"Smt Jyoti Mehta addressed a letter through Shri Ashwin Mehta to Advocates representing ANZ Grindlays Bank (now SCB) and made an offer of repayment of entire principal amount of Rs.506.53 Crores on a 'Without Prejudice' basis."

LC
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Ashwin Mehta
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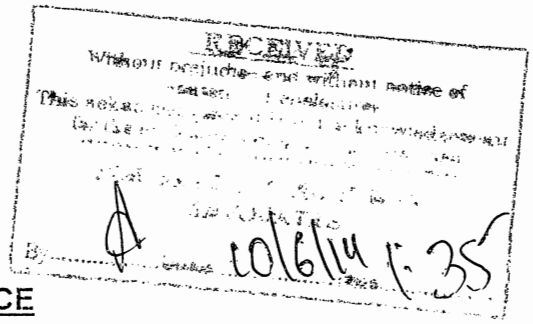
D/L

9th June, 2014

To

Ms. Mona Bhide, Advocate
Dave & Girish & Co,
Advocate for Standard Chartered Bank,
1st Floor, Sethna Bldg,
55 M. K. Road,
Marine Lines,
Mumbai-400002



WITHOUT PREJUDICE

Re: Offer of settlement for your clients, Standard Chartered Bank(SCB)

1. I am writing this letter as an advocate for and on behalf of my client Smt. Jyoti Mehta, the sole legal heir of late Harshad Mehta. Your client is aware that the other two legal heirs Smt. Rasila Mehta (mother) and Shri Aatur Harshad Mehta (son) have filed affidavits in various proceedings before Hon'ble Special Court that they are not claiming any right, title and interest in the estate of Harshad Mehta.

2. You are also aware that your client ANZ Grindlays Bank of Australia now represented by Standard Chartered Bank (SCB) have obtained a decree against Harshad Mehta under an order of Hon'ble Special Court dated 25.7.2003 in Suit No.28 of 1995 for an amount of Rs. 5,06,53,49,115/- (Rs.506.53 crores approximately) together with interest @ 15% p.a. and an additional interest @ 3% p.a. depending upon the surplus in the hands of late Shri Harshad Mehta. You are also aware that the above decree has been challenged by Smt. Jyoti Mehta before the Hon'ble Supreme Court of India by filing Civil Appeal No.9339 of 2010 in which by an order dated 18.10.2010 the Hon'ble Apex Court has also been pleased to issue notice and thereafter substantial pleadings have already taken place in the proceedings.

3. That your client is aware that Smt. Jyoti Mehta has challenged the above decree, interalia on numerous grounds including that the same has been obtained by playing a fraud upon the Hon'ble Special Court and by acting in collusion with the Custodian and therefore the same is nonest. It is also the case of Smt. Jyoti Mehta that the said decree is on account of Ready Forward transactions undertaken between M/s. Harshad Mehta and NHB which have already been held to be illegal by the Hon'ble Supreme Court of India. It is also her case that in terms of well settled law no interest is payable by Harshad Mehta on and from the date of his notification i.e. 8th June 1992.

4. That your client is also aware that earlier by a letter dated 2nd June 1992 Shri Harshad Mehta had made an offer to ANZ Grindlays Bank to square up and settle all the outstanding transactions and for the purpose had also offered to place shares and money market assets of full value of the transactions in the custody of any bank or institution to secure his offer of payment to your client ANZ Grindlays. However the said offer was rejected by your client by a letter dated 18th June 1992 for the reasons stated therein.

5. That thereafter once again in the year 2007 some discussions and meetings for a negotiated settlement had taken place between your client and the undersigned on behalf of Smt. Jyoti Mehta which was backed up by some personal meetings and by exchange of letters but these efforts never culminated into any settlement.

