116.03 |
| 4 | Refundable for scaled down item of Rs. 253 Crores | 296.23 |
| 5 | Refundable for release made in respect of MMOP for A. Y. 1992-93 | 1,265.23 |
| 6 | Refundable for release made in respect of MMOP for A. Y. 1993-94 | 1,111.23 |
| 7 | Refundable for entire demand of A. Y. 1993-94 | 1,763.73 |
| | Total | <u><u>5,552.70</u></u> |

Excluding the patently illegal additions of Rs. 1,342.60 Crores made on account of enhancement in income after fifteen years from the date of original assessments

Annexure-8

54

ITEM No. 53

COURT No. 10

SECTION IX

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Civil Appeal No. 5320/96
HARSHAD SHANTILAL MEHTA

Appellant (a)

VERSUS

CUSTODIAN & ORS

Respondent (a)

(With Appln(s) for condonation of delay in filing appeal, ex-Parte stay)
with

C.A.No. 5147/95, C.A.No. 5225/95, C.A.No. 5325/95, C.A.No. 0080/95

Date : 20/08/90 These petitions were called on for hearing today.

COURT :

HON'BLE MR. JUSTICE S.P. BILAL CHA
HON'BLE MR. JUSTICE S.C. SETHI

For Appellant (a) Ms. Lata Keshavnurti, Adv.

For Custodian Mr. Atul Setalvad, Sr. Adv.
Mr. A. Subba Rao, Adv.

For Respondent (a) Mr. Shanti Bhushan, Sr. Adv.
SBI Mr. Sanjay Kapoor, Adv.
Mr. Rajiv Kapoor, Adv.

For Standard Chartered Bank Mr. Arun Jaitley, Sr. Adv.
Mr. Tusher Kapoor, Adv.
Ms. Hina Gupta, Adv.
Ms. Kiran, Adv.
Mr. Harraj Sharma, Adv.
Mr. Vineet Kumar, Adv.

For UOI Mr. Ashok H. Dasal, AG.
Mr. R. Sathish, Adv.
Mr. Q.V. Rao, Adv.
Mr. S.N. Tardol, Adv.

For Resp.No. 6 In Mr. B.V. Dasal, Adv.
No. CA No. 5225/95 Mr. P.J. Malita, Adv.
and for appellant
in CA No. 5147/95

UPON hearing counsel the Court made the following
O R D E R

The statement tendered by the learned Attorney General
and Mr. Setalvad is taken on record.

We have heard Mr. Setalvad, learned counsel for the

55

Custodian, the learned Attorney General for the Revenue, Mr. Shanti Bhushan and Mr. Arun Jaitley, learned counsel appearing on behalf of the State Bank of India and the Standard Chartered Bank respectively, and learned counsel for Harshad Shantilal Mehta.

We direct that the amounts mentioned in Column 3 of Annexure I of the statement aforementioned shall be paid over by the Custodian to the Income-tax Department pending the hearing and final disposal of these appeals. The payments shall be made within two weeks if monies are available in the bank accounts mentioned in the statement. The monies held on fixed deposits or certificates of deposit shall be paid within two weeks of the maturing of such deposits or certificates.

All the amounts so received shall be appropriated by the Income-tax Department towards the arrears of tax of the notified parties concerned (excluding interest or penalty).

The payments shall be made on the condition that within two weeks from today the Secretary (Revenue) in the Ministry of Finance, Union of India, undertakes on behalf of the Union of India that the Union of India shall, within four weeks of being called upon so to do either by this Court or by the Special Court, in this or any other proceeding under the Special Courts Act, bring back to Court the monies so paid or part or parts thereof, as directed, and to pay thereon interest at a rate not less than 18 per cent per annum as this or the Special Court may direct from the date of receipt until the date of return thereof.

The amounts mentioned in Column No. 2 of Annexure II of the aforesaid statement shall be paid to the Income-tax

56

: 3 :

Department, and be appropriated; ~~asset out, above~~, provided however that from the said amounts self-assessment tax or advance tax (if any has been paid) pertaining to the assessment years referred to in Application Nos. 301/94 and 307/95 (in the case of M/s. Fairgrowth Financial Services Limited) and Application Nos. 455/94 and 239/95 (in the case of M/s. Fortune Holdings) will be excluded.

Needless to mention, this Order is without prejudice to the rights and contentions of the parties.

No orders on the interim applications of the State Bank of India (I.A.No.5) and the Standard Chartered Bank (I.A.No. 3). The application for intervention (I.A.No. 4) filed by the State Bank of India is dismissed.

[Signature]
 [PAKESH KUMAR]
 COURT MASTER

[Signature]
 [S.S. GUPTA]
 COURT MASTER
 27/8

[Handwritten marks]

57

ANNEXURE-I

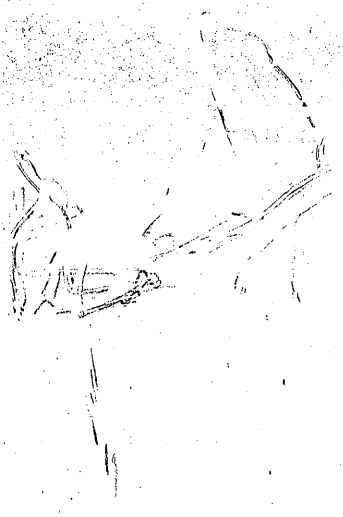
(Figures in Ru. Crores)

| Name of notified Person | Cash in Bank | Proposed to be paid from Cash balances including deposits subject to the orders of Hon'ble Supreme Court | Proposed to be retained | |
|---------------------------------|--------------|--|-------------------------|--|
| | | | For expenses | For investment of rights & conversion expenses |
| (1) | (2) | (3) | (4) | (5) |
| Marshad S Mehta | 30.39 | 34.39 | 2.00 | 2.00 |
| Ashwin S Mehta | 12.24 | 10.24 | 1.00 | 1.00 |
| Vitlesh S Mehta | 5.15 | 4.15 | 0.50 | 0.50 |
| Rudhir S Mehta | 3.03 | 2.03 | 0.50 | 0.50 |
| Vyoti H Mehta | 76.05 | 71.05 | 2.50 | 2.50 |
| Deepika A Mehta | 2.49 | 1.49 | 0.50 | 0.50 |
| Pratima H Mehta | 2.03 | 1.03 | 0.50 | 0.50 |
| Cananda Holdings | 6.76 | 5.76 | 0.50 | 0.50 |
| Orion Travel | 0.62 | - | 0.31 | 0.31 |
| Aatur Holdings | 0.07 | - | 0.07 | - |
| Growmore Exports | 0.52 | - | 0.26 | 0.26 |
| Growmore Research & Asset Mgmt. | 62.60 | 50.60 | 2.00 | 2.00 |
| Growmore Leasing & Investment | 6.09 | 4.09 | 1.00 | 1.00 |
| A.D.Narottam | 0.11 | - | 0.11 | - |
| T.B.Ruia | 0.07 | - | 0.07 | - |
| Hiten P Dalal | 18.14 | 15.14 | 1.50 | 1.50 |
| B.C.Dalal | 1.14 | 0.50 | 0.32 | 0.32 |
| Shantaj Mills | 9.59 | 8.59 | 0.50 | 0.50 |
| Total: | 245.97 | 217.94 | 14.14 | 13.89 |

