

1998

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

MISC.PETITION NO.41 OF 1999

The Custodian ...Petitioner

v/s.

Mrs.Jyoti H. Mehta & ors. ...Respondents

Mr.G.R.Joshi i/b M/s.P.M. & Mithi & co. for  
the Custodian/Applicant.

Mr.M.M.Vashi i/b Ajay Khandhar for Respondents  
Nos.1B, 2, 5,& 7 and i/b Nina Chaugule & Associates  
for Respondents Nos. 1(a), 4, 9 and i/b P.B.Sabnis  
for Respondents Nos. 3 & 6.

Mr.B.M.Chatterjee for Respondent No.8/ I.1.Dept.

Ms.Amrita A. Hazarnis i/b Dave & Girish for  
SCB/Intervenor-1.

Ms.Samindara Surve i/b Little & Co. for the  
Intervenor-2 SBI & 3/SBI Capital.

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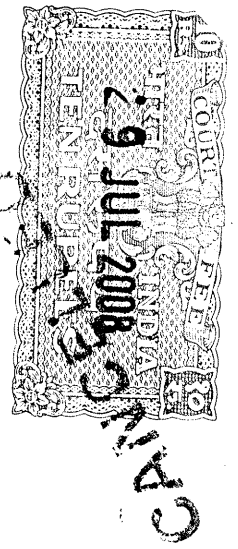
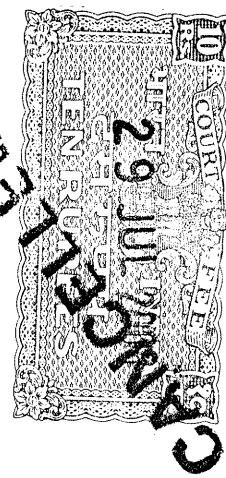
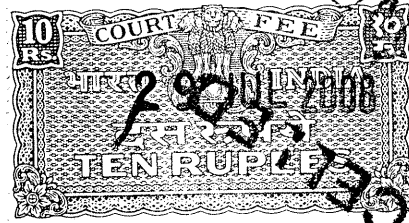
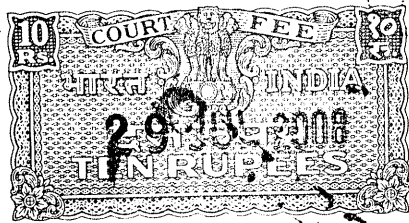
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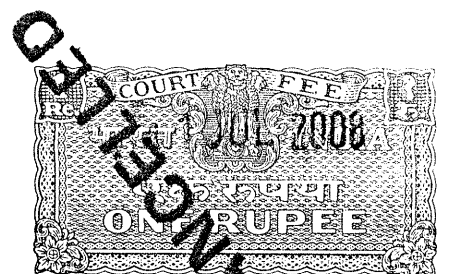
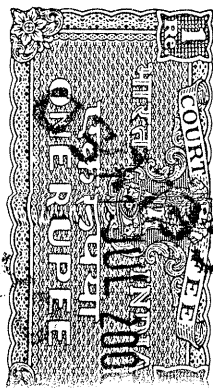
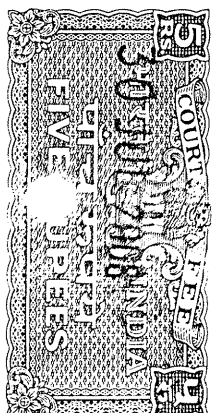
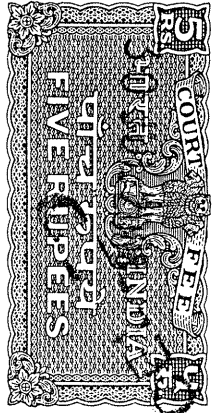
CORAM: D.K.DESHMUKH, J.

Special Court

DATED: 25/7/08

P.C.:

1. This petition has been taken out by the custodian for a direction for sale of flats in a building known as "Madhuli", situate at Dr. Annie Besant Road, Worli, Mumbai- 400 018. Flat No.32A stands in the name of Mr.Ashwin S. Mehta, Flat No.32B stands in the name of Mrs.Jyoti H. Mehta, Flat No.33 stands in the name of Mrs.Pratima H. Mehta and Mrs.Jyoti H. Mehta. Flat No.34-A stands in the name of M/s Aatur Holdings, Flat No.34-B stood in the name of deceased Harshad Mehta, now it is held by legal representatives of Harshad Mehta namely his widow, mother and son. Flat No.44-A holds by Mr.Hitesh A. Mehta and deceased Harshad Mehta (now by his legal heirs). Flat No.44-B is held by Mr.Sudhir Mehta and Flat No.45 is held by Mrs.Deepika A. Mehta. Admittedly all the individual holders of the flats are closely related to the deceased Harshad Mehta,



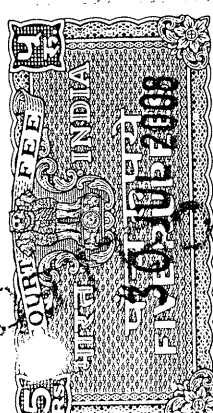
and all of them have been notified under the provisions of Special Court Act. Even the company which holds the flat in the building as indicated above has been notified under the Act.

2. This application was granted by this court by order dated 17-10-2003. That order was challenged along with other orders passed by this court before the Supreme Court in Civil Appeal No.667-671 of 2004 with other connected Appeals. Those appeals were decided on 3-1-2006. The judgment is reported as Ashwin S. Mehta and Anr. v/s. Custodian and ors., 2006 (2) SCC 385. The Supreme Court by its judgment set aside the order passed by this court dated 17-10-2003 in Misc.Application No.41 of 1999 and demanded Misc.Application No.41 of 1999 to this court for fresh consideration and decision. The directions of the Supreme Court are contained in paragraphs 77 & 78 of its judgment in Ashwin S. Mehta's case and it reads as under:-

Conclusion:

77. In view of our foregoing discussions, we are of the opinion that:

- (i) The contention of the appellants that they being not involved in offences in transactions in securities could not have been proceeded in terms of the provisions of the Act cannot be



**CANCELLED**





continuously upon giving due notice therefor to the appellants jointly. As the appellants have been represented in all the proceedings jointly, only one of them would be nominated by them to have the inspection thereof. The appellants shall be entitled to take the help of a chartered or cost accountant and may make notes therefrom for their use in the pending proceeding.

(vii) The appellants shall file their objections to the said report, if any, within ten days thereafter. The Custodian may also take assistance and/or further assistance from a chartered accountant of his choice. A reply and/or rejoinder thereto shall be filed within one week from the date of the receipt of the copy of the objection. The parties shall file their respective documents within one week thereafter. Such documents should be supported by affidavits. Both the parties shall be entitled to inspect such documents and file their responses thereto within one week thereafter. The parties shall file the written submissions filed before this Court together with all charts before the learned Special Judge, Special Court within eight weeks from date.

(viii) The learned Judge, Special Court shall allow the parties to make brief oral submissions with pointed reference to their written submissions. Such hearing in the peculiar facts and circumstances of this case should continue from day to day.

(ix) The learned Judge, Special Court while hearing the matter in terms of this order shall also consider as to whether the auction-sale should be confirmed or not. It will also be open to the learned Judge, Special Court to pass an interim order or orders, as it may think fit and proper, in the event any occasion arises therefor.

(x) We would, however, request the learned Special Judge, Special Court to complete the hearings of the matter, keeping in view the fact that auction sale in respect of the residential premises is being considered, as expeditiously as possible and not later than

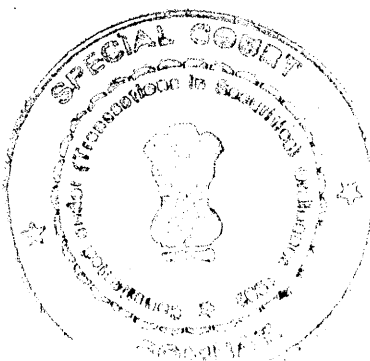


twelve weeks from the date of the receipt of the copy of this order. Save and except for sufficient or cogent reasons, the learned Judge shall not grant any adjournment to either of the parties.

(xi) The learned Judge, Special Court shall take up the matter relating to confirmation of the auction sale in respect of the commercial properties immediately and pass an appropriate order thereupon within four weeks from the date of receipt of copy of this order. If in the meanwhile the orders of assessment are passed by the Income Tax Authorities, the Custodian shall be at liberty to bring the same to the notice of the learned Special Court which shall also be taken into consideration by the learned Judge, Special Court.

78. With the aforementioned observations and directions, these appeals are allowed. The impugned judgments are set aside and the matter is remitted to the learned Judge, Special Court for consideration of the matter afresh. However, the parties shall bear their own costs.

Now, so far as paragraph 77(i) is concerned, the Supreme Court has recorded a finding against the Appellants before it and nothing is to be done by this Court. Paragraph 77(ii) is in three parts, (a) the appellants being notified persons, all their personal properties stood automatically attached and any other income from such attached properties would also stand attached; (b) the question as to whether the Appellants could have been considered to be part of the Harshad Mehta Group by the learned Special Court, need not be determined by us, at present



advised, in view of the fact that appropriate applications in this behalf are pending consideration before the Special Court; and (c) the question as regards intermingling of accounts by the Appellants herein with that of the Harshad Mehta Group or any other or further contentions raised by the parties hereto before us shall receive due consideration of the Special Court afresh in the light of the observations made above;

Now, so far as paragraph 77(ii)(a) is concerned, that is also finding recorded against the Appellants and no orders are necessary to be passed by this Court. So far as paragraph 77(ii)(b) is concerned, in its judgment in Ashwin Mehta's case in paragraph 41 the Supreme Court has observed thus:-

41. It is open to the appellants, herein to show that even if they continued to be notified, the Custodian was not right in clubbing all the individual members of the family as a single entity styled as Harshad Mehta Group. It is interesting to note that the properties belonging to the mother of Harshad Mehta have since been released from attachment.