6. That since then numerous proceedings have taken place before the Hon'ble Special Court, Hon'ble Apex Court and the Revenue Authorities and as on date, the Revenue has a claim of Rs.17,455.76 crores on Harshad Mehta and the chart explaining their demands furnished by the Revenue as on 31.1.2014 is enclosed herewith at **Annexure "A"**. Besides above, SBI after having received a sum of Rs.1074.07 crores on its behalf and on behalf of its subsidiaries has still claimed u/s. 11(2)(b) a principal sum of Rs. 107.56 crores and by

way of interest Rs.2759.35 crores as last computed on 30.6.2013. Thus, so far as the claim for principal sum is concerned it has to compete with the above claim of Rs.107.56 crores and for your clients claim of interest is concerned, the same has to compete with the aforesaid claims of the Revenue for tax as well as interest and the claims of SBI as described above.

7. Your client is also aware that earlier the Hon'ble Special Court ordered disbursal of the decreetal amount u/s. 11(2) (b) on the basis of the date of decree and so far as claims falling u/s. 11(2) (c) are concerned, it has laid down the law that the claims of the Revenue particularly for tax would enjoy a priority over the other claims falling under u/s. 11(2) (c). Your client is also aware that out of the attached account of Harshad Mehta till date a sum of Rs.2322.10 crores has been released to the Revenue, the details of which on an orderwise basis are enclosed in a chart at **Annexure "B"** . That till date a sum of Rs.1074.07 crores has been released to the SBI and its subsidiaries which has been appropriated towards the principal amount.

8. Your client would be aware that a large part of the aforecited payment has been made by of Harshad Mehta by transfer of Rs.2067.92 Crores from the account of his family members and corporate entities promoted by them, the details of which are furnished in an enclosed chart at **Annexure "C".** Your client would also be aware that the family members and corporate entities have challenged the orders of Hon'ble Special Court directing such transfer of moneys from their account and Civil Appeals regarding these challenges are pending adjudication before Hon'ble Supreme Court of India, some of which are likely to be heard upon re-opening of the Court in July 2014.

9. It may interest your client to know that these entities have been legally advised that in terms of the provisions of the said Act as well as the law already laid down by the Hon'ble Supreme Court of India through a number of judgments, that their assets cannot be used to discharge

the liabilities of Harshad Mehta. The theory propounded by Custodian about the joint discharge of liabilities under the guise of alleged Harshad Mehta Group would not stand the scrutiny of facts or law particularly since the material relied upon by the Custodian is already held to be inadmissible in recent judgments and since the orders of Hon'ble Special Court are passed in complete violation of principles of natural justice. They have, therefore been advised that their monies transferred to Harshad Mehta would become refundable to them together with interest.

10. That in the event of the above materializing, the monies provisionally disbursed to Revenue and SBI would have to be recalled to that extent. It hardly therefore needs to be emphasized that if the family members and the corporate entities succeed in their appeal, the possibility of any release of monies to your client would become remote and in any event surely get delayed since the above two claimants enjoy a priority over the claim of your client.

11. Besides the above, Smt. Jyoti Mehta has lodged a claim of recovery on behalf of Harshad Mehta against NHB for recovery of two crores units by filing MA 195 of 2011 where your client is also joined as a party and where NHB has already agreed to deposit a sum of Rs. 27,24,82,000/- received by it from Harshad Mehta on 10.02.1992. As against above, Smt. Jyoti Mehta has claimed units together with accruals as well as interest and the total amount of her claim comes to about Rs.267 crores. If Smt. Jyoti Mehta succeeds in the aforesaid application, obviously she will become entitled to make a claim for set off against the decree obtained by your client since the same was obtained for monies received from NHB and credited into the bank account of Harshad Mehta by your client.

12. In fact the decree obtained by your client is a joint decree in favour of your client and NHB in as much as after the settlement between your client and NHB, NHB has withdrawn their claim on Harshad Mehta

under an understanding that your client will pursue recovery against Harshad Mehta and that the realization thereof will be distributed between your client and NHB. All the above facts are narrated so that your client takes them into consideration while evaluating the offer made through the present letter.

13. In the facts and circumstances set out as above and now for the last time Smt. Jyoti Mehta is making a time bound offer of payment of the principal sum of Rs. 506.53 crores to your client as and by way of a full and final settlement in complete discharge of the decree obtained by your client under the order of Hon'ble Special Court dated 25.07.2003 in Suit No.28 of 1995. The present offer is valid and will be kept alive for a period of not more than **45 days** from the date of this letter.

