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BEFORE THE SPECIAL COURT CONSTITUTED UNDER
THE SPECIAL COURT (TRIAL OF OFFENCES RELATING
TO TRANSACTIONS IN SECURITIES) ACT, 1992
MISCELLANEOUS PETITION NO. 41 OF 1999

THE CUSTODIAN.....PETITIONER
VERSUS
HARSHAD S. MEHTA & ORS.....RESPONDENTS

I N D E X

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August 2003 pursuant to
the order passed by His
Lordship Mr. Justice D.K. Peshmukh
on 7/8/2003

day MAY, 2003 Pursuant
to the order passed
by his Lordship Mr.
Justice A.R. Patil
on 22/4/03

For Officer on Spl. Duty

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BEFORE THE SPECIAL COURT CONSTITUTED UNDER
THE SPECIAL COURT (TRIAL OF OFFENCES RELATING
TO TRANSACTIONS IN SECURITIES) ACT, 1992

MISCELLANEOUS PETITION NO. 41 OF 1999

The Custodian appointed under the)
Special Court (Trial of Offences)
relating to transactions in securities))
Act, 1992 having his Mumbai office at)
9th Floor, Nariman Bhavan, Vinay K.)
Shah Marg, Nariman Point, Mumbai 400 021)..Petitioner

Versus

1. Shri. Harshad S. Mehta of Mumbai)
Indian Inhabitant having his office)
at 1205-6 Maker Chambers V, 221)
Nariman Point, Mumbai - 400 021)
- 1a.)
1b.)
1c. Pl. see Rider 'C'
2. Shri. Ashwin S. Mehta of Mumbai)
Indian Inhabitant having his office)
at 1205-6 Maker Chambers V, 221)
Nariman Point, Mumbai - 400 021)
3. Shri. Hitesh S. Mehta of Mumbai)
Indian Inhabitant having his office)
at 1205-6 Maker Chambers V, 221)
Nariman Point, Mumbai - 400 021)

Amended this 5th day of APRIL 2006
Pursuant to the order dated 24/3/06
Passed by His Lordship Hon'ble Mr. Justice
D.K. Peshmukh

For O.S.D. Spl. Court

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4. Smt. Jyoti H. Mehta of Mumbai)
Indian Inhabitant having his office)
at 1205-6 Maker Chambers V, 221)
Nariman Point, Mumbai - 400 021)
5. Smt. Deepika A. Mehta of Mumbai)
Indian Inhabitant having his office)
at 1205-6 Maker Chambers V, 221)
Nariman Point, Mumbai - 400 021)
6. Smt. Pratima H. Mehta of Mumbai)
Indian Inhabitant having his office)
at 1205-6 Maker Chambers V, 221)
Nariman Point, Mumbai - 400 021)
7. M/s. Aatur Holdings Private Limited)
a company incorporated under the)
Companies Act, 1956 and having its)
office at 1205-6 Maker Chambers V,)
221 Nariman Point, Mumbai - 400 021)
8. Commissioner of Income Tax,)
(Central-II), Mumbai having his)
office at Aayakar Bhavan, M.K. Road)
Mumbai - 400 020).. Respondents

TO, Sndhir Mehta
10. P. See Rider 'C' Please See
11. THE HON'BLE JUDGE APPOINTED UNDER THE
12. SPECIAL COURT (TRIAL OF OFFENCES RELATING
TO TRANSACTIONS IN SECURITIES) ACT, 1992

RIDER 'A'

RIDER 'A'

1205/06

Maker Chambers

Nariman Point

Mumbai

Page 3
101

Rider 'e'