Then, in paragraph 46, the Supreme Court has observed thus:

".....In our opinion, the learned Judge, Special Court should have analysed the respective contentions of the parties in greater detail and in particular in regard to assets and liabilities of the separate entities and having regard to the contentions raised by them that they are not part of the Harshad Mehta Group and their individual liabilities can be met from the assets held and possessed by them separately."

In paragraph 50 of the same judgment, the Supreme Court has observed:

".....If the liability of the individual entities are not treated as that of the group, for one reason or the other, indisputably, liability of those who have nothing to do with the dealings of Harshad Mehta either in their individual capacities or as directors of some company or otherwise must be dealt with separately. The





contention raised on behalf of the appellants is that Harshad Mehta should be considered to be sui generis and the Custodian may realise his dues from his personal assets as also of those with which he was concerned, together with the assets of his front companies but such liability should not be fastened upon others, who had nothing to do therewith."

Then in paragraph 51, the Supreme Court has observed thus:

51. A question may further arise as to whether the learned Judge was correct in considering the individual liabilities of the notified parties as the liabilities of the group. If those individuals, who had no connection with Harshad Mehta could not have been proceeded against for meeting the liabilities of Harshad Mehta jointly or severally, a clear finding was required to be arrived at. Only because there had been large intermingling and flow of funds from Harshad Mehta and inter se within the group, the same by itself may not justify the conclusion that all of their assets were



required to be sold irrespective of their individual involvement. It was, thus, necessary for the learned Special Court to arrive at a firm conclusion as regards the involvement of the individuals with Harshad Mehta, if any, and the extent of his liability as such.

Perusa) of the observations of the Supreme Court in paragraph 77(ii)(b) quoted above shows that according to the Supreme Court the question whether various individuals and entities can be treated as part of the Harshad Mehta Group is to be considered by this court in the applications which, according to the Supreme Court, were pending before this Court at that time. Reference probably was to the applications for de-notification filed by the members of the Harshad Mehta Group. In paragraphs 30 and 31 of the judgment, the Supreme Court has referred to those applications. Paragraphs 30 & 31 reads as under:-

30. The appellants' case is that the individual and corporate appellants other than Harshad Mehta, Ashwin Mehta and Sudhir Mehta filed applications, within the prescribed period, before the Special Court



praying for their denotifications. However, by an order dated 14-7-2000, the said applications were permitted to be withdrawn with a permission to refile the same.

31. It is not in dispute that the said applications are pending for consideration before the Special Court. They have not been heard. What would be the effect of the jurisdictional question as regards maintainability of the said application, being barred by limitation, would indisputably fall for consideration before the Special Court. We, therefore, as at present advised, refrain ourselves from advertng to the said question.

3. After remand of the proceedings to this court, while these proceedings were pending before the court, the custodian moved a report before this court seeking orders for sale of shares belonging to Harshad Mehta and various entitles of his group. This court passed orders in that report for sale of the shares. Against the orders passed by this court, Appeals were preferred in Supreme Court, which were registered as Civil Appeal No.5690-5697 of 2007.



Those appeals were decided by the Supreme Court by its judgment dated 16th May, 2008. So far as pendency of the denotification applications before this court are concerned, the Supreme Court has considered that aspect in paragraph 35 of the judgment in Sudhir Mehta's case. The Supreme Court has observed thus in paragraph 35:

35. While doing so, some factual incorrect statements have also been made before us, as they were made before this Court in Ashwin Mehta's case, that the applications for denotifications were pending. In fact, the argument which was pressed in service in the Court was that since the denotification applications were pending, and had not been finally decided upon, the properties belonging to the notified persons should not be sold. We have before us, the current status of such applications from which it is seen that each and every notified appellant herein had already withdrawn his/her denotification application, some of them in 1997 and rest of them in January, 2008. Thus even on the day, when the matters were being argued before this Court in Ashwin Mehta's



Case, excepting those by Mrs. Rasila S. Mehta and Mrs. Rina S. Mehta (who are not covered here), no application for denotification was pending. True it is that permission was given to withdraw their applications with a liberty to file fresh petitions after the criminal trials, if any, are over but no application has been filed. Thus, the main stay of the arguments on the part of the appellants is knocked out on the basis of this fact, and it is not open to the appellants to say that since there are chances of their denotification, the shares belonging to them should not be sold.

In its judgment in the case of Sudhir Mehta, the Supreme Court in paragraphs 20 and 21 has referred to the judgment in detail of this court in relation to the scheme for sale of the shares held by the notified parties. Observations made in paragraph 22(1) from the judgment of the Supreme Court in Sudhir Mehta's case are relevant. They read as under:-

22. Ultimately, the learned Judge approved the scheme with the modifications.



Undoubtedly, the following points are clear from the above judgment:

(1) That the existence and the treatment of Sh. Harshad Mehta and his relative and some concerns as Harshad Mehta Group was neither objected to nor contradicted and the learned Judge was addressed by all those entities as the Harshad Mehta Group.

Then, the Supreme Court notes that the judgment of this court was approved by the Supreme Court with slight modification by its judgment dated 23-8-2001. In paragraph 30 of the judgment the Supreme Court enumerated the contentions raised before it on behalf of the Appellants. Paragraph 30(3) is relevant. It reads as under:

30(3) that such decision is arbitrary and the sale of the shares shall lead to serious loss to the notified persons. The liabilities were only of late Sh. Harshad S. Mehta and not of the other notified parties and since the assets of the notified parties can meet their liabilities, the sale of the shares by auction was not justified. This is all the



more true in view of the fact that the Custodian has not yet found the inter se liabilities of the notified parties, when their applications for denotification are not decided and pending before the Special Court.

In paragraph 39, the Supreme Court considered the submission regarding all entities being clubbed together as Harshad Mehta Group. Observations in paragraphs 39 & 40 are relevant. They read as under:

39. This takes us to the aforementioned paragraphs heavily relied upon by the learned counsel in the judgment of Ashwin Mehta's case (cited supra). In paragraph 41, it was stated that it was open to the appellants to show that even if they continued to be notified, the Custodian was not right in clubbing all the individual members of the family as a single entity styled as Harshad Mehta Group. We do not find that there was any attempt on the part of the appellants to disassociate themselves from Harshad Mehta Group. When we see the judgment dated 17-8-2000 passed by the Special Court, it is obvious that the learned counsel arguing that



matter had argued it on behalf of the Harshad Mehta Group. It is for this purpose that we have quoted in the argument before the learned Special Judge in extenso. We will only quote a sentence which forms a part of the argument:

"it was contended that on a proper and legal assessment, the actual tax liability of Harshad Mehta Group would be marginal and a large portion of the amounts would have to be refunded by the revenue. He contended that in case of Harshad Mehta Group, the demands made by the Department are based on the best judgment assessment, which are highly exaggerated. He contended that the assessment orders are ex-parte in nature. He contended that Harshad Mehta Group is contesting the demands before the Appellate Authorities."

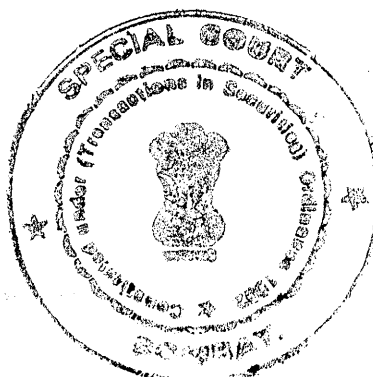
40. It was, therefore, obvious that at that juncture, when the question was as to whether the shares should be sold or not, the move





was objected to by the appellants formulating themselves as Harshad Mehta Group. No such objection to form and treat the relatives as a group was raised before the Special Court in the year 2000 when the question of sale of shares fell for consideration for the first time. At any rate, unless it is shown as to what prejudice would be caused by treating them to be a group, this contention has no basis. We, therefore, do not think that the argument in this behalf has any basis.

4. From the observations of the Supreme Court quoted above, it is clear that firstly the applications for denotification where the question as to whether the entities and notified individuals can be treated as part of Harshad Mehta Group was to be considered are not pending and even assuming that aspect is to be considered in those proceedings, in view of the finding recorded by the Supreme Court in its judgment in Sudhir Mehta's case quoted above specially observations in paragraph 39 & 40 of the judgment, in my opinion, it is not possible for me to reach different conclusion than the one which is recorded by the Supreme Court on this aspect of the matter in its judgment in Sudhir Mehta's case.



5. So far as paragraph 77 (ii) (c) is concerned, it is the main question to be considered in this judgment. So far as paragraph 77(iii) is concerned, the order has already been made on the applications which were filed by the decree-holder-bank by this court and the matter is presently pending in Supreme Court. So far as paragraphs 77 (iv), (ix) & (xi) are concerned, necessary orders have already been made. So far as paragraph 77(v) is concerned, by this judgment the order regarding sale of residential property has to be made. So far as paragraph 77(vi), (vii) & (viii) are concerned, the custodian has complied with the direction and has given necessary inspection. In any case, there is no complaint made before me that this direction has not been complied with.