58

(Rs. in crores)

| Name of Entity | (i) | Amount of payment | (ii) |
|----------------------------------|--------|-------------------|------------------|
| Fortune Holdings | Rs. 48 | 2.42 | Karnal & Lakshmi |
| Marsh Estates | Rs. 51 | 0.86 | Karnal & Lakshmi |
| Calcutta Financial Services Ltd. | | 32.31 | |
| | | 35.59 | |



IN THE SUPREME COURT OF INDIA
CIVIL SERVICES JURISDICTION

CIVIL APPEALS NOS. 5326, 5327, 5328, 5329 & 6030 OF 1995

Harshad Shantlal Mehta Applicant
Vs.
Custodian & Others Respondent

AFFIDAVIT UNDERTAKING

I Shri Manoj Kishore Singh aged 55 years S.O. Shri T.P. Singh A/O 31, Rasheed Marg, Vasant Vihar, New Delhi do hereby solemnly affirm and state as under:-

1. I am the Secretary to the Government of India, Depto. of Revenue in the Ministry of Finance, North Block, New Delhi. I am competent to give this undertaking on behalf of the Govt. of India.

2. This undertaking is based on the statement of the Ld. Attorney General and Senior Advocate A.S. Bhatnagar appearing for the Custodian taken on record by this Hon'ble Court's order dt. 26.9.1996 in the batch of matters above-mentioned.

3. I state that in the said order, this Hon'ble Court directed the Custodian to pay the Income Tax Department amounts as mentioned in column 3 of Annexure-I of the said statement within two weeks if moneys are available in the bank accounts. The court further directed the Custodian to pay moneys held on fixed deposits or certificates of deposit within two weeks of maturing of such deposits or certificates.

4. That this Hon'ble Court further directed that the payments of the said amounts is subject to an undertaking to be furnished by the deponent in accordance with the provisions made in the said order.

5. I, in my capacity as Secretary to the Government of India, Department of Revenue in the Ministry of Finance do hereby undertake to this Hon'ble

-2-

Court for and on behalf of Union of India that I shall, within four weeks of being called upon to do either by this Court or by the Special Court, in this or any other proceeding under the Special Courts Act, bring back to the Court the moneys so paid or part or parts thereof, as directed by this Hon'ble Court or the Special Court and to pay interest thereon at a rate not less than 18 per cent per annum on this Hon'ble or the Special Court may direct from the date of receipt to the date of return.

6. All the averments made herein above are true to my knowledge and nothing material has been concealed herefrom.

M. K. L. 4946
DEPONENT

VERIFICATION:

I Shri Band Kishore Singh, Secretary to the Government of India, Ministry of Finance (Revenue) the deponent above-mentioned, do hereby verify on this day the September, 1996 that the contents of paragraphs 1 to 6 are true and correct to my knowledge based on records and this undertaking hereby given is in my official capacity as Secretary to the Government of India in the Ministry of Finance (Revenue), New Delhi.

M. K. L. 4946
DEPONENT

Date:

| Chart Showing Particulars of Income Tax Released / Paid as per Various Orders of Hon'ble Supreme Court and Hon'ble Special Court | | | | | |
|--|--|--|--------------------------------|-------------------------------|-----------------------------------|
| Sr. No. | Order Date | Matter No. | Rate of Interest on Refund | Amount of Tax Released / Paid | Period |
| 1 | Special Court Order dated 24/08/1993 | M.A. No.41 of 1993 | * As per Spcl. Court Direction | 42,08,672 | 1993-94 |
| 2 | Special Court Order dated 21/03/1995 | M.A.No.107 of 1993 | | 18,55,667 | Pre-Notofication |
| 3 | Supreme Court Order dated 26/08/1996 | Civil Appeal No. 5326 of 1996 with C.A.No.5147 of 1995 | 18% | 1,93,71,00,000 | 1992-93 |
| 4 | Special Court Order dated 22/03/2000 | M.A. No. 150 to 156 of 1999 | 18% | 44,92,80,000 | 1992-93 |
| 5 | Supreme Court Order dated 13/02/2002 | Civil Appeal No. 7572 of 1999 with C.A.No.1175 of 2002 | I.T.Section 244 (1) - 9% | 24,49,75,618 | 1992-93 |
| 6 | Special Court Order dated 16.03.2002 | M.A.Nos.342 to 348 of 2001 | 9% | 70,00,00,000 | 1992-93 |
| 7 | Special Court Order dated 26/11/2002 & 22/01/2003 | M.A.Nos.75 to 85 of 2001 | * As per Spcl. Court Direction | 4,46,03,576 | Post-Notification (Corporates) |
| 8 | Sppecial Court Order dated 16/01/2003 & 28/01/2003 | M.A.Nos. 469 to 489 of 2002 | I.T.Section 244 (1) - 8% | 4,35,50,65,686 | 1992-93 1993-94 |
| 9 | Sppecial Court Order dated 11/02/2003 | M.A.Nos. 553, 555 to 561 of 2002 | I.T.Section 244 (1) - 8% | 32,45,45,709 | Post-Notification (Individuals) |
| 10 | Special Court Order dated 03/10/2003 | M.A.No.272 of 2003 | * As per Spcl. Court Direction | 4,21,59,65,754 | 1992-93 1993-94 |
| 11 | Special Court Order dt.25.02.2011 | Custodian Report No.9 of 2010 | * As per Spcl. Court Direction | 19,95,66,79,684 | 1992-93 1993-94 IT & WT |
| 12 | Hon'ble Supreme Court Order dated 26th March 2012 | C.A.No.8437 of 2011 | | 28,34,10,461 | 1992-93 1993-94 RSM & RISM |
| | Total tax Released / Paid | | | <u>32,51,76,90,827</u> | |

Note :- * denotes that the rate of Interest on the amount released has not been decided by the Hon'ble Special Court.

