IN THE SPECIAL COURT AT BOMBAY

Constituted under the Special Court [Trial of Offences Relating to Transactions in Securities] Act, 1992

MISCELLANEOUS APPLICATION NO.205 OF 2003
IN
SUIT NO.41 OF 1995

State Bank of India	]	....Applicant
V/s.		
1. The Custodian	]	
2. Jyoti Harshad Mehta	]	
3. Aatur Harshad Mehta	]	
4. Rasila Shantilal Mehta *(Since Deceased)*	]	
4(A). Ashwin S. Mehta	]	
4(B). Aatur Harshad Mehta	]	
4(C). Dr. Hitesh Mehta	]	
4(D). Sudhir S. Mehta	]	
4(E). Bhavana M. Shah	]	
5. Asstt. Commissioner of Income Tax	]	
6. Central Bureau of Investigation	]	....Respondents

Mr. T. Cooper, Sr. Advocate, i/by Little & Co., for the Applicant-SBI.

Mr. Hormaz Daruwalla, i/by Leena Adhvaryu Associates, for Respondent No.1-Custodian.

Mr. Aseem Naphade, i/by Mr. Vivek Sharma, for Respondent Nos.2, 3 and 4(A) to 4(E).

Mr. B.M. Chatterjee, Sr. Advocate, with Ms. Kavita Singh, for Respondent No.5-Income Tax Department.

CORAM : A.K. MENON, J.

JUDGE, SPECIAL COURT

RESERVED ON : 27TH AUGUST, 2021

PRONOUNCED ON : 4TH DECEMBER, 2021

P.C. :

1. By this application, the applicant-State Bank of India seeks payment of interest pursuant to a decree dated 3rd March 2003, by which the defendant nos.1(a) to 1(c) in Suit No.41 of 1995 were ordered and directed to pay a sum of Rs.189,10,77,578=98 per Exhibit-B to this application with interest thereon @ 23.25% p.a. The interest rate was later reduced to 15% p.a. and accordingly the decree directs payment of Rs.189,10,77,578=98. The applicant was also required to give credit to the extent of Rs.51.99 crores, which it has done. Respondent no.1 is the Custodian, respondent nos.2, 3 and 4 are heirs of HSM. Respondent no.4 expired during pendency of this application and hence respondent nos.4(A) to 4(E) have been impleaded as respondents. They seek to oppose this application. Respondent no.5 is the Assistant Commissioner of Income Tax and respondent no.6 is the CBI. They are being joined as necessary parties and no reliefs have been claimed by the applicant against respondent nos.5 and 6.

2. The suit as originally filed sought relief in relation to certain shares, which the Custodian held on account of the notified parties and which were claimed by the applicant-plaintiff. Those shares have since been sold and there is no controversy as to the fact that the shares were sold and the monies were invested by the Custodian. The application as canvassed today proceeds on the basis that there is a monetary claim, the principal amount of which has already

been received by the applicant. The decree came to be passed in Suit No.41 of 1995. The decree today stands to the extent of interest payable.

3. This application is being opposed by the Income Tax Department. Mr. Chatterji has submitted, relying upon the affidavit filed on behalf of the department that the applicant has misunderstood the purpose of the Special Court Act. The amounts due to the applicant were payable only after payment of tax dues. Reference is made to the extracts of the Joint Parliamentary Committee's Report. The liabilities of the Revenue were to be discharged prior to payments to the banks and that the banks must stand in queue for all payments under Section 11(2)(b) of the Special Court Act.

4. The Deputy Commissioner of Income Tax has in his affidavit dated 4th January 2018 reiterated the case of the Income Tax Department that there is a valid assessment in favour of the Revenue and that the amounts of the Revenue are to be paid. Banks can only ask for payment of interest at the time of final distribution since they have already received their principal amounts and only a miniscule amount may be due and payable towards interest. According to the deponent, dues of Harshad Mehta for 1992-93 was at Rs.9,512=21 crores but it had come down substantially to Rs.1,601.38 crores and credit has been given for TDS and Advance Tax. The deponent has dealt with the aspect of computation of profit, alluding to deduction of purchase cost from sale price

resulting in a profit. The purchase cost has been separately added as unaccounted investment and he contends that it would be inappropriate to conclude that purchase cost has not been allowed to the assessee.