6. Parties have filed their pleadings before me. I have also heard them at length. They have also filed their written submission. So far as paragraph 77(x) is concerned, after the judgment of the Supreme Court in Ashwin Mehta's case was received by this Court and court wanted to take up the matter for hearing, the notified parties gave their consent which was recorded in the order dated 23-3-2006 for initiating



the process of sale of the flats and the process of sale of the flats because of the consent was set in motion. At the request of both parties, because the process of sale of flats was put in motion, they were granted time to submit their pleadings and documents.

7. This takes me to the consideration of the main question which is indicated in paragraph 77(ii)(b) of the judgment of the Supreme Court in Ashwin Mehta's case, in relation to intermingling of accounts and whether the flats in Madhuli which stand in the names of parties other than Harshad Mehta can be sold for meeting the liabilities of Harshad Mehta. The observations of the Supreme Court in paragraph 51 of its judgment in the case of Ashwin Mehta are relevant. They read as under:

51. If those individuals, who had no connection with Harshad Mehta could not have been proceeded against for meeting the liabilities of Harshad Mehta jointly or severally, a clear finding was required to be arrived at. Only because there had been large intermingling and flow of funds from Harshad Mehta and inter se within the group, the same by itself may not justify the



conclusion that all of their assets were required to be sold irrespective of their individual involvement."

As is evident from paragraph 30 of the judgment of the Supreme Court in Sudhir Mehta's case, similar contention was urged before the Supreme Court. The Supreme Court has noted that contention in paragraph 30(3) of its judgment as under:

The liabilities were only of late Sh. Harshad S. Mehta and not of the other notified parties and since the assets of the notified parties can meet their liabilities, the sale of the shares by auction was not justified. This is all the more true in view of the fact that the Custodian has not yet found the inter se liabilities of the notified parties, when their applications for denotification are not decided and pending before the Special Court.

In paragraph 37 of the judgment in Sudhir Mehta's case, the Supreme Court has observed thus:

In our opinion, there would be no necessity



to consider the individual liability of any such appellant being a notified person. Unless any appellant is denotified, there would be no question of raising of these defences regarding individual liability. It is obvious that the notification covers all the properties including the shares and securities of the notified persons and, therefore, comes into the hands of the Custodian. There would, therefore, be no question of raising the issues that the individual liability of such a notified person should be arrived at first. We say this, particularly, because the claim of the notified persons that their assets exceeds the liability, is also not correct. This is a clear cut finding given by Hon. Kapadia, J. in his judgment dated 17-6-2000, which is later on confirmed by this Court.

Perusal of the above paragraph shows that a clear cut finding is recorded that the claim of the notified party/person that their assets exceed their liability is not correct.

B. In this case, written submission has been filed

*This is finding of 2000.*



on behalf of the notified party. In paragraph 2 of that written submission, it is stated

" Firstly, it is submitted that the above petition is filed by the Custodian praying for sale of the residential flats situate in building "Madhuli". In order to consider the prayer of the Custodian, the Special Court is required to only examine whether the liabilities of each notified party is in excess of his/her assets or not."

*Upheld.*

It appears that this contention of the notified party has already been answered by the Supreme Court in its judgment in Sudhir Mehta's case.

9. Before me two contentions were advanced on behalf of the notified party. (i) that these flats have been purchased prior to the statutory period and have no nexus whatsoever with the funds belonging to the Bank, muchless any tainted funds.

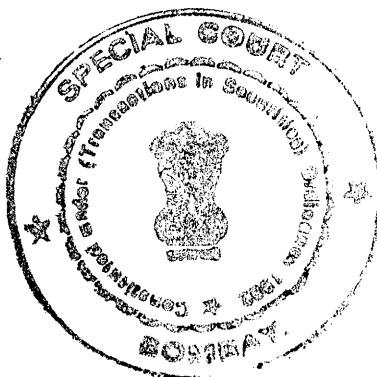
So far as this aspect of the matter is concerned, in my opinion, finding has really been recorded by the Supreme Court in its judgment in Sudhir Mehta's case, that as all the persons who were Appellants



before the Supreme Court were notified under the Act, their properties were attached irrespective of the fact whether those properties were bought by using tainted funds or not. The properties of the notified parties held by them on the date of their notification get statutorily attached and become liable to be sold for discharging the liability of the notified parties. Therefore, the question whether these Madhuli flats were bought by using tainted funds or not is totally irrelevant.

10. Second submission that was advanced was "It is further submitted that the flats at Madhuli have been purchased by the Respondents Nos.2 to 7 and 9 at the relevant time by taking interest bearing loan from M/s.Harshad S. Mehta, which loan has been repaid either fully or substantially.

11. The genesis of the security scam has been set out in the Jankiraman Committee Reports, the Joint Parliamentary Committee Reports and the report of the Inter-disciplinary Group (IDG). In the course of investigations by the Reserve Bank of India, Large irregularities and mal-practices were noticed in transactions in both government and other securities indulged in by some brokers (e. g. Harshad S.



Mehta) in collusion with the employees of various banks and financial institutions. The said irregularities and mal-practices led to diversion of funds from Banks and Financial Institutions to the individual accounts of various brokers like Harshad S. Mehta. The Jankiraman Committee in its various reports had concluded that large number of transactions inter alia put through the inter-mediation of the National Housing Bank (NHB) and which were outstanding involved Shri Harshad S. Mehta and his associates concerns like Growmore Research and Asset Management Limited. The payments made by NHB by means of account payee cheques drawn on Reserve Bank of India and issued in favour of counter party banks had been collected and credited into the current account of Harshad S. Mehta maintained with the State Bank of India and ANZ Grindlays Bank. The exposure of Harshad S. Mehta to various banks and financial institutions was inter alia set out in the said Jankiraman Committee Reports and was thereafter also analysed and considered by the IDG in its report of December 1995. The same was found to be in excess of Rs.15 9 crores.

12. It is significant that moneys which were siphoned by the late Harshad S. Mehta from various





banks and financial institutions did not merely relate to the statutory period prescribed under the said Act viz. 01/04/1991 to 06/06/1992 but related to the period even prior thereto which is clear from the report of the IDG at Chapter V paras 5.7.1 onwards.

13. It is significant that in so far as Mr. Harshad S. Mehta is concerned, cases have been filed by various banks and financial institutions against him in this Court and decrees have been passed. The outstanding decretal amounts of Harshad S. Mehta, M/s Ashwin S. Mehta are currently in excess of Rs. 5000 crores including principal sum in excess of Rs. 1700 crores.

14. It is also significant that in the accounts prepared by the Notified Parties themselves of Mr. Harshad S. Mehta, the amount diverted from banks and financial institutions have been inter alia shown under the heading "securities receipts/payment account" and the principal outstanding is shown to be in excess of Rs. 1700/- crores. The moneys were diverted even prior to the statutory period.

15. Moneys diverted by Shri Harshad S. Mehta from



Banks and Financial Institutions over a period of time were further diverted to various notified parties forming a part of his family as would be clear from the accounts of the Notified Parties. The audit reports and the statements annexed to the affidavit dated 1.3.2006 show gross flow of funds from Mr. Harshad S. Mehta to various other entities of the group is in excess of Rs. 1700 Crores. This figure of gross flow of funds is calculated by aggregating the gross funds received from Mr. Harshad S. Mehta and M/s Harshad S. Mehta by other members of the group for purchase of shares/debentures and/or by way of transfer.

16. These funds were diverted from Mr. Harshad S. Mehta and utilized by all the other members of the group / family / other Notified parties/entities belonging to Mr. Harshad S. Mehta group for purchase of assets like shares, debentures, bonds and immovable properties.

For considering the aforesaid issue, it will be necessary to analyze the source of funds for purchase of each of the residential properties.



. In respect of each of the residential properties forming the subject matter of the present petition, the Custodian has analysed the source of funds for purchase of each property based upon the Notified Parties bank statements as well as the audit reports of each of the Notified Parties. The Auditors appointed by this Hon'ble Court in respect of the accounts of Mr. Harshad Mehta / M/s Harshad Mehta have also considered the flow of funds from Harshad Mehta to various other Notified Parties for purchase of these properties based upon (i) funds specifically transferred for purchase of these properties, (ii) huge transfer of funds from Harshad Mehta just before purchase of the properties (iii) huge outstanding of the concerned Notified Parties to Harshad Mehta on 1st April 1990, 1st April 1991 etc. The following facts would indicate that all the aforesaid residential properties were funded by Harshad S. Mehta directly or indirectly in the manner set out herein.