**Monies released as per various Supreme Court and
Special Court Orders to Income Tax Authorities**

| Sr. No. | Entity | Amount Released | Rs. In Crores |
|---------|---------------------------------------|-------------------------------|------------------------|
| 1 | Harshad S Mehta | 23,22,10,08,532 | 2,322.10 |
| 2 | Ashwin S Mehta | 2,81,36,71,628 | 281.37 |
| 3 | Hitesh S Mehta | 29,60,35,704 | 29.60 |
| 4 | Sudhir S Mehta | 42,22,38,208 | 42.22 |
| 5 | Jyoti H Mehta | 2,73,29,49,846 | 273.29 |
| 6 | Deepika A Mehta | 26,60,20,384 | 26.60 |
| 7 | Pratima H Mehta | 29,09,10,679 | 29.09 |
| 8 | Rina S Mehta | 12,55,77,211 | 12.56 |
| 9 | Rasila S Mehta | 16,13,61,257 | 16.14 |
| 10 | Growmore Research & Assets Mgmt. Ltd. | 99,18,37,802 | 99.18 |
| 11 | Growmore Leasing & Investments Ltd. | 32,01,49,293 | 32.01 |
| 12 | Growmore Exports Ltd. | 4,12,01,624 | 4.12 |
| 13 | Aatur Holdings Pvt. Ltd. | 1,53,49,060 | 1.53 |
| 14 | Harsh Estates Pvt. Ltd. | 1,28,32,942 | 1.28 |
| 15 | Orion Travels Pvt. Ltd. | 97,42,064 | 0.97 |
| 16 | Pallavi Holdings Pvt. Ltd. | 4,62,18,032 | 4.62 |
| 17 | Topaz Holdings Pvt. Ltd. | 3,66,34,657 | 3.66 |
| 18 | Cascade Holdings Pvt. Ltd. | 61,67,88,793 | 61.68 |
| 19 | Divine Holdings Pvt. Ltd. | 1,41,02,367 | 1.41 |
| 20 | Eminent Holdings Pvt. Ltd. | 23,59,338 | 0.24 |
| 21 | Fortune Holdings Pvt. Ltd. | 6,55,31,405 | 6.55 |
| 22 | Treasure Holdings Pvt. Ltd. | 10,82,776 | 0.11 |
| 23 | Velvet Holdings Pvt. Ltd. | 6,54,168 | 0.07 |
| 24 | Zest Holdings Pvt. Ltd. | 1,34,33,057 | 1.34 |
| | <u>Total</u> | <u>32,51,76,90,827</u> | <u>3,251.77</u> |

Annexure-11

63

Details of CIT (Appeals) and its Orders giving effect for refund of Tax

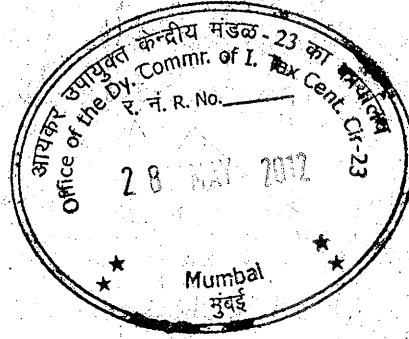
| Sr. No. | Entity | Assessment Year | C.I.T. (Appeals) Order Date | Date of Order giving Effect |
|---------|------------------------------|-----------------|-----------------------------|-----------------------------|
| | | | | |
| 1 | Deepika A. Mehta | 1992-93 | 20-01-2012 | 29.08.2012 |
| 2 | Rasila S. Mehta | 1992-93 | 29-02-2012 | 14.08.2012 |
| 3 | Hitesh S. Mehta | 1992-93 | 30-12-2011 | 03.09.2012 |
| | | 1993-94 | 29-03-2012 | 24.07.2012 |
| 4 | Pratima H. Mehta | 1992-93 | 29-02-2012 | 03.09.2012 |
| | | 1993-94 | 30-03-2012 | 24.07.2012 |
| 5 | Jyoti H. Mehta | 1992-93 | 29-02-2012 | 12.10.2012 |
| 6 | Growmore Leasing & Inv. Ltd. | 1992-93 | 21-01-2015 | 31.07.2015 |
| 7 | Aatur Holdings Pvt. Ltd. | 1992-93 | 05-11-2014 | 30.07.2015 |
| 8 | Aatur Holdings Pvt. Ltd. | 1993-94 | 29-12-2014 | 14.01.2015 |
| 9 | Sudhir S. Mehta | 1992-93 | 11-03-2014 | 17.04.2015 |

016 Annexure - A-12 64

SMT JYOTI H MEHTA
32 Madhuli, Dr Annie Besant Road, Worli, Mumbai 400 018

26.05.2012

To
Shri Anil Sant,
Asst. Commissioner of Income Tax
Central Circle 23,
Aayakar Bhavan, New Marine Lines,
Mumbai 400 020



Dear Sir,

Re: Request for order giving effect for A.Y 1992-93 – Order of C.I.T (A) dated 29.02.2012

1. Your kindself is aware that I have made a request to your kindself to pass order giving effect to the order of Hon'ble C.I.T (A) dated 29.02.2012 wherein substantial relief has been granted to me.. It is apparent that once your kindself gives effect to the order, the tax liability determined by the department earlier in my case will stand drastically reduced.
2. Your kindself is also aware that under various orders of Hon'ble Special Court as well as Hon'ble Apex Court, large sums of monies have been released to your department after obtaining an undertaking from your department that the monies will be brought back by your department together with stipulated rate of interest if and when the Special Court or the Hon'ble Apex Court makes order to that effect. The purpose for which the monies were released on an adhoc basis was to insulate the notified entities from adverse impact of any interest and penalty leviable under The Income Tax Act for non payment of tax.
3. Thus the monies released to your department served the following two purposes.
 - i) That eventually if tax liability gets crystallized and monies are found payable, then the amount released under the adhoc arrangement as above would stand appropriated towards such liability and accordingly your department has already adjusted and shown the monies released as above as payment towards tax and even challans to that effect have been drawn. Obviously such an appropriation has been made on an adhoc basis subject to final orders of Hon'ble Court.

65

ii) That in the event if the tax liability claimed by your department stands reduced, then the monies would become returnable together with interest which is stipulated either in the order or left upon to be determined as the case may be, and as and when the Hon'ble Special Court directs your department to bring back such amount.

4. I state that in view of the foregoing position and if as a result of order giving effect the tax liability stands reduced as would happen in my case, then the matter will have to be placed before Hon'ble Special Court for its information and to seek orders for refund if any, of the monies already released.
5. Your kindself is also aware that the department has made claims for tax, interest and penalty which fall u/s 11(2)(c) and since no claims are made by any banks against me, no amount is payable u/s 11(2)(b). Thus a situation can arise where monies which are released to your department for claims u/s 11(2)(a) would become recallable u/s 11(2)(a) and the same would become payable to your department for the claims made u/s 11(2)(c).
6. In this regard, I am in the process of seeking further legal advise. However pending the same, I would request your department to approach the Hon'ble Special Court for appropriate orders after orders are passed giving effect to the order of Hon'ble C.I.T (A). In case and in the meantime, any letter or directions are received by you from the Custodian asking for refund of monies, then I would request you to first approach Hon'ble Special Court to seek its orders in this regard. This is stated to bring to your notice that under the provisions of the Special Courts Act, the Custodian has no powers to issue any directions regarding the attached monies or assets unless orders are obtained in that regard from the Hon'ble Special Court. In support of my contention, I am pleased to enclose the relevant extracts of the law laid down by the Hon'ble Apex Court specifying the role and responsibilities of the Custodian.
7. I have addressed this letter as I happen to have seen a letter addressed by the Office of Custodian to Hon'ble Chief Commissioner of Income Tax on 27.04.2012, a copy of which is enclosed for your ready reference. In the said letter, the Custodian has sought

66

the latest position of the claims of tax after taking into account the orders passed by the appellate authorities.