- 10. Standard Chartered Bank, (now)
owning and operating the business)
formerly known as ANZ Grindlays)
Bank Limited and later Standard)
Chartered-Grindlays Bank), a)
company incorporated under the)
provisions of the laws of England)
and Wales and having its)
registered office at)
1 Aldermanbury Square, London)
EC 2V 7SB carrying on banking)
business in India and having one)
of its branches at 23-25, Mahatma)
Gandhi Road, Mumbai 400 001)
- 11. State Bank of India, a Corporation)
incorporated under the provisions)
of the State Bank of India Act,)
1955 having its Local Head Office)
at State Bank Bhawan, Madam Cama)
Road, Fort, Mumbai 400 021)
- 12. SBI Capital Markets Ltd., a)
company incorporated under the)
Companies Act, 1956 and having its)
registered office at 202, Maker)
Tower, 7th, Cuffe Parade,)
Mumbai 400 005)

3-A

Re: 'D'

Respondent No.1, Mr. Harshad S. Mehta died at Mumbai on 31st December, 2001 leaving Respondent Nos. 1(a) to 1(c) as his legal heirs and representatives. Respondent Nos. 1(a) to 1(c) now represent the estate of deceased Harshad S. Mehta.

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THE HUMBLE PETITION OF
THE PETITIONER ABOVE NAMED

MOST RESPECTFULLY SHEWETH:

1. The Petitioner is the Custodian appointed under the provisions of the Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992 (hereinafter referred to as the "said Act").

Pl. see Riders that is 35A

2. The Respondent Nos. 1^{abc 29} to 7^{abc 29} are persons notified under the provisions of the said act and accordingly all properties belonging to the Respondent Nos. 1^{abc 29} to 7^{abc 29} stand statutorily and automatically attached. The same are to be disposed of under the provisions of the Section 11 of the said Act as per directions of this Hon'ble Court, inter alia, for the purpose of payment of their creditors including the Income Tax Department. The claims of the Income Tax Department amount to over Rs.7,362 Crores. The claims of the Income Tax Department in respect of the Assessment Years 1992-93 and 1993-94 raised so far amount to over Rs.6,068.84 Crores including interest and Rs.2,362.04 Crores excluding interest. The claims against the said group as per the JPC and IDG reports amount to Rs.1,529.07 Crores and Rs.1,559.69 Crores respectively. In fact, in Misc. Application No.215 of 1993 filed by the said group, the group has admitted liabilities of Rs.572.04 Crores. The value of shares held on behalf of the Respondents has depreciated

(5)

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substantially. The said claims are in respect of the entire Harshad Mehta Group which includes Respondent Nos. 1 to 7^{tabc 29} herein and other companies which are nothing but fronts of Harshad Mehta and his family members. The Petitioner craves leave to refer to and rely upon the numerous assessment orders passed by the Income Tax Department and the Petitions filed by the Income Tax Department before this Hon'ble Court seeking release of monies from attached accounts in payment of the tax dues.

Pl. see Rider (A)

3. The Respondent No. 8 is the Commissioner of Income Tax, who is concerned in the assessment of the Harshad Mehta Group.

4. The Petitioner further states that one Crest Hotels Ltd. had filed various Petitions in this Hon'ble Court being Misc. Petition Nos. 109 to 115 of 1996 for the recovery of its dues from the Respondent Nos. 1^{tabc 29} to 7²⁹ herein which in all aggregated to Rs. 39.88 lakhs towards maintenance charges in respect of seven flats^{floor see rider B} (No. 32A, 32B, 33, 34A, 34B, 44A and 45) in the building known as "Madhuli", situate at Annie Besant Road, Worli, Mumbai 400 018, which are occupied by four families and a group company of Harshad Mehta Group. The said maintenance charges pertained to the period commencing from July 1992 to September 1996. Despite making

RIDER B

1 one flat belonging to Mr. Sudhir S. Mehta
being flat No 44 B

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repeated promises, the Respondent Nos.1^{abc} to 7²⁹ had apparently failed and neglected to make payment of the said amounts. The said Petitions were, however, withdrawn by the Respondent No.1^{abc} on 4th May, 1998. The Petitioner is not aware whether the dues have been paid to M/s. Crest Hotels Ltd.