Name of the Property, Name of the Notified Party as per M.P.41 of 1999 and Date of Purchase	Amount as per CA Report of the Notified Party (with para No. and page No.	How paid for as per notified party's audit report (with page No. para no.)	How paid for as per audit report of HSM and M/s. HSM (with page no. para no.	Remarks
Flat No.32-A, Carpet Area about 1921 sq. ft. inclusive of one car parking space and the exclusive use of terrace (para 4.1 page No.12 of Ashwin S. Mehta's report) belonging to Ashwin S. Mehta purchased on 18.04.1990	Rs.56,52,500/- including stamp duty of Rs.4,67,500/- (para No.4.2 page No.12)	1. Rs.5,00,000/- paid by Ashwin S. Mehta as an advance in 1989-90 2. Rs.5,00,000/- paid by Rasila S. Mehta to Crest Hotels. 3. Rs.41,85,000/- - paid by M/s.Ashwin S. Mehta during 1990-91 (Rs.40,00,000/- funded by M/s. Harshad S. Mehta) page No.12 para No.4.2)	Rs.56,52,500/- M/s. Harshad S. Mehta (para No.6.2.6 page No.34)	As per ledger a/c of Ashwin Mehta in the books of M/s.Harshad S. Mehta (Annexure-A). M/s.Harshad S. Mehta had also transferred Rs.55,00,000/- and Rs.15,00,000/- on 9 <sup>th</sup> April, 1990 and 10 <sup>th</sup> April, 1990 respectively to the account of Ashwin S. Mehta and hence it goes to prove that the purchase of flat was 100% funded by M/s. Harsad S. Mehta.
Flat No.32-B, 80.50 sq.mtrs. (para 4.1, 1.1 page No.12 of Jyoti Mehta's report) belonging to Jyoti H..Mehta purchased on 18.04.1990	Rs.47,75,110/- including stamp duty of Rs.3,81,100/- and Rs.73,010/- for which details not available) (page No.4.1, 1.2 page No.12)	1. Rs.5,00,000/- paid by Jyoti H. Mehta as an advance in 1989-90 to Crest Hotels Ltd. 2. Rs.42,75,110/- was paid by Jyoti H. Mehta in 1990-91 to Crest Hotels Ltd. (Rs.8,94,010/- funded by M/s.Ashwin S. Mehta and Rs.30,00,000/- funded by M/s. Harshad S. Mehta (para No.4.1.1.2 and page No.12)	Rs.30,00,000/- paid by M/s. Harshad S. Mehta for purchase of Flat No.32-B in Maduli (para No.6.2.6 page No.34 & 35)	There is opening debit balance of Rs.1,41,33,163.49 as on 1 <sup>st</sup> April, 1990 in the books of M/s.Harshad S. Mehta in the account of Jyoti H. Mehta i.e. Mrs. Jyoti H. Mehta owed Rs.1.41 crores to HSM even as on 1.4.90 (Annexure-B)
Flat No.33, having Carpet Area of about 74.41 sq.mtrs. alongwith exclusive use of terrace admeasuring 1479 sq.ft. (para 4.1 page No.9 of Pratima H. Mehta's Report) belonging to Pratima H. Mehta jointly with Jyoti	Rs.44,10,410/- including stamp duty of Rs.3,48,400/-) and deposits of Rs.68,010/- for society, water, electricity and legal expenses)	1. Pratima H. Mehta has paid Rs.39,10,410/- 2. Mrs. Jyoti H. Mehta has paid Rs.5,00,000/- (page No.4.1,2	Rs.6,60,000/- and Rs.31,50,000/- was transferred from the account of M/s.Harshad S.Mehta to Pratima H. Mehta on 18.04.1990 and 22.05.1990	As per Report on the account of Aatur Holding Pvt. Ltd. Flat No.33 was part of big Flat No.32 comprising Flat No.33, 34A and 34B having built up area of 3961.94 sq.ft. and open terrace admeasuring 5,000



<p>H. Mehta purchased on 07.08.1990</p>	<p>(para No.4.1.2 page No.9 of Pratima H. Mehta Report)</p>	<p>page No.9 of Pratima Mehta's Report)</p>	<p>respectively and the said amount has been utilised for purchase of Flat No.33. Besides this there was already an opening debit balance of Rs.1,07,92,117.50 as on 01.04.1990 in the books of M/s.Harshad S. Mehta in the accounts of Pratima H.Mehta i.e. Pratima H. Mehta owed Rs.1.08 crores to HSM even as on 01.04.1990 (Annexure-C)</p>	<p>sq.ft. attached to the flat. This big flat was used for personal residence of Harshad S. Mehta and/or member of his family at No 34-B, was purchased by Harshad S.Mehta and 34-A was purchased by Aatur Holding Pvt. Ltd. Funds for the purchase of Flat were received from Harshad S. Mehta (para No.3.1, 1.4, 3.1, 1.7 and 3.1, 1.8 page No.8 and 9 of the Report on the accounts of Aatur Holding Pvt. Ltd.</p>
<p>Flat No.34-A, having area about 1020 sq.ft. and adjoining terrace of 1921 sq.ft. (para 3.1,1.1 page No.6 &amp; 7 of report on the accounts of Aatur Holdings Pvt.Ltd.) belonging to Aatur Holdings Pvt.Ltd. purchased on 26.08.1990</p>	<p>Rs.51,85,000/- besides monies spent on Stamp Duty etc. (para 3.1, 1.7 page No.9)</p>	<p>Funds for the purchase were received from M/s.Harshad S. Mehta (para 3.1.1.8 page No.9) Premises were used for personal residence of Mr. Harshad S. Mehta and/or his members of family</p>		<p>Rs.30,00,000/- paid by M/s.Harshad S. Mehta on 02.05.1990 as shown in the books of accounts of M/s.Harshad S. Mehta also balance Rs.21,85,000/- paid by Aatur Holding Pvt. Ltd. from the funds amounting Rs.76,34,611.76 (including R.30,00,000/-) transferred by M/s.Harshad S. Mehta to Aatur Holding Pvt. Ltd. during 1990-91 (Annexure-D)</p>
<p>Flat No.34-B, having area 866.50 sq.ft. belonging to Harshad S.Mehta, (para 3.1.1.4 page No.8 of the Report on the accounts of Aatur Holding Pvt. Ltd.)</p>	<p>Rs.79,15,316/- (inclusive of renovation cost of Rs.31,40,206/- Hence purchase cost works out to Rs.47,75,110/-</p>	<p>Funds for the purchase of Flat were received from M/s.Harshad S. Mehta (para No.3.1.1.8 and page No.9 of the Report on the accounts of Aatur Holdings Pvt.Ltd.)</p>	<p>The fund are substantially provided by M/s.Harshad S.Mehta and transferred to books of Harshad S.Mehta (para 6.2.1 and page No.32 of the Report on the accounts of Harshad S. Mehta)</p>	
<p>Flat No.44-A, having a carpet area about 1046.53 sq. ft. belonging to Mr.Hitesh S.Mehta, jointly with Harshad S. Mehta purchased on</p>	<p>Rs.37,95,410/- (including Stamp Duty of Rs.2,93,400/- and deposit amounting to Rs.58,010/- for</p>	<p>Rs.9,81,000/- were paid by Hitesh S. Mehta and Rs.28,14,010/- were paid by Harshad S.</p>	<p>Rs.28,14,010/- and Rs.4,00,000/- paid by M/s.Harshad S.Mehta (para 6.2.6 page</p>	<p>As per ledger account of Hitesh Mehta in the books of M/s.HSM (Annexure-E), M/s. Harshad S.Mehta has also transferred Rs.24,15,000/- and</p>



<p>18.04.1990</p>	<p>Society, water legal and electricity charges) (para 4.1.2 page No.9 of the report on the accounts of Hitesh S.Mehta)</p>	<p>Mehta (para 4.1.2 and page No.9 of the report on the accounts of Hitesh S. Mehta)</p>	<p>No.34 of the Report on the accounts of Hrashad S. Mehta)</p>	<p>Rs.23,56,000/- on 18<sup>th</sup> April, 1990 to Hitesh S. Mehta besides transfer of Rs.4,00,000/- on 17<sup>th</sup> April, 1990 being payment made by M/s.Harshad S. Mehta on behalf of Hitesh S. Mehta for purchase of Flat No. 44-A. In addition to this there was already a opening debit balance of Rs.14265588.21 on 1<sup>st</sup> April, 1990 in the books of M/s.Harshad S.Mehta i.e. Hitesh Mehta owed Rs.1.42 crores to HSM even as on 1.4.90 (<u>Annexure F</u>). This goes to prove that the Flat was purchased from 100% funds provided by M/s.Harshad S. Mehta</p>
<p>Flat No.44-B having carpet area of about 119.53 sq.mtrs. (para 2.1,1.1 and page No.4 of the report on the accounts of Sudhir S.Mehta) belonging to Sudhir S.Mehta (Sudhir S.Mehta with Mrs.Pratima H.Mehta purchased Flat No.44-B. Shri Sudhir S. Mehta stated that he was using the flat for residential purpose) (para 2.1, 1.1 page No.4 of Report on the accounts of Sudhir S. Mehta) purchased on 18.04.1990</p>	<p>Rs.57,03,610/- (including Stamp Duty of Rs.4,64,600/-)</p>	<p>Sudhir S. Mehta has paid Rs.50,47,610/- and Rs.6,56,000/- paid by Pratima H. Mehta (para 2.1.1.3 page No.5 of the Report on the accounts of Sudhir s. Mehta)</p>		<p>There is opening debit balance of Rs.86,27,976.63 as on 1<sup>st</sup> April, 1990 in the books of M/s.Harshad S. Mehta in the account of Sudhir S. Mehta ie. Sudhir S. Mehta owed Rs.86.27 lakhs to HSM even as on 1.4.90 (<u>Annexure-G</u>).</p>
<p>Flat No.45 having carpet area of about 1405 sq.ft. and one car parking space (para 4.1, 1 and page No.9 of the report on the accounts of Deepika A. Mehta) belonging to Mrs.Deepika A. Mehta purchased on 18.04.1990</p>	<p>Rs.38,57,010/- (including Stamp Duty Rs.2,99,000/- and deposits of Rs.58,010/- for society, water charges and legal expenses) (para 4.1, 2 and page No.9)</p>	<p>1. Rs.7,49,000/- paid by Deepika A. Mehta 2. Rs.31,08,010/- - paid by M/s.Harshad S. Mehta (para 4.1, 2 and para No.9)</p>	<p>Rs.31,08,010/- paid by M/s.Harshad S.Mehta (para 6.2.6 page No.35 of the report on the accounts of Harshad S. Mehta)</p>	<p>There is opening debit balance of Rs.1,56,51,315.90 as on 1<sup>st</sup> April, 1990 in the books of M/s.Harshad S. Mehta in the account of Deepika A. Mehta ie. Deepika A. Mehta owed Rs.1.56 crores to HSM even as on 1.4.90 (<u>Annexure-H</u>).</p>



. These facts and figures are supported by extracts from the ledger accounts of the Notified Parties and findings contained in the reports of Chartered Accountants.