8. I am also writing this letter to protect my interests as any amount of refund made by your department would become payable together with interest and it is only the Hon'ble Special Court which can decide the following issues regarding it :-
- a) If monies are recalled, the Hon'ble Special Court would have to specify as to monies are being recalled against which release of monies, as monies have been released from time to time containing stipulation of interest which are varying according to the orders.
- b) That it is only the Hon'ble Special Court which can specify appropriation of monies towards the claim of tax.
9. I state that even in view of the above, it is imperative to file appropriate application before Hon'ble Special Court and seek its orders. I am also endorsing a copy of this letter to the Office of Custodian for their information and necessary action.

Yours faithfully,

J. H. Mehta.
(Jyoti H Mehta)



Encl : As above

CC : The Custodian, Office of the Custodian, 10th Floor, Nariman Bhavan, Nariman Point, Mumbai 400 021.

Ann - A

67

EXHIBIT

Powers, Role and Responsibilities of Custodian

(1998) 5 SCC 1 - Harshad Shantilal Mehta v/s Custodian & Ors

Para 12 The attached property also does not vest in the Custodian. In this regard, the position of a Custodian is different from that of an official liquidator of a company in winding up. Had the Act provided for the extinguishment of any subsisting rights of other persons in the attached property, the Act could well have been considered as arbitrary or unconstitutional (vide C B Gautam V. Union of India).

(2004) 8 SCC 355 - Canbank Financial Services Ltd v/s Custodian & Ors

70. The properties of a notified person do not vest in the Custodian. He is not a Receiver within the meaning of the provisions of the Code of Civil Procedure or an Official Receiver or an Official Assignee under the insolvency laws. He is also not an Official Liquidator under the Companies Act. His right is the same as that of the notified person. Only when the notified person has a subsisting right in a property, the same being subject to statutory attachment, can the Custodian approach the Special Court for an appropriate direction in relation thereto. In other words, the Custodian is not permitted to deal with any property which did not belong to the notified person on the relevant date. (Emphasis supplied)

2004 AIR SCW 6198 - Asea Brown Boveri Ltd Vs. Indl Finance Corpn of India

20. However, so far as the Act is concerned, we have to go by the provisions of the Act, keeping in view the real nature of the transaction ascertaining the real intention of the contracting parties in the light of the facts and circumstances of a given case. Once a party has been notified under sub-section (2) of Section 3 of the Act then under sub-section (3), notwithstanding anything contained in any other law for the time being in force with effect from the date of notification under sub-section (2), any property, movable or immovable or both belonging to notified party stands attached simultaneously with the issue of the notification and becomes liable to be dealt with by the custodian in such manner as the Special Court may direct. A person is liable to be notified by reference to transaction in securities between 1.4.1991 and 6.6.1992. Any contract or agreement entered into between 1.4.1991 and 6.6.1992, in relation to any property of the notified party is liable to be cancelled, if found to have been entered into fraudulently or to defeat the provisions of the Act. Analysing the provisions of the Act, it was held in B.O.I Finance Ltd Vs. Custodian and Others (1997) 10 SCC 488, that the custodian under the Act is required to assist in the attachment of the notified person's property and to manage the same thereof. The properties of the

notified persons, whether attached or not, do not at any point of time, vest in him. He is merely a custodian and not a receiver nor is he a final liquidator so as to enjoy control over the properties. In other words, the position of the custodian is the same as that of the notified person himself. We are, therefore, of the opinion that the custodian remains bound by the obligations incurred by the notified party itself, if not incurred fraudulently or to defeat the provisions of the Act. (Emphasis supplied)

(2012) 1 SCC 83 Ashwin Mehta & Anr V/s Union of India Ors

Para 30

Section 3 of the Special Court Act relates to the appointment and functions of the Custodian. Sub-section (2) thereof clothes the Custodian with the power to notify in the official gazette, the name of a person, who has been involved in any offence relating to transactions in securities during the period as mentioned therein. Sub-sections (3) and (4) of Section 3 stipulate that with the issue of the aforesaid notification, properties, movable or immovable or both, belonging to the notified person shall stand attached, and such properties are to be dealt with by the Custodian in such manner as the Special Court may direct.

Para 34

It is also clear that the Custodian has to deal with the attached properties only in such manner as the Special Court may direct. The Custodian is required to assist in the attachment of the notified person's property and to manage the same thereafter. The properties of the notified persons, whether attached or not, do not at any point of time, vest in him, unlike a Receiver under the Civil Procedure Code or an official Receiver under the Provincial Insolvency Act or official Assignee under the Presidency Insolvency Act. (See : B.O.I. Finance Ltd. Vs. Custodian & Ors.13). The statute also mandates that the Special Court shall be guided by the principles of natural justice. (Emphasis supplied)

Para 36

Therefore, the stand of the Custodian that inviting Apollo to make the bid was necessarily in compliance of the scheme/condition of sale, cannot be accepted inasmuch as it was for the Special Court to take such a decision at the appropriate time and not the Custodian. The Custodian could not have foreseen that the Special Court would not accept the bid of the sole bidder viz. Punjab National Bank. (Emphasis supplied)

Para 38.

As aforesaid, so far as issue of notification in terms of Section 3(2) is concerned, the Custodian derives his power and authority from the Special Court Act but his jurisdiction to deal with property under attachment, flows only from the orders which may be made by the Special Court constituted under the said Act. It is obligatory upon the Custodian to perform all the

69

functions assigned to him strictly in accordance with the directions of the Special Court. In the present case, although we do not find any material on record which may suggest any malafides on the part of the Custodian yet we are convinced that by inviting Apollo to bid, vide letter dated 28th April, 2003, the Custodian did exceed the directions issued to him by the Special Court. (Emphasis supplied)

Para 43

In fact, by his letter dated 29th April, 2003 addressed by the Custodian to the notified parties, including the appellants, the right of the appellants to bring better offer was foreclosed by the Custodian, which evidently was without the permission of the Special Court. (Emphasis supplied)



सत्यमेव जयते

Ann - B
70

Office of the Custodian
The Special Court (TORTS) Act, 1992
Banking Division, Department of Financial Services
Ministry of Finance, Government of India
3rd Floor, Bank of Baroda Bhawan, 16, Parliament Street, New Delhi-110 001
Phones : 23326836, 23320476, 23327279, 23318242 • Fax : 011-23311665
E-mail : custodian.delhi@yahoo.com

No. 1975/CUS/ATT/Recovery of Attached Assets/HMG/(5527)
Dated: 27th April, 2012

To

Ms. Kiran Vasudev Oberoi,
The Chief Commissioner of Income Tax,
Aayakar Bhawan,
Churchgate, M.K. Road,
Mumbai - 400020

Sub.: Recasting the Income Tax liability position of notified parties under Harshad Mehta Group.