5. In an affidavit-in-rejoinder, one M.R. Sukumaran, Assistant General Manager of the applicant-SBI, the applicant has refuted the contentions of the Income Tax Department and stated that the monies of the banks should be paid first. The Custodian has filed affidavits dated 13th April 2004, 10th August 2004, 29th September 2004 and 19th January 2005. On behalf of respondent no.2-Jyoti Mehta, in her capacity as legal heir, she has filed an affidavit dated 26th November 2009. The contents of the affidavit are identical to the affidavit of the same date in MA/250/2003. The Department has filed a further affidavit of Manpreet Singh Duggal, Deputy Commissioner of Income Tax dated 4th January 2018; a rejoinder to which is filed by Jyoti Mehta dated 12th January 2018. The Department has filed a further affidavit of 20th June 2018, The reply on behalf of respondent no.2-Jyoti Mehta proceeds on the basis that she has filed MP/10/2009 seeking to declare the decree dated 3rd March 2003 a nullity and non-est since it is allegedly obtained by fraud with the Custodian and the applicant-bank acting in collusion. She claims she is entitled to resist a decree on that basis even at the stage of admission. I may observe here that MP/10/2009 already stands rejected.

6. Jyoti Mehta has in her rejoinder to the affidavit filed on behalf of the

Income Tax Department denied the contentions of the Department. In response to an affidavit of the Department, Jyoti Mehta has filed a rejoinder which runs into 39 paragraphs and numerous annexures, all comprising 305 pages. It is not necessary to delve into the contents of this rejoinder save and except to state that the deponent has disputed the contentions of the Deputy Commissioner of Income Tax, alleged high-handed conduct on behalf of the Revenue and the fact that the assessments are all subject matter of challenge and that there is no merit in these illegal assessments. It is alleged that the Revenue has collected monies illegally on the basis of presumptions and assumptions and resorting to conjecture and surmise. Several annexures have been introduced into the affidavit, but all of these are not relevant and in order to maintain focus on the application. The numerous annexures all deal with the aspect of taxation of the assessee and levy of penalty and various orders giving effect that have been issued by the Department. Suffice it to say that the contents of the affidavit of Manpreet Singh Dugal on behalf of the Income Tax Department have been denied in this rejoinder dated 18th January 2018.

7. This is followed by yet another affidavit dated 21st June 2018 filed by Madhura M. Nayak, Deputy Commissioner of Income Tax, in which the deponent reiterates what is stated by her predecessor in the affidavit dated 4th January 2018. It once again deals with the fact that the Principal Commissioner of Income Tax in-charge had found that the rectification to the order giving

effect of 28th September 2017 and 28th June 2017, which was passed on 2nd May 2018 by the then DCIT was erroneous and prejudicial to the interest of the Revenue and that a further show cause notice under Section 263 of the Income Tax Act had been issued.

8. Jyoti Mehta has filed an additional affidavit dated 4th July 2018, which largely deals with the affidavits of Manpreet Singh Duggal and Madhura Nayak on behalf of the Income Tax Department. It annexes to it numerous documents, copies of orders in income tax assessment etc. A further affidavit dated 2nd August 2018 is seen to be filed on behalf of the Department of Madhura Nayak, Deputy Commissioner of Income Tax.

9. Respondent no.4(A)-Ashwin Mehta has filed a further Combined affidavit on behalf of self and as legal heir of Rasila Mehta and on behalf of respondent no.2-Jyoti Mehta dated 17th March 2021. The affidavit is voluminous and runs into 517 pages. It annexes itself numerous documents, copies of orders passed by this court, orders of the Income Tax Department, written statements in other Suits, judgments in other MAs in the matter of distribution of assets, none of which have been relied upon by Mr. Naphade, the learned counsel for the respondents, at the hearing of this application. To the extent reliance is placed, Mr. Naphade has made submissions, to which I will shortly advert. In the face of voluminous pleadings, all that needs to be considered is whether the applicant-bank is entitled to claim interest in execution of the decree in priority over the

Income Tax Department and whether the notified parties have dues pending and payable as on date

10. The applicant-SBI has also filed an affidavit-in-rejoinder of one Gerard Viegas dated 15th July, 2021, whereby the respondents' contentions are disputed. In addition, the applicant has also filed a chart indicating computation of interest. Mr. Cooper appearing on behalf of the applicant-bank has submitted that the amount of the decree consists of two components; a principal sum of Rs.114,43,90,611=98 and Rs.74,66,87,267/- towards interest. It is submitted that the entire principal sum of the decree has been received in various installments, as set out in the affidavit-in-rejoinder by the applicant-bank. What remains to be paid now is only the interest amounting to Rs.213,59,67,376=42 as of July 2021. Mr. Cooper therefore submitted that the defence is the same as in the earlier application no.211 of 2003. After passing of the decree, the notified parties have alleged fraud and that the decree was a nullity etc. MA/23/2008 was filed by respondent no.2-Jyoti Mehta. She also sought a stay on execution proceedings, but later withdrew the same. The notified parties then filed MP/10/2009 to have the decree set aside on the ground of fraud. That petition was dismissed on 8th June 2010. A Civil Appeal has been filed against that order and that remains pending. A Stay application was filed in that application but no stay has been granted of the decree.