5. The Petitioner submits that the Respondent Nos.1^{abc} to 7²⁹ owe large sums of money not only to the Respondent No.8 herein, but also to various banks and financial institutions. The liability of the Respondent Nos.1^{abc} to 7²⁹ to bank and financial institutions which does not include any claim for interest is Rs.1,565.58 crores as per the Joint Parliamentary Committee Report. Various Suits/Petitions have been filed in this Hon'ble Court against Respondent No.1^{abc} to 7²⁹ for recovery of large sums of money. The aggregate amount in the said Suit/Petitions exceeds Rs.1,964.55 crores. The details of the said Suits/Petitions are contained in the Schedule annexed hereto and marked Exhibit 'A'.

6. The Petitioner further submits that the Respondent No.1^{abc} to 7²⁹ were notified by the Petitioner as they are found to be involved in offences relating to transactions in securities which, inter alia, include siphoning large sums of monies from various banks and financial institutions.

7. The Petitioner states that monies are required to



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make payment to claimants under Section 11 (2) of the said Act. The Respondent Nos. 1^{abc} to 7 herein though being notified from 8th June, 1992 continued to occupy flats in the said building without apparently even making payment of the maintenance charges.

8. The Petitioner submits that the 4 families and a group company of the Harshad Mehta Group are residing in/occupying seven number of flats in the said building. They are in occupation of a 7456.35 sq. ft. area as per the details given by Crest Hotels Ltd. This does not include a large garden of about 5000 sq. ft. The details in respect of the said flats furnished by Crest Hotels Ltd. are annexed hereto and marked Exhibit 'B'.

9. The Petitioner submits that the Respondent Nos. 1, 1^{abc} to 7^{sg} have been permitted under the judgement of the Hon'ble Supreme Court of India to carry on future business and earn future income subject to the same being declared to the Petitioner herein. The Respondent Nos. 1^{abc} to 7^{sg} have apparently chosen not to do so even though these are media reports of SEBI investigations that Respondent No. 1^{abc} has been clandestinely active in the stock market and instrumental in price rigging of some select companies in spite of the fact that BSE has forbidden his participation in the Stock Exchange.

10. Velvet Holding Pvt. Ltd., one of Harshad Mehta

group companies, owns a building by name 'Gopal Mansion' near Metro Cinema. 19 flats in the building remain vacant. Despite repeated attempts made by the Petitioner, the Petitioner has not been able to let out any flat in the said building.

11. The Petitioner submits that in view of the fact that continued maintenance charges have to be incurred on these flats and as monies are required for making payment to the Income Tax Department and other creditors of the Respondent Nos. 1^{abc 29} to 7ⁿ, it would be just, fair and proper that this Hon'ble Court be pleased to pass necessary orders directing the notified persons to shift to an alternative accommodation if considered reasonable by this Hon'ble Court and for sale of the premises in the said building viz, 'Madhuli', which are owned by Respondent No. 1^{abc 29} to 7ⁿ.

12. The Petition is verified by Mr. M.P. Purushu, who is an officer on Special Duty in the Petitioner's office and is conversant with the facts of the case and is able to depose to the same.

13. The Petitioner will rely on documents as per the list annexed hereto.

14. In the circumstances stated herein above, the Petitioner prays:

- a. that necessary orders be passed and

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appropriate directions as to public auction, publication of the public notice of sale in the prominent newspapers circulating in Bombay and costs to be incurred by the Custodian as incidental to and in respect of such sale be given by this Hon'ble Court for sale of flat nos. 32A, 32B, 33, 34A and 34B, ^{44B} 44A and 45 in the building known as "Madhuli" situate at Annie Besant Road, Worli, Mumbai 400 018;

44B

- b. for costs of the Petition;
- c. for such further reliefs as the nature and circumstances of the case may require.

Petition drawn by:
Mr. Gaurav Joshi, Counsel,
High Court, Bombay.

sd-

Petitioner

For PRAVIN MEHTA & MITHI & CO.,

sd-

(Partner)
Advocates for Petitioner.