Madam,

I am to refer to orders of Hon'ble Income Tax Appellate Tribunal dated 30.01.2008, 17.12.2007, 18.12.2007 and C.I.T. (A) order as per list enclosed under which the Income Tax liability position for the priority period (1st April, 1991 to 6th June, 1992) and the non-priority period are to be modified for each entity of Harshad Mehta Group. The Advocate for notified parties under Harshad Mehta Group in his various letters (copy enclosed) is pressing hard for the same. It is therefore, requested to furnish the revised Income Tax liability of each entity under Harshad Mehta Group to this office at the earliest to take further necessary action. A reply may please be furnished at the earliest.

This issues with the approval of the Custodian.

Yours Sincerely

Siddheri
(S. Dandapat)
Officer on Special Duty

Encl.: Various letters under reference.

Copy for information to:-

- ✓ (i) Shri R.A. Shaikh with reference to his letters (2 Nos.) dated 17.04.2011 & 16.04.2012. addressed to Assistant Commissioner Income Tax and letter dated 12.04.2012 addressed to Ms. Leena Adhvaryu.
- (ii) The Director, Office of the Custodian, Special Court (TORTS) Act, 1992, Mumbai.
- (iii) Ms. Leena Adhvaryu, (AOR), 2nd & 3rd Floor, Behramji Mansion, 4 Homji Street, Sir P.M. Road, Fort, Mumbai - 400 001.

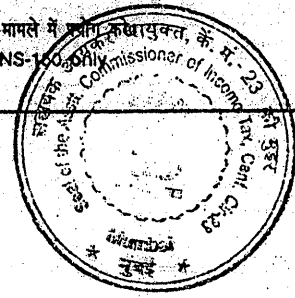
| | आयकर I.T. | अधिभार S.C. | जोड़ Total |
|--|---------------------|----------------|-----------------------------------|
| 23. **मूल निर्धारण/पुनः निर्धारण पूर्व/अपील प्रभाव पूर्व आदि के बाद संदत्त कर Regular payment ** Tax paid after original assessment/prior re-assessment/prior appeal effect etc. 24/2/03 3/7/03 | | | 79717017 |
| 24. जोड़ (20 से 23) Total (20 to 23) | | | 26266054 |
| 25. संदेह/प्रतिदेय शुद्ध कर (19-24) Net tax payable/refundable (19-24) | | | 100075410 |
| | | | 83296057 |
| | घात के अधीन U/s. | रकम Amount | घात के अधीन U/s. रकम Amount |
| 26. निर्धारित/द्वारा/को संदेय ब्याज Interest payable by/payable to the assessee | 234A | | 1106400 |
| 27. **मूल निर्धारण / पुनः निर्धारण पूर्व/अपील प्रभाव पूर्व आदि के बाद संदत्त / अनुज्ञात ब्याज ** Interest already paid/allowed after original assessment/prior re-assessment/prior appeal effect etc. | 234B 220C20 | | 12116082 47614003 |
| 28. निर्धारित/द्वारा संदेय/प्रतिदेय शुद्ध ब्याज (27 द्वारा समायोजित 26) Net Interest payable by/refundable to the assessee (26 as adjusted by 27) | | | |
| 29. संदेय/प्रतिदेय शुद्ध रकम-(28 द्वारा समायोजित 25) Net amount payable/refundable (25 as adjusted by 28) | | | 12399562 |
| 30. **अन्तिम निर्धारण/मूल निर्धारण/अपील प्रभाव पूर्व पहले दिया गया प्रतिक्रम ** Amount already refunded as per provisional assessment/original assessment/prior appeal effect etc. | | 244A | 6964090 |
| 31. संदेय/प्रतिदेय शेष रकम-(30 द्वारा समायोजित 29) Balance amount payable/refundable (29 as adjusted by 30) | | | 19363653/2 |

32. संदेय सी.डी.एस.
CDS Payable

33. संदत्त सी.डी.एस.
CDS paid

(शब्दों में) रुपये _____
(In words) Rupees

सहायक आयकर अधिकारी, के.मं. 23 मुंबई
I.T.O./IAC (A) / Poojan Rana
Assistant Commissioner of Income Tax
Central Circle-23, Mumbai



मांग और संग्रहण सं
D & CR No.

| हस्ताक्षर Signature | तैयारकर्ता Prepared by | जांचकर्ता Checked by | जांचकर्ता Checked by |
|------------------------|---------------------------|-------------------------|-------------------------|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

प्रतिदायो का अभिलेख
RECORD OF REFUNDS

| | |
|---|--|
| प्रतिदाय वाउचर की सं. और तारीख No and date of refund voucher | |
| प्रतिदाय की रकम (रुपये में) Amount of Refund (In Rupees) | |
| प्रतिदाय के कारण Reason of Refund | |
| अधिकारी के हस्ताक्षर Signature of Officer | |

| | |
|----------------------|---|
| Name of the Assessee | Shri HITESH S MEHTA |
| Address : | 32, Madhuli, Dr Annie Besant Road, Worli, Mumbai 400 018 |
| Status | Individual |
| PAN : | ABAPM4491J |
| Date of Order | 24.07.2012 |
| Assessment Year : | 1993-94 |

ORDER GIVING EFFECT TO CIT(A)'S ORDER

The Commissioner of Income Tax (Appeals) - 40, Mumbai has directed the undersigned in his order CIT(A)-40/IT/DCCC-23/73/09-10 dated 29.03.2012. As per the same order the income is revised as under

| Sr. No. | Particulars | Rs. | Rs. |
|---------|---|--------------|--------------|
| I. | Income assessed as per order u/s 144, dated 29.03.1996 | | 25,30,15,505 |
| LESS | (As per para 8.2 of CIT(A)'s order) Addition on account of profit on sale of shares | 18,06,59,637 | |
| LESS | (As per para 9.4 of CIT(A)'s order) Addition on account of dividend and interest income | 73,49,077 | |
| ADD | (As per para 8.5 of CIT(A)'s order) Long term capital gains is revised and enhanced | 43,03,404 | |
| ADD | (As per para 13.4 of CIT(A)'s order) Income enhanced on account of difference in the books of accounts of late Harshad Mehta and the assessee. | 21,241 | |
| | GROSS TOTAL INCOME | | 6,93,31,436 |
| Less | LTCG considered separately after enhancement as above | | 6,33,82,188 |
| | TOTAL TAXABLE INCOME | | 59,49,248 |

2. LTCG of Rs.6,33,82,188/- to be taxed @ 20%. Balance total taxable income of Rs.59,49,248/- to be taxed at normal rates for the year.