11. Mr. Cooper invited my attention to the contents of MA/205/2003 seeking

stay on decree, as also MA/23/2008 seeking to set aside the decree and eventually pointed out that the Supreme Court had passed certain orders from time to time but no stay has been granted. He tendered a chart containing computation of the amounts now being claimed by the applicant-bank and contended that the total sum payable as interest is Rs.213,59,67,376=42. Mr. Naphade justifiably sought to dispute this computation as unintelligible. A fresh computation thereafter was tendered in court on or about 13th August 2021. Mr. Cooper has taken me through this computation to explain the manner in which the computation of interest has been arrived at.

12. The facts reveal that after the decree was passed on 3rd March 2003. MA/ 205/2003 was filed on 24th June 2003, by which the applicant-bank sought execution of the decree. Respondent no.2-Jyoti Mehta filed MA/23/2008 seeking setting aside of the decree by declaring it as a nullity. MA/23/2008 came to be filed on 15th January 2008 but was withdrawn on 4th July 2008. Thereafter, respondent no.2-Jyoti Mehta has filed an application viz. MP/10/2009 seeking to declare the decree a nullity. MP/10/2009 was dismissed on 8th June 2010, after which Civil Appeal No.3284 of 2011 was filed. That appeal remains pending and is yet to be heard. In that appeal thus, as on date, execution of the decree is not stayed.

13. It is the case of the applicant-bank that against all principal sums received including the value of the shares, which were part of the original Suit

No.41 of 1995, the applicant-bank has already given credit for a sum of Rs.51.99 crores, as set out above, and thereafter computed the interest amount. The factum of payment of principal sum is not in dispute and if the principal sum is paid, the decree must be taken to its logical conclusion. Absent a stay on further proceeds in this and other similar Miscellaneous Applications, the interest liability which fastens must be discharged. The question is at what stage? This assures significance in view of the unique provisions of the Special Court Act.

14. Mr. Cooper on behalf of the applicant-bank has relied upon a fresh computation dated 13th August, 2021, copies of which have been shared with the respondents. Mr. Cooper submitted that when the application was filed, interest was computed on the principal sum of Rs.114,43,90,311=98. However, in the course of submissions, it was noticed that the decree, in its operative portion, grants further interest on total sum of Rs.189,10,77,578=98 *albeit* at a reduced rate of interest of 15% p.a. from the date of filing of suit till payment or realization. Initially, interest was computed only on the principal sum of Rs.114,43,90,311=98. The amount of interest upto the date of filing of suit, being Rs.74,66,87,267/-, was inadvertently not included for computation of interest. The fresh computation of interest takes into account the enhanced liability explained in the computation. Mr. Cooper submitted that, as against the decretal sum of Rs.189,10,77,578=98, the applicant-bank had given credit in a

sum of Rs.51,99,00,000/- as on 28th April, 1995, which was the date of filing of suit.

15. In the Written Statement in Suit No. 41 of 1995 filed on behalf of defendant no.3-SBI Capital Markets Ltd., the defendant no.3, which was a subsidiary of the plaintiff-SBI, had confirmed, inter alia in paragraph 2(h), that upon annual reconciliation of the account followed by an audit, when the book entries were checked and reconciled with physical stock and payments made, the defendant no.3 found an excess of 3.71 crore Units in the form of book entries. Physical units had ceased to exist since at the usual annual inter party settlement of Units' transactions in May 1992, all Banker's Receipts were received from defendant no.1, which were included those relating to 3.71 crores Units. It is further contended that after inter-bank settlements, the physical identity and existence of 3.71 crore Units delivered in excess was lost, but its monetary value of Rs. 51.99 crores had been arrived at. SBI Capital Markets Limited was holding the said amount to the credit of the plaintiff, as set out in paragraph 19 of the plaint.

16. I may observe here that the value of these Units is not in dispute. The defendant-respondent no.3 has not disputed the valuation. The applicant's contention is that credit is given as on the date of filing of suit i.e. 28th April, 1995, but the respondent no.3 has contended that credit ought to be given from 1992. This submission has its foundation in the written statement of defendant

no.3 dated 19th January 1999 filed in Suit No.41 of 1995. Mr. Cooper however submitted that the plaintiff had given credit on the date of filing of suit itself and that is appropriate. The court, while passing a decree, had observed that the plaintiff has given credit for the same.