. The facts and figures given in this charts are not disputed by the Notified Parties as the same are taken from their accounts. The only case of the Notified Parties / Respondents that loans were allegedly taken from Mr. Harshad S. Mehta for purchase of these flats the said loans were allegedly repaid by them. In this behalf, the Respondents all of whom have filed affidavits have purported to give various figures relating to the alleged repayment of loans. In none of the cases is any agreement produce . In fact the figures submitted by the Respondents do not even indicate whether any interest was payable on such loans, the need to take such loans, how the same could be said to have been repaid and there is no co-relation with the amounts of loan taken Except for pointing out a few entries showing reverse flow of funds to Shri Harshad S. Mehta there is no co-relationship with the alleged loan.



. The case of the Respondent in this behalf cannot be believed particularly as at all points of time there were large outstanding of each of these entities to the late Harshad S. Mehta and there is no co-relationship between the reverse flow of funds and repayment of alleged loan for purchase of flats.

17. In this view of the matter, as all these residential properties have been funded by Harshad S. Mehta, they can be considered to be properties of Harshad Mehta and disposed off accordingly. In law the Custodian is entitled to trace the flow of funds in respect of such properties. The allegations of the Notified Parties of having returned the moneys is incorrect inasmuch as each of the Notified Parties continued to be a debtor of Harshad Mehta even on the date of Notification. It is not open for the Notified Parties to contend that a few reverse entries can be related to the concerned immovable properties as being refund of loans allegedly taken, as the accounts have been prepared by the Notified Parties themselves several years after the date of notification.

18. It is significant that atleast two members of the group viz. Dr. Hitesh S. Mehta and Dr.





Pratima H. Mehta have in affidavits on each filled before this Court admitted that all share transactions/investments were family share-broking business of Harshad Mehta and all decisions regarding purchase and sale of shares was taken by the late Mr. Harsad Mehta as a part of the family business. They have admitted that they were doctors by profession and had at no part in family businesses or attached offices where the business was being conducted nor had they any knowledge of the share-broking business.

19. Mr. Vyas & Vyas Chartered Accountants were appointed by this court to audit the accounts of Harshad Mehta. They have submitted their report to the court. In paragraph 18 of their report they observed thus:

Briefly the following facts have emerged during the course of our examination of the accounts and other information available.

18.1 On a minuscule paid up capital of Rs.40 Lacs at the commencement of financial year 1990-1991, the HSM & M/s. HSM had traded in shares and securities and resorted to speculative transactions and investment worth hundreds and thousands of crores of rupees.



18.2 The following table reflects the volume of transaction in trading of shares:

Date	Trading Credit	Trading Debit
31/03/1991	137,092,190.00	177,826,161.00
31/03/1992	738,096,245.00	1,394,187,452.00
08/06/1992	78,301,187.00	356,656,671.00
Total	953,489,622.00	1,928,670,284.00

18.3 We have prepared separate accounts of shares purchase / sales from challans and also from the books of accounts. There are huge differences in the books of accounts. We have also noticed benami shares worth crores of rupees, which were not accounted for in the books of accounts of HSM. We have also observed huge differences in the balances outstanding in-group companies and their relatives.



18.4 We observed that HSM withdrew money from banks and financial institutions without any supporting securities transactions. Immediately after withdrawals of money from the banks, etc. HSM diverted funds to his relatives and associate companies for purchase of immoveable properties and share etc.

18.5 HSM paid funds even for petty expenses required by group companies and the expenses are booked through journal entries. Therefore, it became necessity to find out who were the real beneficiaries of these transactions and who were in control of the entire business.

18.6 The fact that HSM had diverted funds to his associate companies and his relatives was further established in the audit reports of other notified entities of HSM groups where auditors of those entities have repeatedly remarked that all fund were funded by HSM for purchase of immovable properties and shares etc. Therefore, it is established that behind the curtain was one mastermind that is HSM. HSM defrauded bank and financial institution and dealt in share and securities in the benami name of his group companies and relatives.



18.7 In our opinion, whole group of HSM should be treated as one and all assets and liabilities of the groups should be clubbed in one basket, which will give true, clear picture of the HSM group.

Further more in paras 12 of the said report were concluded as under:

12.1 HSM diverted funds to his family members as and when he received funds siphoned off from PSU Banks and financial institutions. We have drawn a statement showing diversion of funds to family members and his associate companies in Annexure No. 7. We ave also checked these figures from the audited reports of his family members and associate companies and comparative chart is enclosed as Annexure No. 6A.

12.2 Further, we studied the end use of funds diverted to family members and associate companies of HSM group and found that either fund were used for purchase of immoveable properties or for purchase of shares and securities. HSM has not charged interest from his family members and his associate companies. The details of end use (broadly) by HSM group were



also enclosed as per Annexure No. 7.

12.3 It was a case of one man shows i.e. Mr. H. S. Mehta who siphoned off funds from PSU banks and financial institutions and diverted funds to his group entities. This was possible because of the flouting of prudential guidelines on securities transactions and HSM played a key role and indulged in promoting fraudulent transactions for personal and pecuniary gains. There is no ban on payment / receipt of funds from one family member to another member of the family. But then all prudential norms should have been followed. In this case, no interest was charged / paid and there are huge differences in the balances of both the books.

12.4 The concept of corporate entity was evolved to encourage and promote trade and commerce but not to commit illegalities or to defraud people where therefore the corporate character is employed for the purpose of committing illegality or for defrauding others the corporate character should be ignored and will look at the reality behind the corporate veil.

12.5 We found that these corporate bodies floated by HSM were merely cloaks behind which lurked HSM and/or



member of his family who were involved and the setting up different entities was really a ploy adopted for committing illegalities and/or to defraud Govt. revenues and other people. Finally to get protection from law, in case HSM got exposed the property standing in the name of family members could be protected from being utilized for the purpose of clearing the dues of HSM / M/s. HSM.

12.7 The above funds diverted by HSM to his family members were mainly for purchase of immoveable properties and shares. Therefore, all assets belonging to above persons should go back to HSM only.

28. Out of the holders of the flats in Madhuli, only Flat No.34-A is owned by a company namely M/s.Aatur Holdings Pvt.Ltd. So far as this company is concerned, as per the report of the Chartered Accountant the paid-up capital of the company is only Rs.10,000/- divided into 10 equity shares of Rs.100/- each held equally by Harshad Mehta & Mr.Ashwin S. Mehta. The Directors of the company are part of Harshad Mehta group. On a paid up capital of Rs.10,000/- the Company has entered into trading and speculative transactions which are reflected in the



Profit and Loss Account as under:

	Credit	Debits	Trading credits	Speculative credits	Speculative Debits	Trading Debits
31.03.1991			1,64, 92,125	10,86, 982	96,418	1,64,07, 575
31.03.1992			51,45, 02,644	1,16,29 75,411	1,15,53, 21,451	67,54,44, 973
09.06.1992				17,21,459	10,80,000	-

20-A. Company has taken in respect of the aforesaid transactions both in trading of shares and securities and speculative transactions, it would amount to hundreds of crores.

For doing such a large volume of transactions, the Company does not employ requisite staff to carry out such transactions. Moreover the highest salary paid is Rs.4000/- per month and obviously such a person cannot take decisions of such a volume.

21. For all these transactions referred to above in shares and speculation although there are contracts and bills in support thereof, the same have not been settled by actual payment in relation to transactions



with Harshad Mehta, Jyoti Mehta and Ashwin Mehta. In relation to these parties only the amounts are debited and credited to the respective accounts and exposure taken by the Company in respect of each of them run into crores of rupees. For this exposure no security is taken nor any interest is charged. Similarly in respect of credit balance standing to the accounts of the aforesaid parties no interest is charged. It is obvious unless Harshad Mehta had complete control on the affairs of the company, that was not possible. Further more the auditors have found that the analysis and the statement of source of funds of M/s.Aatur Holdings Ltd. indicate that on share capital of Rs.10,000/- , the company was funded to the extent of 100 per cent of its capital by every member of Harshad Mehta group as under:

Year ending	Loan from	Amount
31-3-1991	M/s Harshad Mehta	Rs.57,54,.872
31.3.1992	Harshad Mehta	Rs.2.08 crores
	Jyoti H. Mehta	Rs. 14.41 lacs
	Ashwin S. Mehta	Rs. 33.43 lacs
8.6.1992	Harshad Mehta	Rs. 2.38 crores
	Jyoti H. Mehta	Rs. 14.34 lacs
	Ashwin Mehta	Rs. 33.43 lacs

22. In my opinion, therefore, this is a clear case





of lifting corporate veil. It is clear that this company is nothing but a concern of Harshad Mehta and therefore the real owner of Flat No.34-A in Madhuli is none else but Harshad Mehta. A detailed analysis of the source of funds of notified party other than Harshad Mehta & M/s.Harshad S. Mehta as on 31-3-1991 shows following picture.

