



सत्यमेव जयते

Office of the Custodian

The Special Court (TORTS) Act, 1992

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Ministry of Finance, Government of India,

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REPORT NO. 11 OF 2011 OF THE CUSTODIAN FOR
SALE OF ASSETS OF SMT. RASILA S. MEHTA AND SMT.
RINA S. MEHTA, NOTIFIED PARTIES FOR THE PURPOSE OF
DISTRIBUTION.

No. 840 CUS/BOM/Sale of assets of Rasila - Rina/2247-III

June, 2011

To
The Officer on Special Duty
Special Court, Mumbai.

Sir,

The Custodian, in exercise of the power conferred on him by sub - section (2) of Section 3 of the Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992 (herein after referred to as "the said Act"), notified Smt. Rasila Shantilal Mehta and Smt. Rina Sudhir Mehta on 04/01/2007. In terms of sub - section (3) of Section 3 of the said Act, all the properties, movable or immovable or both belonging to these notified parties stood attached on and from the date of their notification i.e. with effect from 04/01/2007.

2. Smt. Rasila S. Mehta and Smt. Rina S. Mehta filed M.P. No. 2 of 2007 and No. 1 of 2007 respectively, under sub - section (2) of Section 4 of the said Act challenging the notification issued by the Custodian u/s 3 (2) of the said Act.

3. The Hon'ble Special Court by its order dated 26/02/2008 while dismissing the aforesaid petitions filed by the said notified parties, held that these notified parties are nothing but front benamidars of Harshad S. Mehta and their assets should be used to discharge his liabilities. A copy of the said order dated 26th February 2008 is annexed hereto and marked as Exhibit - "A".

TRUE COPY

Handwritten signature
Advocate For Petitioner/Respondent/Applicant

4. Smt. Rasila S. Mehta, mother of late Harshad S. Mehta and Smt Rina S. Mehta, sister in law of late Harshad S. Mehta, filed Civil Appeals No. 2924 of 2008 and 2915 of 2008 respectively against the aforesaid judgment and order dated 26/02/2008 passed by the Hon'ble Special Court which dismissed their petitions challenging the notification dated 04/01/2007 issued by the Custodian.

5. The Hon'ble Supreme Court vide judgment dated 06/05/2011 have dismissed the aforesaid Civil Appeals upholding the conclusion arrived at by the Hon'ble Special Court. A copy of the said judgment dated 6th May 2011 is annexed hereto and marked as Exhibit - "B".

6. The paras 55 and 63 of the judgment are reproduced below:-

"55) In view of the same, we are in entire agreement with the conclusion arrived at by the Special Court and unable to accept any of the contentions raised by Counsel for the appellants.

63) In the light of the above discussion, we do not find any merit in Civil Appeal Nos. 2924 of 2008 and 2915 of 2008 and accordingly they are dismissed."

7. The Hon'ble Supreme Court vide their judgment dated 06/05/2011, has thus upheld the order dated 26/02/2008 of the Hon'ble Special Court dismissing the petitions of the aforesaid notified parties challenging their notification by the Custodian and holding that -

i) It is impossible for such persons to have such huge amounts of money unless they were the beneficiaries of monies diverted by late Harshad Mehta and his other family members who were notified and firms belonging to the Harshad Mehta Group.

ii) All the above details clearly show their association with brokerage firms being handled by Harshad S. Mehta and also their interest and entitlement in the transactions of their joint family business.

iii) The Special Court, therefore, rightly held that the money and assets were diverted to the appellants by the brokerage firms who were notified parties.

iv) The order of the Special Court does not suffer from any infirmity and there was sufficient material before the Custodian to arrive at a satisfaction that monies had been diverted by late Harshad S. Mehta to the appellants.

8. Consequent upon the judgment dated 06/05/2011 of the Hon'ble Apex Court upholding the notification of the Smt. Rasila S. Mehta and Smt. Rina S. Mehta by the Custodian, their movable and immovable assets attached by the Custodian have to be liquidated/sold to meet the liabilities of Smt. Rasila S. Mehta and Smt. Rina S. Mehta as well as those of Late Harshad Mehta and M/s Harshad Mehta u/s 11 (2) of the said Act.

9. The Hon'ble Supreme Court in para 12 of their judgment dated 13/05/1998 in Harshad Shantilal Mehta vs. Custodian and Ors. (1998) 5 SCC 1 observed that :

"Before the Special Court makes any order u/s 11 (1), the Special Court must be satisfied that the property which is attached and is being disposed of is the property belonging to the notified person."