3. Credit for prepaid taxes is given to the assessee. Interest u/s 234A/B/C and u/s 220 as per law has been charged.

4. The calculation of tax payable by the assessee forms a part of this order and is given below:

TAX COMPUTATION

| S No | Particulars | Amount (Rs.) | Amount (Rs.) |
|------|---------------------------------------|--------------|-----------------|
| 1 | Tax on income taxable @ normal rates | 2358699 | |
| 2 | Tax on income taxable @ special rates | 12676438 | |
| i | Total Tax | 15035137 | |
| ii | Surcharge on tax (i) @ 12 % | 1804216 | |
| 3 | Gross tax chargeable on total income | | 16839353 |
| 4 | Tax Relief | NIL | |
| 5 | Tax Chargeable | | 16839353 |
| 6 | Prepaid Taxes | | |
| i | TDS | NIL | |
| ii | Advance Tax | 11460 | |
| iii | Self Assessment tax | 146879 | |

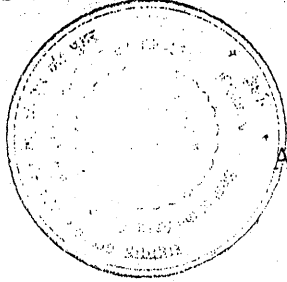
| | | | |
|-----|--|----------|-----------------|
| iv | Total prepaid taxes (6i+6ii+6iii) | | 158339 |
| 7 | Regular tax payable after prepaid taxes (5-6iv) | | 16681014 |
| 8 | Regular Tax Payment (Payment released by the Custodian) | | |
| i | Payment released by custodian on 24.02.2003 | 79717017 | |
| ii | Payment released by custodian on 03.07.2003 | 20200054 | |
| iii | Total regular taxes paid | | 99917071 |
| 9 | Excess of tax paid over tax payable (8iii - 7) | | 83236057 |
| 10 | Interest charged and payable | | |
| i | 234A (from 1.07.1993 to March1996) for 33 months @ 2% | 11106409 | |
| ii | 234B (from 1.04.1993 to March1996) for 36 months @ 2% | 12116082 | |
| iii | 220(2) (May 1996 to 30.05.01) for 61 months @ 1.5 % and | 36511707 | |
| iv | 220(2) (01.06.2001 to 24.02.2003) for 21 months @ 1.25 % | 10474670 | |
| v | 220(2) (24.02.2003 to 03.07.2003) for 7 months @ 1.25 % | 627626 | |
| vi | Total Interest payable by the assessee | | 70836494 |
| 11 | Amount refundable to the assessee after adjustment of interest chargeable (9 - 10vi) | | 12399563 |
| 12 | Interest payable to the assessee u/s 244A (from 01.04.2003 to 31.08.2003) 4 months @ 0.66% and (from 01.09.2003 to 31.07.2012) 107 months @ 0.5% | 6964090 | |
| 13 | TOTAL AMOUNT REFUNDABLE | | 19363653 |

NOTE:

1. The amount stated in rows 8i and 8ii were released by the Custodian on the order of the Hon'ble Special Court (TORTS) Act 1992 for discharge of liability of tax u/s 11(2)(a) of the said act.
2. In terms of the existing orders of the Hon'ble Apex Court and the Hon'ble Special Court on the priority of discharge of liability under section 11(2) of the TORTS Act, 1992, only the existing liability of tax to the exclusion of interest, penalty etc is to be met u/s 11(2)(a) of the TORTS Act. The tax liability in this case has been reduced from Rs.10,00,75,410/- to Rs.1,68,39,353/- as shown in row 5 above.
3. The Custodian has disbursed total amount of Rs. 9,99,17,071/- as shown in row 8 above towards the tax liability. This disbursed amount towards earlier tax liability has now become surplus to the extent of Rs.8,32,36,057/- as shown in row 9 above. Even though there remains interest liability, amounting to Rs.7,08,36,494/- as shown in row 10 above, the same cannot be adjusted, at present, against the aforesaid

surplus amount disbursed of Rs.8,32,36,057/- in view of the existing orders of the Hon'ble Special Court.

4. However, the interest liability of Rs.7,08,36,494/- has been adjusted against the surplus disbursement of Rs.8,32,36,057/- for the purpose of giving effect to the provisions of the Income Tax Act, 1961, in the computation given above. This is subject to the order of the Hon'ble Special Court in due course on how to deal with the surplus disbursed amount of Rs.8,32,36,057/-.
5. Subject to above it is proposed and intimated to the assessee u/s 245 of the Income Tax Act, 1961 to adjust the refundable amount of Rs.1,93,63,653/- as shown in row 13 above against outstanding liabilities of Rs.8,44,71,235/- for AY 1991-92.



Sal
[POOJAN RANA]
ASSISTANT COMMISSIONER OF INCOME-TAX
CENTRAL CIRCLE - 23, MUMBAI.

Copy to: The assessee

[Signature]
ACIT Central Circle - 23, MUMBAI.

A 11
76
77

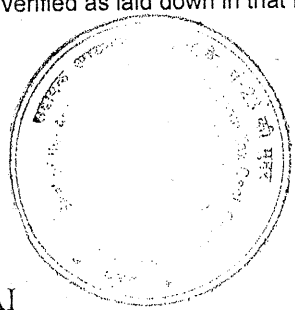
13.09.12


Notice of Demand Under Section 156 of the Income-tax Act, 1961

To,
Smt. Rasila S Mehta
32, Madhuli, Dr Annie Besant Road,
Worli, Mumbai-400018.

Status : Ind.
GIR / PAN No.: ABNPM8219R

1. This is to give you notice that for assessment year **1992-93** a sum of Rs. **7,61,45,167/-** details of which are given on the reverse has been determined and to be **payable to you**.
2. The amount should be paid to the Manager, authorized bank / State Bank of India/ Reserve Bank of India at Mumbai after the service of this notice. The previous approval of the Deputy Commissioner of Income -tax has been obtained for allowing a period of less than 30 days for the payment of the above Sum.
3. If you do not pay the amount within the period specified above you shall be liable to pay simple Interest at One percent for every month or part of month from the date commencing after the end of the period afforded in accordance with 220(2) of the Income-tax Act, 1961.
4. If you do not pay the amount of tax within the period specified above. Penalty (which may be as much as the amount of tax in arrear) may be imposed upon you after giving you a reasonable opportunity of being heard in accordance with Section 221.
5. If you do not pay the amount within the period specified above, proceeding for the Recovery there of will be taken in accordance with Section 222 to 229, 231 and 232 of the Income -tax Act, 1961.
6. If you intend to appeal against the Assessment/ fine / penalty you may present an appeal under Part A of Chapter XX of the Income -tax Act, 1961, to the Deputy Commissioner of Income-tax/ Commissioner of Income-tax (Appeals) - 40 within thirty days of the receipts of Notice, in form No. 35, duly stamped and verified as laid down in that form.
7. The amount has become due as a result of the order of the Deputy Commissioner (Appeals) of Income -tax / the Deputy Commissioner of Income-tax / Commissioner of Income-tax (Appeals) / Chief Commissioner of Income-tax40.....Under section.....
Of the Income-tax Act, 1961. If you intend to appeal against aforesaid order, you may present an appeal under Part B of Chapter XX of the said Act to the Income-tax Appellate Tribunal within sixty days of the receipts of that order, in Form No. 36, duly stamped and verified as laid down in that form.




