

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

CUSTODIAN REPORT NO.9 OF 2010  
(WITH REGARD TO ASSET-LIABILITY POSITION OF  
HARSHAD MEHTA GROUP FOR THE PURPOSE OF  
DISTRIBUTION)

AND

CUSTODIAN REPORT NO.14 OF 2011  
(WITH REGARD TO ASSET-LIABILITY POSITION OF  
HARSHAD MEHTA GROUP INCLUDING SMT.RASILA S. MEHTA  
AND SMT.RINA S.MEHTA, NOTIFIED PARTIES FOR THE  
PURPOSE OF DISTRIBUTION)

Mr.Milind Jadhav i/b A.K.Tewari & Co. for the  
Custodian.

Mr.R.A.Shaikh for the Notified parties.

Mr.B.M.Chatterji for Income-tax Department.

Mr.Janak Dwarkadas, Sr.Counsel with Mr.Zal  
Andhyarujina, Mr.Girish Dave, Mrs.R.V.Thakkar,  
Mr.Ankit Rajput & Ms.Amita Hajarnis i/b Dave &  
Girish for Standard Chartered Bank.

Mr.Tushar Cooper i/b Little & Co. for S.B.I.  
Capital Market.

Mr.Pradip Sancheti, Sr.Advocate with Mr.Sriniwas  
Deshmukh i/b Mulla & Mulla & CB & C for Canbank  
Financial Services Ltd.

CORAM: D.K.DESHMUKH, J.  
Special Court

DATED: 9<sup>th</sup> September, 2011

P.C.:

1. These Reports are for distribution of amounts  
under Section 11 of the Special Court Act,



belonging to the notified entities of Harshad Mehta Group.

2. As per the latest report, the total bank balance with the custodian of this Group is Rs. 690.45 Crores, which can be distributed.

3. According to Reports the dues of the Income-tax Department for the priority period to be paid under Section 11(2)(a) are Rs.34.27 Crores. Out of that amount, the amount of Rs.5.93 Crores is to be deducted as the amount of TDS already paid. Thus, an amount of Rs.28.34 Crores is payable to the Income-tax Department under Section 11(2)(a) of the Special Court Act.

4. The Custodian is, therefore, directed to pay to the Income-tax Department an amount of Rs. 28.34 Crore on the Income-tax Department filing an usual undertaking undertaking therein to bring back the amount, if so directed by this court and on such terms and conditions as may be directed by



this court.

5. According to Reports of the Custodian, as on today now no amounts are payable under Section 11(2)(a). Therefore, the balance amount will have to be paid to the parties who are entitled to receive payments under Section 11(2)(b) of the Act.

6. I have already held that for making the payment under Sections 11(2)(b) decrees passed in favour of the Banks have to be considered according to date on which the decrees have been passed. The principal amount involved in the decree passed in Misc.Petition No.63 of 1992 which was decided on 22-4-2003 in favour of State Bank of India is Rs.706.97 crores. The amount of Rs.397.45 crores and Rs.49.87 crores has already been distributed leaving balance the principal amount of Rs.259.65 crores. This amount is payable under Section 11(2)(b). The custodian is, therefore, directed to pay to the State Bank of India an



amount of Rs.259.65 crores towards payment under the judgment/decree in Misc.Petition No.63 of 1992 on the State Bank of India filing an undertaking, undertaking to this court to bring back the amount, if so directed by this court and on such terms and conditions as may be directed by this court.

7. The next decree is dated 25-6-2003 in favour of SBI Capital Market Ltd. passed in Misc.Petition No.61 of 1992. The amount of principal involved is Rs.16.25 crores. The custodian is, therefore, directed to release this amount of Rs.16.25 crores in favour of SBI Capital Market Ltd. on their filing an undertaking, undertaking to this court to bring back the amount, if so directed by this court and on such terms and conditions as may be directed by this court.

8. The next decree is dated 25-7-2003 passed in Suit No.28 of 1995 in favour of Standard



Chartered Bank. The total principal amount is Rs. 506.54 crores. After releasing the amount in favour of the State Bank of India and SBI Capital Market Ltd. as directed above, the amount that remains in balance with the custodian is Rs.345.76 crores. Therefore, that amount will have to be released in favour of the Standard Chartered Bank on their filing an undertaking, undertaking to this court to bring back the amount, if so directed by this court and on such terms and conditions as may be directed by this court.

9. The Standard Chartered Bank within a period of two weeks from today shall file an affidavit and undertaking, supported by the resolution of the Board, in usual form. The custodian shall, after the undertaking and affidavit is filed on behalf of the Standard Chartered Bank, place it before the court and release the amount in favour of the Standard Chartered Bank, if so directed by the court, after perusal of the affidavit and undertaking by the court.



10. The amount of Rs.40.45 crores will thus remain in the attached Bank Account of the Notified parties. The Reports be placed before the court after six weeks. However, the custodian shall place the affidavit and an undertaking filed by the Standard Chartered Bank as soon as it is filed and secure appropriate orders from the court.

11. When the Reports were called, on behalf of the Notified parties it was stated that these Reports have been served on Smt.Rasila Mehta and Mrs.Rina Mehta, who are notified parties, 2 days back and therefore they should be given time to file their affidavit.

12. In my opinion, it is not necessary, because Smt.Rasila & Mrs.Rina Mehta both have been notified under the Act and their petition for de-notification has been rejected by this court. That order has been upheld by the Supreme Court.



The amounts have been collected by the custodian by selling their assets and those amounts are being distributed in accordance with the provisions of the Special Court Act. In the judgment of the Supreme Court in the case of Smt.Rasila S. Mehta v/s. Custodian, AIR 2011 SC 2122, the Supreme Court has clearly held that both Smt.Rasila and Mrs.Rina Mehta belong to Harshad Mehta Group. Therefore, their assets can be used for clearing the liabilities of Harshad Mehta Group. In any case, the amounts are being released after taking undertakings from the Banks. The Reports are also not being disposed of. They remain pending. Therefore, if the notified parties Smt.Rasila Mehta and Ms.Rina Mehta wish to file their affidavits they can do so and if on the basis of those affidavits any amounts released today become liable to be recalled that order also can be made and therefore, it is not necessary to adjourn the proceedings to grant them time to file their affidavits. Put up after six weeks.

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

Applied on 12/09/2011  
Pages 7  
Examined by MZ. M. Wadhwa  
Compared with DESHMUKH  
Ready on 14/09/2011  
Delivered on 14/09/2011



Certified to be a true copy  
OFFICER ON SPECIAL DUTY  
Officer of the Special Court  
Bombay

14/09