10. Further, the Hon'ble Supreme Court in para 29 of their judgment dated 06/05/2011 (Exhibit - "B") reiterated the observation of the Hon'ble Apex Court made in para 56 in judgment in Jyoti Harshad Mehta & Ors. vs. Custodian & Ors. (2009) 10 SCC 564 as under :

".....It is true that to such an extent all properties would be liable to be sold which are needed for redemption and

not beyond the same. What should be kept uppermost in the mind of the Court is to see that the liabilities are discharged and not beyond the same."

11. In view of the aforesaid observations of the Hon'ble Supreme Court in Harshad S. Mehta's and Jyoti S. Mehta's cases, attached assets of Smt. Rasila S. Mehta and Smt. Rina S. Mehta have to be disposed off since the assets viz. shares and immovable property belong to them and the sales proceeds thereof have to be used to meet the liabilities of late Harshad S. Mehta as directed by the Hon'ble Special Court in its order dated 26/02/2008 which has been upheld in appeal by Hon'ble Supreme Court vide judgment dated 06/05/2011.

12. The position of Asset and Liability of Late Harshad Mehta including Smt. Rasila Mehta and Smt. Rina Mehta as on 31/03/2011 is shown in the Exhibit- "C".

13. The assets & liability position shown in the aforesaid Exhibit - "C" reveals that Smt. Rasila S. Mehta owns flat No. 31 in Madhuli C.H.S., Worli, Mumbai and shares worth Rs. 319.60 crores, while Smt. Rina S. Mehta owns shares worth Rs. 286.56 crores as on 31st March 2011. The total assets of late Shri. Harshad S. Mehta and M/s Harshad Mehta including Smt. Rasila S. Mehta & Smt. Rina Mehta is Rs. 848.98 crores against total liabilities of Rs. 19,990.48 crores of these four notified parties. Thus there is excess of liabilities of Rs. 19,141.50 crores over the total assets of late Shri Harshad S. Mehta, M/s Harshad S. Mehta, Smt. Rasila S. Mehta and Rina S. Mehta. Hence the attached assets belonging to Smt. Rasila S. Mehta and Smt. Rina S. Mehta as shown in the Exhibit - "C" have to be sold.

14. The Custodian proposes the sale of attached shares and immovable property being Flat No. 31, Madhuli Co-operative Housing Society, Ltd., Dr. Annie Besant Road, Worli, Mumbai belonging to Smt. Rasila S. Mehta and the sale of attached shares belonging to Rina S. Mehta to meet the liability of late Harshad S. Mehta, M/s Harshad S. Mehta and their own liabilities.

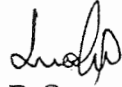
PRAYER

15. In view of the facts stated herein above, the Custodian prays to this Hon'ble Court:-

- (a) That the attached shares belonging to Smt. Rasila S. Mehta and Smt. Rina S. Mehta solely or jointly along with other members of Harshad Mehta Group be allowed to be sold according to the procedure laid down in the Hon'ble Special Court order dated 17th August 2000 in MP No. 64 of 1998 and order of the Hon'ble Supreme Court dated 23rd August 2001 in Civil Appeal No. 7629 of 1999 upholding the said order of this Special Court with certain modifications;
- (b) To allow meeting all the expenses incidental to the sale of aforesaid shares from the attached account of Smt. Rasila S. Mehta and Smt. Rina S. Mehta;
- (c) To appoint a Valuer for valuation of immovable property being Flat No. 31, Madhuli Co-operative Housing Society, Ltd., Dr. Annie Besant Road, Worli, Mumbai belonging to Smt. Rasila S. Mehta and take other steps for sale of property;
- (d) To allow meeting all the expenses incidental to the sale of immovable property including appointment of Valuer, from the attached account of Smt. Rasila S. Mehta; and/ or
- (e) For such further and other directions as this Hon'ble Court may deem fit and proper.

BE PLEASED to place this Report before His Lordship, the Hon'ble Mr. Justice D.K. Deshmukh at 11 A.M., on 10th June 2011 for consideration and appropriate orders.

Dated this 01st day of June, 2011.



(N.P. Suvarna)

Officer on Special Duty
Authorized representative
of the Custodian.

✓ Copy to:-

Shri A.K. Tewari Advocate, Link Legal, No. 1007,
Embassy Centre, 10th Floor, Jamnalal Bajaj Marg,
Nariman Point,

Mumbai - 400 021 for information and necessary action to serve the above report to Smt. Rasila S. Mehta, Smt. Rina S. Mehta & legal heir of Harshad S. Mehta.