1. Name of Notified Party : Pratima H. Mehta

Name	Amount of % of source
M/s HSM	93.1%
Closing Balance	3.7%

Closing balance is also on account of transfer of funds from HSM and/or generation of funds there from

2. Name of Notified party : Mrs. Deepika A. Mehta

Name	Amount of % of source
M/s HSM	75.4%
Mr. HSM	3.01 %
M/s ASM	19.8%

Closing balance of HSM to M/S ASM itself is more than 90% as shown below.

3. Name of Notified party : Mr. Hitesh S. Mehta

Name	Amount of % of source
M/s HSM	84.7%
M/s ASM	9%



Mr. HSM

3.2%

Closing balance of HSM to M/s ASM itself is more than 90% as shown below.

4. Name of Notified party : Mr. Sudhir S. Mehta

Name	Amount of % of source
M/s HSM	62.6%
M/s ASM	31%
Mr. HSM	3.9%

Closing balance of HSM to M/s ASM itself is more than 90% as shown below.

5. Name of Notified party : Mr. Ashwin S. Mehta

Name	Amount of % of source
M/s HSM	43.83%
M/s ASM	54.22%

Closing balance of HSM to M/s ASM itself is more than 90% as shown below.

6. Name of Notified party : M/S Ashwin S. Mehta

Name	Amount of % of source
GLIL	113.5%
GRAM	9.5%
Mr. HSM	3.2%

Closing balance of GLIL is more than 100% because of negative capital.

7. Name of Notified party : Cascade Holdings Private Ltd.

Name	Amount of % of source
M/s CHPL	



M/s ASM 99.89%

Contribution of HSM to M/s ASM itself is more than 90% as shown below.

8. Name of Notified party : Orion Travels Private Ltd. (OTPL)  
Name Amount of % of source  
Mr. HSM 99.9%

7. Name of Notified party : Growmore Exports Pvt Ltd.  
GEPI.  
Name Amount of % of source  
M/s HSM 99.99%

10. Name of Notified party : Fortune Holdings Pvt. Ltd.  
Name Amount of % of source  
M/s ASM 99.99%

Contribution of HSM to M/S ASM itself is more than 90% as shown above.

11. Name of Notified party : Growmore Leasing & Investment Limited (GLIL)  
Name Amount of % of source  
M/s HSM 93.9%  
GRAM 5.9%

Contribution of HSM to GRAM is more than 90% as shown below.

12. Name of Notified party : Aatur Holdings Pvt.Ltd. (AHPL)  
Name Amount of % of source



M/s HSM 98.4%

13. Name of Notified party : Groomore Research & Assets  
Management Limited (GRAM)

Name Amount of % of source

M/s HSM 96.0.7%

Profit & Loss A/c 3.04%

Profit & Loss is also on account of transfer of funds  
from HSM and/or generation of funds therefrom.

14. Name of Notified party : Mrs. Jyoti H. Mehta

Name Amount of % of source

M/s HSM 79.8%

M/s ASM 14.5%

Contribution of HSM to M/s ASM itself is more than  
90% as shown above.

15. Name of Notified party : Harsh Estates Pvt. Ltd. (HEPL)

Name Amount of % of source

M/s HSM 37.7%

M/s ASM 23.6%

Hitesh S. Mehta 21.7%

Sudhir S. Mehta 21.7%

Contribution of HSM to M/s ASM, Hitesh Mehta &  
Sudhir Mehta is more than 90% as shown above.  
Sources of fund (and, therefore, of investments) of  
notified parties other than Harshad S. Mehta & M/s  
Harshad S. Mehta as on 31.03.1992.



1. Name of Notified party : Pratima H. Mehta

Name	Amount of % of source
M/s HSM	48.2%
M/s JHM	40.8%
Closing balance	4.4%
M/s ASM	3.3%

HSM is still the major contributor in respect of even M/s ASM and M/s JHM as shown below.

Closing balance is also on account of transfer of funds from HSM and/or generation of funds therefrom.

2.. Name of Notified party : Deepika A. Mehta

Name	Amount of % of source
M/s HSM	52.3%
M/s ASM	23.7%
Mr.HSM	3.7%
M/s JHM	16.5%

HSM is still the major contributor in respect of even M/s ASM and M/s JHM as shown below.

3. Name of Notified party : Mr. Hitesh S. Mehta

Name	Amount of % of source
HSM	39.6%
M/s JHM	20.2%
Closing balance	6.7%



HSM is still the major contributor in respect of even M/s ASM and M/s JHM as shown below.

Closing balance is also on account of transfer of funds from HSM and/or generation of funds therefrom.

4. Name of Notified party : Mr. Sudhir S. Mehta

Name	Amount of % of source
M/s HSM	58.8%
M/s ASM	21.8%
M/s JHM	20.9%

HSM is still the major contributor in respect of even M/s ASM and M/s JHM as shown below.

5. Name of Notified party : Ashwin S. Mehta

Name	Amount of % of source
M/s JHM	17.9%
M/s HSM	14.9%
Mr. ASM	64.8%

HSM is still the major contributor in respect of M/S ASM and M/s JHM as shown below.

6. Name of Notified Party : Ashwin S. Mehta

Name	Amount of % of source
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M/s HSM	73.4%
Canfina	17.1%
Loan from others	17.0%

With regard to the amount due to Canfina (Rs. 25 cr.) a decree on admission dated 20.4.95 and decree it has been recorded that ASM had stated on affidavit dated 23.6.93 that this transaction was the reverse leg of a Ready Forward transaction where Rs. 24.94 Cr. Had been given to Canfina by M/s HSM in the ready leg. Thus, contribution of HSM to ASM is more than 90%.

7. Name of Notified Party : Pallavi Holdings Pvt.Ltd.(PHPL)  
Name  
Amount of % of source  
M/s HSM  
99.99%

8. Name of Notified party : Zest Holdings Pvt. Ltd. (ZHPL)  
Name  
Amount of % of source  
M/s HSM  
98.8%  
Deepika A. Mehta  
1.1%

HSM is still the major contributor in respect of DAM  
as shown above.

9. Name of Notified party : Cascade Holdings Pvt. Ltd. (CHPL)  
Name  
Amount of % of source  
M/s JHM  
53.5%  
M/s HSM  
40%



M/s ASM

6.5%

HSM is still the major contributor in respect of

M/S ASM and M/s JHM as shown below.

10. Name of Notified party : Oricon Travels Private Ltd. (OTPL)

Name	Amount of % of source
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M/s JHM	84.5%
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Mr. HSM	14.6%
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HSM is still the major contributor in respect of

JHM as shown below.

11. Name of Notified party : Eminent Holdings Private Ltd. (EHPL)

Name	Amount of % of source
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M/s JHM	71.9%
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M/a HSM	28%
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HSM is still the major contributor in respect of

JHM as shown below.

12. Name of Notified party : Divine Holdings Private Ltd. (DHPL)

Name	Amount of % of source
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M/s JHM	63%
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M/s HSM	37%
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HSM is still the major contributor in respect of

JHM as shown below.

13. Name of Notified party : Treasure Holdings Private Ltd. (THPL)

Name	Amount of % of source
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ANZ Grindlays Bank	83.3%
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M/s JHM	16.7%
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The flow from ANZ Grindlays Bank was accommodation provided by the Bank in respect of ITC Agro Tech shares which was ultimately settled by HSM as reported in the Auditors report. Thus the ultimate source of finding of Treasure Holdings is also HSM. HSM is still the major contributor in respect of JHM as shown below.

14. Name of Notified party : Growmore Exports Private Ltd. (GEPL)

Name	Amount of % of source
M/s JHM	63.1%
M/s ASM	28.7%
M/s HSM	6.6%

HSM is still the major contributor in respect of ASM and M/s JHM as shown below.

15. Name of Notified party : Fortune Holdings Private Ltd. (FHPL)

Name	Amount of % of source
M/s HSM	78.8%
M/s JHM	14.3%
M/s ASM	6.4%

HSM is still the major contributor in respect of ASM and M/s JHM as shown below.

16. Name of Notified party : Growmore Leasing & Investment Ltd. (GLIL)

Name	Amount of % of source
M/s HSM	63.7%



M/s JHM	25.1%
ANZ Grindlays Bank	4.5%
GRAM	2.9%

HSM is still the major contributor in respect of  
GRAM and M/s JHM as shown below.

17. Name of Notified party : Harsh Estate Private Limited (HEPL)

Name	Amount of % of source
M/s JHM	85.6%
Ms/ HSM	14.3%

HSM is still the major contributor in respect of  
JHM as shown below.

18. Name of Notified party : Topaz Holdings Pvt. Ltd. )

Name	Amount of % of source
M/s HSM	82.5%
ANZ Grindlays Bank	17.4%

The accommodation provided by ANZ Grindlays Bank was replaced by HSM as on 8.6.92 (being 98.7% Thus HSM is the ultimate source of funding Topaz Holdings as well.