14. This offer will be governed by the following terms and conditions:--

a) That upon agreement, consent terms will be drawn between the parties for an out of court settlement which will then be presented to the Hon'ble Supreme Court of India for its approval.

b) That upon the order of approval from Hon'ble Supreme Court of India Smt. Jyoti Mehta will make an initial payment of Rs.200/- crores within a period of 15 days from the date of receipt of order of Hon'ble Supreme Court of India.

c) That the balance sum of Rs. 306.53 crores will be paid over to your client in two instalments, the first instalment being of Rs. 150 crores to be paid in a period of 90 days from the date of order of the Hon'ble Supreme Court of India and the balance sum of Rs. 156.53 crores will be paid within a period of 120 days from the date of the order of Hon'ble Supreme Court of India.

d) That the above payment schedule would be strictly adhered to and no interest would be payable on the aforesaid sum of Rs. 506.53

crores right upto 120 days from the date of the order of Hon'ble Supreme Court of India and if for any unforeseen reason, the payment does get delayed, then Smt. Jyoti Mehta would compensate your client for the period of delay with interest @ 9% p.a.

e) That Smt. Jyoti Mehta will make the aforesaid payments from either of the following sources as it would suit her and subject to the approval of Hon'ble Special Court and Hon'ble Supreme Court as applicable:-

i) From the existing bank balances lying in the account of Harshad Mehta and other accounts standing in the name of Harshad Mehta together with Custodian viz. Custodian A/c. Benami shares of HMG and Custodian A/c. unregistered shares of HMG.

ii) From and out of the refund due to Harshad Mehta from the Revenue for the monies falsely claimed by it u/s.11(2)(a) in violation of judgment of Hon'ble Supreme Court of India dated 3.12.2008 reported in the case of Dy. Commissioner of Income Tax Vs. SBI & ors (2009) 2 SCC 451 wherein Supreme Court of India has scaled down an item of Rs. 253 and Rs.101 crores and also in view of what is held in Para 44 that only difference between the sale and purchase price of securities are liable to be brought to tax. The proceedings for this recovery is already initiated by Smt. Jyoti Mehta.

iii) From refund of money from the revenue out of the monies already released to it pursuant to hearing of pending appeals of Harshad Mehta which are now due for hearing on 18.6.2014.

iv) From out of recovery of attached assets which are presently being pursued before the Hon'ble Special Court as well as , from and out of the proceeds of liquidation of the existing assets of Harshad Mehta.

v) By raising monies or causing recoveries from the family members and corporate entities promoted by them, all of whom presently have large base of assets, liquid balances, monies receivable under refund orders received from the Revenue and from out of the recovery of attached assets belonging to them.

15. It is also made abundantly clear that Smt. Jyoti Mehta is desirous of making payment to your client from and out of the liquid balances and assets belonging to Harshad Mehta only and only in the event of a shortfall she would fall back upon her family members and corporate entities promoted by them to obtain Bridge loans so as to fulfill the commitments as per the terms of the present offer. The same would obviously depend upon the approval from the Hon'ble Special Court or the Hon'ble Supreme Court as the case may be.

16. That in support of the above offer Smt. Jyoti Mehta has already furnished substantial details and documents relating to the pending recoveries, liquid balances, asset base of the family members and corporate entities to enable your client to evaluate the present offer. However in case any details are required, the same would be made available upon request.

17. Please note that by addressing the present letter Smt. Jyoti Mehta is not admitting to any liability to pay to your client nor any of the family members of Harshad Mehta and corporate entities promoted by them are admitting to the contentions of the Custodian that they are members of any alleged Harshad Mehta group or that their surplus assets are liable to be used to meet the liabilities of Harshad Mehta. It is made abundantly clear that the present offer cannot be used by your client as an admission in any of the pending proceedings or in any proceedings in future or in any court of law as it is made on a without prejudice basis. The present offer is made by Smt. Jyoti Mehta only to resolve and bring to an early end the intractable and long pending

dispute and litigation of over two decades and thereby buy permanent peace.

18. We now await your clients response to above offer.

Yours truly

For Jyoti Mehta

(Ashwin Mehta)
Advocate for Smt. Jyoti H. Mehta

Encl: As above.