(POOJAN RANA)
Asth. Commissioner of Income Tax,
Central Circle - 23, Mumbai.

Place : MUMBAI
Date :- 14.08.2012

78

13.09.12

आयकर संगणना फार्म
INCOME TAX COMPUTATION FORM

आई.टी.एन.एस-150
I.T.N.S.-150

मूल/संशोधित
ORIGINAL/REVISED
यदि संशोधित हो, तो अन्तिम संगणना की तारीख लिखें
If revised, mention date of last computation

AE 35/19-75
2012-13
Rem. 37111-150
2012-13

ABNPM 8219P

1. आयकर लेखा सं./सं.सं.
P.A.N./G.J.R. No. A
2. निर्धारित नाम व पता
Name and Address of the Assessee 1992-93.
1992-93.
3. निर्धारण वर्ष
Assessment year
4. समाप्त गत वर्ष
Previous year ended
5. क्या निवासी/साधारण निवासी नहीं/अनिवासी
Whether Resident/NOR/NR 2012-13
6. स्थिति
Status
6. क यदि हि. अ. क. है तो क्या कर की उच्चतर दर लागू होती है?
If H.U.F. is higher rate of tax applicable? CIT(A) 1/02/02
7. आदेश की धारा
Order Passed U/s. 141/8/2012
8. आदेश की तारीख
Date of Order

9. कुल आय 2700 A 1981108
Total Income (FIGURES IN RUPEES)

| | आयकर | अधिभार | जोड़ |
|--|-----------------|----------------|-----------------|
| 10. शुद्ध कृषी आय Net Agricultural Income | | | |
| 11. जोड़ (9+10) Total (9+10) | <u>18849339</u> | <u>2509549</u> | <u>21369128</u> |
| 12. उपर्युक्त (11) पर सकल कर Gross tax on (11) above | <u>230240</u> | | |
| 13. (10**) पर सकल कर (*राहत सीमा लिखें) Gross tax on (10**) (*mention exemption limit) | | | |
| 14. कुल आय पर प्रभार्य सकल कर (12-13) Gross tax chargeable on total income (12-13) | | | <u>21369128</u> |

कर राहत
TAX RELIEF

15. धारा 86 के अधीन अ.प.पु/व्यक्तियों के संगम/व्याप्तियों के निकाय से प्राप्त अंश आय पर राहत
Tax relief in respect of share of income in URF/AOP/BOI U/s 86
16. धारा 90 तथा 91 के अधीन दोहरा आयकर राहत (देश का नाम लिखें)
DIT relief U/s 90 & 91 (Specify Country)
17. अन्य
Others
18. कुल कर राहत (15+16+17)
Total Tax Relief (15+16+17)
19. प्रभार्य शुद्ध कर (14-18)
Tax Chargeable (14-18)

पूर्व संदत कर
PRE-PAID TAXES

20. टि.डी.एस.
T.D.S.
21. अग्रिम कर
Advance-tax
22. स्वतः निर्धारण कर
Self-assessment tax

973195

1500000

78
79

| | आयकर I.T. | अधिभाग S.C. | To |
|--|--------------|----------------|-----------|
| 23. **मूल निर्धारण/पुनः निर्धारण पूर्व/अपील प्रभाव पूर्व आदि के बाद संदत कर ** Tax paid after original assessment/prior re-assessment/prior appeal effect etc. 31.7.06. | | | 2651399 |
| 24. जोड (20 से 23) Total (20 to 23) | | | 4896465 |
| 25. संदेह/प्रतिदेय शुद्ध कर (18-24) Net tax payable/refundable (19-24) | | | 127023074 |
| | | | 115675345 |

| घारा के अधीन U/s. | रकम Amount | घारा के अधीन U/s. | रकम Amount |
|----------------------|---------------|----------------------|---------------|
|----------------------|---------------|----------------------|---------------|

| | | | |
|--|--------|--|------------|
| 26. निर्धारिती द्वारा/को संदेय ब्याज Interest payable by/payable to the assessee | 234A | | 10561722 |
| 27. **मूल निर्धारण / पुनः निर्धारण पूर्व/अपील प्रभाव पूर्व आदि के बाद संदत / अनुशात ब्याज ** Interest already paid/allowed after original assessment/prior re-assessment/prior appeal effect etc. | 234B | | 13227153 |
| 28. निर्धारिती द्वारा संदेय/प्रतिदेय शुद्ध ब्याज (27 द्वारा समायोजित 26) Net interest payable by/refundable to the assessee (26 as adjusted by 27) | 220C2) | | 17578502 |
| 29. संदेय/प्रतिदेय शुद्ध रकम-(28 द्वारा समायोजित 25) Net amount payable/refundable (25 as adjusted by 28) | | | |
| 30. **अन्तिम निर्धारण/मूल निर्धारण/अपील प्रभाव पूर्व पहले दिया गया प्रतिदाय ** Amount already refunded as per provisional assessment/original assessment/prior appeal effect etc. | 241UA | | 1857199 |
| 31. संदेय/प्रतिदेय शेष रकम-(30 द्वारा समायोजित 29) Balance amount payable/refundable (29 as adjusted by 30) | | | 76145164/- |

32. संदेय सी.डी.एस.
CDS Payable

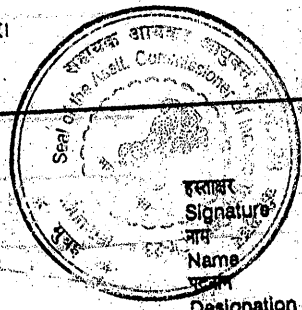
33. संदत सी.डी.एस.
CDS paid

** सिर्फ संशोधित आई.टी.एन.एस.-150 के मामले में प्रयोग करें।
** To be used in case of revised ITNS-150 only

(शब्दों में) रुपये
(In words) Rupees

आ.क. अधि/नि.स.आ. (नि.)
I.T.O./IAC (A)