19. Name of Notified party : Velvet Holdings Private Ltd. (VHPL)

Name	Amount of % of source
M/s JHM	54.9%
ANZ Grindlays Bank	37.3%
M/S HSM	7.6%



The accommodation provided by ANZ Grindlays Bank was replaced by M/s JHM, M/s HSM and GRM as on 8.6.92, with M/s JHM itself being 99.77% HSM Thus, HSM is the ultimate source of funding Velvet Private Ltd. (VHPL) as well.

20. Name of Notified party : Aatur Holdings Private Limited (AHPL)

Name	Amount of % of source
M/s JHM	84.4%
M/s HSM	12.2%

HSM is still the major contributor in respect of M/s JHM as shown below.

21. Name of Notified party : Growmore Research & Assets Management Ltd. (GRAM)

Name	Amount of % of source
M/s HSM	65.3%
M/s ASM	18.4%
M/s JHM	14.6%

HSM is still the major contributor in respect of ASM and M/s JHM as shown below.

22. Name of Notified party : Mrs. Jyoti H. Mehta

Name	Amount of % of source
M/s JHM	59.3%
M/s HSM	28.86%
M/s JHM Current a/c	5.3%



M/s ASM 3.6%  
Mr. HSM 1.2%

HSM is still the major contributor in respect of  
M/S ASM & M/S JHM as shown below.

23 Name of Notified party : M/s Jyoti H. Mehta

Name	Amount of % of source
M/s HSM	55.8%
Bind Chem Agro & Indl.Pvt.Ltd.	4.7%
Chikki Fert.& Indl.Pvt. Ltd.	5.2%
Clarion Investments	10.01%
Dabhich Texfab	6.3%
Hansdhawanik Trading	6.8%
Kunjvan Texfab	6.8%
Orator Trading	7.3%
Aavatan Textiles	3.6%
Saki Agencies	0.7%

HSM is the major contributor to M/s JHM in respect of other investment companies etc the credit position of the Companies gets wiped out in the next period (as on 8.6.92) as the source of funding of M/s JHM as on 8.6.92 is 99.97 % HSM.

Sources of funds (and, therefore of investments) of notified parties other than Harshad S. Mehta & M/s Harshad S. Mehta as on 08.06.1992



1. Name of Notified party : Pratima H. Mehta

Name	Amount of % of source
Closing balance	54.4%
M/s HSM	29.1%
Mr. HSM	3.3%
M/S JHM	2.4%

Contribution of HSM to M/s JHM is more than 99% as shown below. Closing balance is also on account of transfer of funds from HSM and/or generation of funds therefrom.

2. Name of Notified party : Deepika A. Mehta

Name	Amount of % of source
M/s HSM	48.8%
Closing balance	36.4%
Mr. HSM	5.8%
M/s ASM	5.7%

Contribution of HSM to M/s ASM is more than 90% as shown below. Closing balance is also on account of transfer of funds from HSM and/or generation of funds therefrom.

3. Name of Notified party : : Mr. Hitesh S. Mehta

M/s HSM	34.4%
M/s ASM	34.4%
Closing Balance	29.3%



Contribution of HSM to M/s ASM is more than 90% as shown below  
Closing balance is also on account of transfer of funds from  
HSM and/or generation of funds therefrom.

4. Name of Notified Party : Sudhir S. Mehta

Name	Amount of % of source
M/s HSM	57.3%
M/s ASM	22.3%
Closing balance	14%

Contribution of HSM to M/s ASM is more than 90% as shown below.  
Closing balance is also on account of transfer of funds from  
HSM and/or generation of funds therefrom.

5. Name of Notified party : Mr. Ashwin S. Mehta

Name	Amount of % of source
M/s HSM	9.6%
M/s JHM	8.3%
M/s ASM	75.04%

Contribution of HSM to M/s JHM is more than 90% as shown below.

6. Name of Notified party : Mr. Ashwin S. Mehta

Name	Amount of % of source
M/s HSM	51.1%
Closing balance	26.7%
Canfina	19.3%

As already pointed out in the position as on 31.3.92,  
with regard to the amount due to Canfina (Rs. 25  
Cr.) a decree on admission dated 20.4.98 has been



passed against ASM for Rs. 25 Crores with interest @ 7% in suit No. 19 of 94. In the said decree, it has been recorded that ASM had stated on affidavit dated 23.6.93 that this transaction was the reverse leg of a Ready Forward transaction where Rs.24.94Cr. had been given to Canfina by M/s HSM in the Ready leg. In view of this even this Rs. 25 cr. is ascribable to HSM.

7. Name of Notified party : Pallavi Holdings Pvt. Ltd.  
(PHPL)

Name	Amount of % of source
M/s HSM	99.9%

8. Name of Notified party : Zest Holdings Private Ltd. (ZHPL)

Name	Amount of % of source
M/s HSM	98.2%
Deepika A. Mehta	1.8%

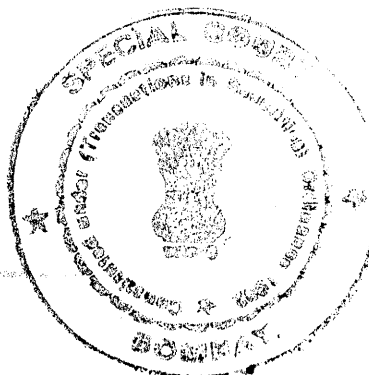
9. Name of Notified party : Cascade Holdings Pvt.Ltd. (CHPL)

Name	Amount of % of source
M/s HSM	86%
M/S ASM	14%

Contribution of HSM to M/s ASM is more than 90% as shown above.

10. Name of Notified party : Dricon Travels Private Ltd (OTPL)

Name	Amount of % of source
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M/s JHM

92.6%

M/s ASM

7.3%

Contribution of HSM to M/s JHM is more than 90% as shown below.

11. Name of Notified party : Eminent Holdings private Ltd.

Name

Amount of % of source

M/s JHM

81%

M/s HSM

18.8%

Contribution of HSM to M/s JHM is more than 99% as shown below.

12. Name of Notified party : Treasure Holdings Private Ltd.

Name

Amount of % of source

M/s JHS

99.9%

Contribution of HSM to M/s JHM is more than 99% as shown below.

13. Name of Notified party : Growmore Exports Pvt. Ltd. (GEPL)

Name

Amount of % of source

M/s JHM

59.3%

M/s HSM

11.99%

M/s ASM

27.3%

Contribution of HSM to M/s JHM is more than 90% as shown below.

14. Name of Notified party : Fortune Holdings Private Ltd. (FHPL)





Name	Amount of % of source
M/s HSM	68.5%
M/s JHM	25.8%
M/S ASM	5.7%

Contribution of HSM to ASM and M/s JHM is more than 90% as shown below.

15. Name of Notified party : Leasing & Investment Ltd.

(GLIL)

Name	Amount of % of source
M/s HSM	63.30%
M/s JHM	25.70%
Profit & Loss a/c	7.50%
GRAM	13.00%

Contribution of HSM to M/s JHM and GRAM is more than 90% as shown below. Profit & Loss a/c is also on account of transfer of funds from HSM and/or generation of funds therefrom.

16. Name of Notified party : Harsh Estate Private Ltd. (HEPL)

Name	Amount of % of source
M/s HSM	99.99%
M/s JHM	25.8%

Contribution of HSM to JHM is more than 90% as shown below.

17. Name of Notified party : Topaz Holdings Pvt. Ltd. (THPL)



Name	Amount of % of source
M/s HSM	98.7%

18. Name of Notified party : Velvet Holdings Private Ltd. (VHPL)

Name	Amount of % of source
M/s JHM	86.8%
M/s HSM	10.9%
GRAM	2.04%

Contribution of HSM to JHM & GRAM is more than 90% as shown below.

19. Name of Notified party : Aatur Holdings Private Ltd. (AHPL)

Name	Amount of % of source
M/s JHM	83.6%
M/s HSM	13.3%

Contribution of HSM to JHM & GRAM is more than 99% as shown below.

20. Name of Notified party : Growmore Research & Assets (GRAM)

Name	Amount of % of source
M/s HSM	61.88%
M/s JHM	19.05%
ASM	16.8%



Contribution of HSM to ASM and JHM is more than 90% as shown below.

21. Name of Notified party : Mrs. Jyoti H. Mehta

Name	Amount of % of source
M/s JHM	55.9%
M/s HSM	28.1%
M/s JHM Current a/c	7.9%
M/s ASM	3.7%
Closing balance	3.08%

Contribution of HSM to M/s ASM & M/s JHM is more than 90% as shown below.

Closing balance is also on account of transfer of funds from HSM and/or generation of funds therefrom

22. Name of Notified party : Mrs. Jyoti H. Mehta

Name	Amount of % of source
M/s HSM	99.77%

23. The facts and figures mentioned above are supported by the auditors' reports which are based on the accounts maintained by the notified parties themselves. It is, thus, clear that the business and dealings of various individual who hold flats in Madhuj and the company M/s. Aatur Holdings were



nothing but fronts of Harshad Mehta and money that was invested for buying the flats was money of Harshad Mehta. The names of different individuals who were related to him were used by Harshad Mehta for buying his own property. The affidavit that was prepared by the custodian for being filed before this court for hearing of this application, it appears was produced before the Supreme Court when Sudhir Mehta's case was being heard. The Supreme Court in its judgment in Sudhir Mehta's case has referred to this aspect of the matter in paragraph 44 and has observed thus:

44. This Court has directed the Custodian in Ashwin Mehta's case to permit the appellants to have inspection of all the documents in his power or possession in the premises of the Special Court in the presence of an officer of the court. In compliance thereof, the Custodian argues before us, that such inspection was to be allowed for one week continuously and all the documents in possession of the Custodian were laid open for a period of one week. The Custodian further points out that the directions in these paragraphs 41, 42, 46, 47, 51, 52 and



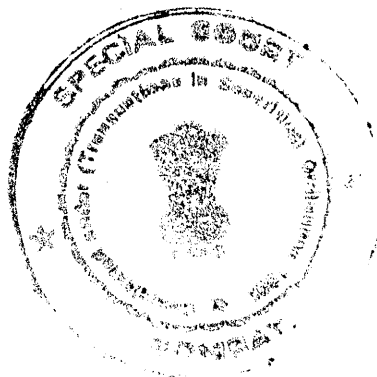
53 were dealt with by the Custodian in his affidavits dated 1-3-2006 and 22-3-2006 filed in miscellaneous petition No.49 of 1999, and in these affidavits, the Custodian had taken into account the assets and liabilities position of each of the notified entities as on 31-12-2005 and those statements were also annexed to those affidavits. It is further pointed out that in each case, the liability was more than assets. The custodian argues before us that late Sh. Harshad S. Mehta had siphoned off money from banks and financial institutions and distributed the same to his family members and various corporate entities by transferring the money to their accounts by purchasing shares in their names through 3 brokerage firms (1) M/s. Harshad S. Mehta; (2) M/s Jyoti S. Mehta; (3) M/s. Ashwin S. Mehta and all the transactions of purchase and sale of 25 notified entities were debited and credited in their mutual interest.

The Supreme Court, it appears considered the affidavits filed by the custodian and the documents produced along with the affidavits by the custodian in detail and thereafter in paragraph 45 the Supreme



Court has observed thus:

It is further case of the Custodian that the notified parties had shown in their accounts, that these siphoned off monies were received by them as loan, borrowings and advances, and also shown that they were paying interest thereon to Sh. Harshad Mehta with the sole idea to show that they were running their own business with their own funds and that the monies borrowed by them. The Custodian has taken a stand before us that in the affidavit dated 1-3-2006, efforts have been made to show clearly as to how much money is transferred in cash to his relatives and corporate bodies and also how much siphoned off money was utilized for the purchase of shares in the name of various notified entities including the appellants. The affidavit dated 22-3-2006 is filed before us. It is the stand of the Custodian that he has already worked out the position of the asset and liabilities separately for individual members of the family and it is reflected in the affidavit dated 1-3-2006. The Custodian further submits that these accounts show that



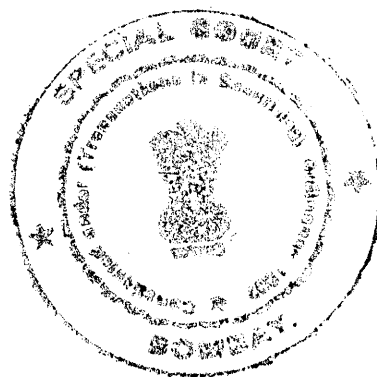
for the present, all the notified entities of the Harshad Mehta Group are in excess of their assets. It is thus, pointed out that all these materials were already available before the Special Court passed the orders. The Custodian further argues that these facts are known to the appellants, and there is an attempt to mislead the Special Court as well as this Court on the part of the appellants. It is then submitted that all the accounts, which are audited and reviewed by the Chartered Accountants have been prepared by the notified parties themselves and it is, therefore, that the liabilities shown therein, have been taken as admitted liabilities. In our opinion, this argument on the part of the Custodian must be accepted. It has already been shown in the earlier part of the judgment that all these contentions were only raised before the Special Court, particularly, when the objections were raised. We do find some traces of these objections in the petition, but it is obvious that these questions were never pressed into service before the Special Court, perhaps because the appellants knew



the futility thereof. We, therefore, leave the matters at that, in view of the final order that we propose to pass.

24. Considering the material produced by the custodian on record and the observations of the Supreme Court in its judgment in Sudhir Mehta's case, in my opinion, the individual and company M/s.Aakur Holdings cannot claim that flats in Madhuli held by them cannot be sold by the custodian. It is clear that the individuals and the company were nothing but the front for Harshad Mehta and therefore, these are really the properties of Harshad Mehta, which was owned by him on the date of his notification and therefore is, liable to be sold as attached property under the provisions of the Act.

25. This finding also gets support from the way the flats, after they were purchased, are being used. I have referred to above that after the judgment of the Supreme Court in Ashwin Mehta's case, the notified parties had given their consent for proceedings further with the sale of the flats. For that purpose the custodian appointed a valuer. The valuer Mr.B.C.Shah & Associates submitted the valuation





report as well as the technical report on 12-9-2007. That valuation report was placed on record by the custodian along with report No.21 of 2007. Following from the report, in my opinion, is relevant.

"Nameplate displayed in entrance lobby at stilt level of the building indicates name of the owners of subject flats as tabled hereunder,

Flat No.	Floor	Name
32-A	Third	Mr.Ashwin S. Mehta
32-B	Third	Mrs.Jyoti H. Mehta
33	Third	Mrs.Protima H. Mehta
34-A	Third	M/s.Atur Holdings
34-B	Third	Mr.Harshad S.Mehta
44-A	Fourth	Dr.Hitesh S. Mehta
44-B	Fourth	Mr.Sudhir S.Mehta
45	Fourth	Mrs.Deepika H.Mehta

On the date of visits, there was no demarcation of individual flats as tabled above; moreover person representing Mehta family, accompanying the undersigned at the time of visits also could not identify the demarcation of individual flats.



According to present site condition, on third floor, the portion on South of staircase and lifts has a room for indoor games, a 5' wide central passage serving a kitchen, two bed rooms with toilets on West and three bed rooms with toilets, puja room a cabin with a room on East. An office exist behind lift area and is accessible from indoor games room as well as gymnasium provided in North side premises and is also interconnected to fourth floor North side premises by an internal staircase. On North side, accommodation is of a gymnasium with store room, a dinning room with a kitchen and toilet on West of 5' wide central passage and a servants room with a toilet, two kitchen, a toilet in one of the kitchens and a room with attached toilet.

Apparently, even though the subject premises at third and fourth floors stands in different names but are being used by members of one family only.

As flat Nos.32-A and 32-B along with Flat No.31 on 3rd floor are amalgamated and



interconnected by an internal staircase with Flat Nos.44-A, 44-B and 45 on fourth floor, similarly Flat Nos.33, 34-A and 34-B on 3rd floor are also amalgamated, therefore, for subdividing same as per the agreement, necessary permission from Municipal Corporation of Greater Mumbai shall have to be obtained for carrying out internal changes and subdividing the flats.

On inquiry with society office on 29th March 2006 and letter No.MAD/919/04/2007 dated 10-4-2007 from Hon.Secretary Madhuli CHS Ltd. addressed to M/s.Rane Engineers & Surveyors, flat wise area is as under. It is informed that the area according to society records is super built up and society recovers maintenance charges and all outgoing based on the said area. Xerox copy of society's letter marked 'Soc-1' is enclosed.

Flat No.	Super built up area
32-A	1,775 sq.ft./ 164.90 sq.mts.
32-B	1,478 sq.ft./ 137.31 sq.mts.
33	1,368 sq.ft./ 127.09 sq.mts.



34-A	1,775 sq.ft./	164.90 sq.mts.
34-B	1,478 sq.ft./	137.31 sq.mts.
44-A	1,345 sq.ft./	124.95 sq.mts.
44-B	2,017 sq.ft./	187.39 sq.mts.
45	1,345 sq.ft./	124.95 sq.mts.

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Total 12,581 sq.ft./1,168.81 sq.mts.

Even though as per society records area of individual flats are as tabled above, however, as mentioned in one of the foregoing paragraphs there is no actual demarcation of individual flats as per existing site condition, and all the eight flats are being used by members of one family. Moreover, considering planning of the building, lay out of R.C.C. columns and beams, in my opinion, it may not be possible to subdivide the flats with better & modern planning and accommodation with reasonable area. At the most these flats can be redesigned as on upper floors.

Perusal of the portion from the report of the valuer quoted above, copy of which was also served on the notified party, shows that the flats are used not by



respective owners of the flats, but by the family members of Harshad Mehta jointly.

26. In the result, therefore, the petition is disposed of by directing the custodian to sell Flats No.32-A, 32-B, 33, 33-A, 33-B,44-A, 44-B & 45 in the Building known as "Madhuli" situated at Dr. Annie Besant Road, Worli, Mumbai- 400 018 by following the procedure laid down by this court for sale of the properties of notified parties. The custodian shall seek appropriate directions, if necessary, in the process of sale.

At the request of the learned Counsel appearing for the notified parties involved, it is directed that though the custodian is free to initiate process of sale, the report for sale of the property shall not be placed before the court for a period of 10 weeks from today.

Parties to act on simple copy of the order duly authenticate by the Associate/Private Secretary of the Court as a true copy.

...  
Sdt - XXX  
Shri D. K. Deshmukh, J.  
Judge Special Court



Applied on.....	28/12/08
Pages.....	69
Examined by.....	Mr. Mulundat
Compared with.....	Mr. Belassy
Ready On.....	30/12/08
Delivered On.....	31/12/08

31/12/08

Certified to be a true copy

OFFICER ON SPECIAL DUTY  
Officer of the Special Court  
Bombay.

30/12/08  
30/12/08