जिला/सर्कल
Dist. / Circle



Prepared by

हस्ताक्षर
Signature

नाम
Name

पदनाम
Designation

तारीख
Date

जांचकर्ता
Checked by

डॉ. राजू राना / DO. RAJAN RANA
जिला/सर्कल-23, मुंबई
Dist. / Circle-23, Mumbai

प्रतिदायो का अभिलेख
RECORD OF REFUNDS

प्रतिदाय वाउचर की सं. और तारीख
No and date of refund voucher

प्रतिदाय कि रकम (रुपयों में)
Amount of Refund (In Rupees)

प्रतिदाय के कारण
Reason of Refund

अधिकारी के हस्ताक्षर
Signature of Officer

| | |
|----------------------|---|
| Name of the Assessee | Smt RASILA S MEHTA |
| Address : | 32; Madhuli, Dr Annie Besant Road, Worli, Mumbai 400 018 |
| Status | Individual |
| PAN : | ABNPM8219R |
| Date of Order | 14.08.2012 |
| Assessment Year : | 1992-93 |

ORDER GIVING EFFECT TO CIT(A)'S ORDER

The Commissioner of Income Tax (Appeals) – 40, Mumbai has directed the undersigned in his order CIT(A)-40/IT/DCCC-23/98/07-08 dated 29.02.2012. As per the same order the income is revised as under

| Sr. No. | Particulars | Rs. | Rs. |
|---------|---|--------------|--------------|
| I. | Income assessed as per order u/s 144 rws 254, dated 17.12.2007 | | 24,65,02,868 |
| LESS | (As per para 8.6 of CIT(A)'s order) Addition on account of unexplained investments but including rights issues/bonus shares etc | 35,11,584 | |
| LESS | (As per para 9.21 of CIT(A)'s order) Addition on account of quantity of shares acquired by the assessee for which the details have been submitted before the passing of the assessment order or 01.03.1995 | 19,22,73,812 | |
| LESS | (As per para 11.5 of CIT(A)'s order) Addition on account declaration made by Shri Harshad Mehta | 1,00,81,000 | |
| LESS | (As per para 14.3 of CIT(A)'s order) Addition on account of capital gains without giving deduction u/s 48. | 17,41,796 | |
| | GROSS TOTAL INCOME | | 3,88,94,676 |
| Less | Revised LTCG considered separately (and taxed at special rate of 20%) | | 11,51,198 |
| | TOTAL TAXABLE INCOME (to be taxed at normal rates) | | 3,77,43,478 |

2. LTCG of Rs.11,51,198/- to be taxed @ 20%. Balance total taxable income of Rs.3,77,43,478/- to be taxed at normal rates for the year.

3. Credit for prepaid taxes is given to the assessee. Interest u/s 234A and 234B is charged only up to 28.02.1995 as per the order of CIT(A) in para 16.16. Interest u/s 220 is charged as per law.

4. The calculation of tax payable by the assessee forms a part of this order and is given below:

TAX COMPUTATION

| S No | Particulars | Amount (Rs.) | Amount (Rs.) |
|------|---------------------------------------|--------------|-----------------|
| 1 | Tax on income taxable @ normal rates | 18849330 | |
| 2 | Tax on income taxable @ special rates | 230240 | |
| i | Total Tax | 19079579 | |
| ii | Surcharge on tax (i) @ 12 % | 2289549 | |
| 3 | Gross tax chargeable on total income | | 21369128 |
| 4 | Tax Relief | NIL | |
| 5 | Tax Chargeable | | 21369128 |

| | | | |
|-----|--|-----------|------------------|
| 6 | Prepaid Taxes | | |
| i | TDS | 973195 | |
| ii | Advance Tax | 1500000 | |
| iii | Total Prepaid taxes (6i + 6ii) | | 2473195 |
| 7 | Regular tax payable after prepaid taxes (5-6iii) | | 18895933 |
| 8 | Regular Tax Payment (Payment released by the Custodian) | | |
| i | On 09.08.2002 | 2651399 | |
| ii | On 31.07.2006 | 4896405 | |
| iii | On 28.03.2012 | 127023474 | |
| iv | Total regular taxes paid | | 134571278 |
| 9 | Excess of tax paid over tax payable (8iv - 7) | | 115675345 |
| 10 | Interest charged and payable | | |
| i | 234A (from 1.11.1992 to 28.02.1995) | 10581722 | |
| ii | 234B (from 1.04.1992 to 28.02.1995) | 13227153 | |
| iii | 220(2) (from Jan 2008 to March 2012) | 17578502 | |
| iv | Total Interest payable by assessee | | 41387377 |
| 11 | Amount refundable to the assessee after adjustment of interest (9 - 10iv) | | 74287968 |
| 12 | Interest on refund payable to the assessee u/s 244A (from April 2012 to August 2012) | 1857199 | |
| 13 | TOTAL AMOUNT REFUNDABLE (11+12) | | 76145167 |

NOTE:

1. The amount stated in rows 8i, 8ii and 8iii were released by the Custodian on the order of the Hon'ble Special Court (TORTS) Act 1992 for discharge of liability of tax u/s 11(2)(a) of the said act.
2. In terms of the existing orders of the Hon'ble Apex Court and the Hon'ble Special Court on the priority of discharge of liability under section 11(2) of the TORTS Act, 1992, only the existing liability of tax to the exclusion of interest, penalty etc is to be met u/s 11(2)(a) of the TORTS Act. The tax liability in this case has been reduced from Rs.13,70,44,473/- to Rs.2,13,69,128/- as shown in row 5 above.
3. The Custodian has disbursed total amount of Rs.13,45,71,278/- as shown in row 8 above towards the tax liability. This disbursed amount towards earlier tax liability has now become surplus to the extent of Rs.11,56,75,345/- as shown in row 9 above. Even though there remains interest liability amounting to Rs.4,13,87,377/- as shown in row 10 above, the same cannot be adjusted, at present, against the aforesaid surplus amount disbursed of Rs.11,56,75,345 in view of the existing orders of the Hon'ble Special Court.
4. However, the interest liability of Rs.4,13,87,377/- has been adjusted against the surplus disbursement of Rs.11,56,75,345/- for the purpose of giving effect to the provisions of the Income Tax Act, 1961, in the computation given above. This is subject to the order of the Hon'ble Special Court in due course on how to deal with the surplus disbursed amount of Rs.11,56,75,345/-.

82

Rasila Mehta
AY 1992-93 Appeal Effect

5. Subject to above it is proposed and intimated to the assessee u/s 245 of the Income Tax Act, 1961 to adjust the refundable amount of Rs.7,61,45,167/- as shown in row 13 above against outstanding liabilities of Rs.19,46,75,360/- for AY 1993-94.



[~~POOJAN RANA~~]
ASSISTANT COMMISSIONER OF INCOME-TAX
CENTRAL CIRCLE - 23, MUMBAI.

Copy to: The assessee

ACIT Central Circle - 23, MUMBAI.