17. Perusal of the decree reveals that in paragraph 5 thereof, the court directed that the suit is decreed subject to credit to be given to late HSM and the heirs to the extent of Rs.51.99 crores. This relates back to the averment in paragraph 19 of the plaint in Suit No.41 of 1995, wherein credit was agreed to be given. The relevant portion of paragraph 19 of the plaint reads as follows :

> *"19. …….. The Plaintiffs say and submit that upon it being held that the Defendant Nos.1(a), 1(b) and 1(c) are not entitled to the said 3.71 crore units or the monetary value thereof and the Plaintiffs are entitled thereto, then the amount of debit made to the original 1st Defendant's said account by the Plaintiffs would stand reduced to that extent. In such event the amount of the claim herein will stand reduced by such amount."*

18. The question therefore is, whether credit should be given as on date of squaring-up of the account or from the date of the suit? If credit is to be given from the date of the suit, then one would have expected particulars of claim to reflect the credit prior to passing of the decree. Such credit is not evident from the plaint itself. It is only in the Written Statement that the amount of credit /

rate of adjustment is revealed. Hence the question whether credit was to be given in 1995 or in 1992 would be a pertinent one and which is required to be considered.

19. That brings me back to the fresh computation. Mr. Cooper further submitted that between 16th June, 2003 and 19th March, 2011, numerous payments had been received resting with amount of Rs.50,12,87,524=10 received on 19th March, 2011, pursuant to order passed on 25th February, 2011 in Custodian Report Nos.9 of 2010. Thus, 17 installments have been set out in the computation table including credit of Rs. 51.99 crores viz. collectively amounting to Rs.114,96,62,770=98, which sum is a little over the principal sum at the time of filing of suit. The decree being for an additional sum of Rs.74,66,87,267/-, further interest was required to be computed on Rs.189,10,77,578=98 and interest has been computed @ 15% per annum commencing from 28th April, 1995. Interest has been computed on the date of filing of suit on Rs.137,11,77,578=98. Upto 16th June, 2003, a sum of Rs.2,97,591/- was received. In this manner, interest has been computed after every installment received and after giving credit for the amounts. In other words, interest is computed by employing reducing balance method, after giving credit to part payments made from time to time. Total interest upto 13th August, 2021 is said to be Rs.508,30,29,504=75. The principal sum has been received. The question is whether interest payable is payable under Section 11(2)(b) or

11(2)(c) of the Special Courts Act.

20. Mr. Naphade has pressed into service the same submissions, judgments and documents he relied upon by him in MA-211 of 2003. Mr. Naphade would however submit that while the computation of interest is arithmetically, appropriate credit for Rs.51.99 crores ought to be given for the reasons already set out. That apart, he submitted that the decree, if enforced, can only be enforced against the estate of HSM and to the extent of the estate of late HSM coming into the hands of the heirs and not personal assets, even though these are attached. I find that that MA 23 of 2008 seeking a declaration that the decree is a nullity has already been withdrawn on 4th July,2008. Jyoti H. Mehta, widow of late Harshad S. Mehta - the original defendant no.1 in the suit, had filed MP 10 of 2009 on 11th June, 2009 to declare the decree of 3rd March, 2003 as a nullity. That application was heard on 8th June, 2010. The Court observed that the contention of the defendant 1(a)-Jyoti Mehta in her application that she came to know of the order passed in Suit No.41 of 1995 only through the proceedings in MP 41 of 1999 was clearly false. The said defendant 1(a) had not approached the court with clean hands, was guilty of making a false statement and she had failed in her duty to the court to bring out all facts that she would have known by exercising due diligence. By a detailed order, the Special Court rejected MP 10 of 2009. Mr. Naphade however would submit that an appeal was pending against the said order being Civil Appeal No.3284 of 2011.

21. Mr. Chatterji, learned Senior Advocate on behalf of the Department has reiterated his submissions in MA-211 of 2003. In his submission on 28th August 2021, common to all the Miscellaneous Petitions including the above petition, has submitted that the Special Court has no jurisdiction to execute the decree and cannot entertain applications under Order XXI of the CPC, in view of the Special Court's powers defined under Section 9 of the Act. Section 9A(3) of the Act uses the word "claim" and not "decree" and therefore the Special Court can only entertain claims of creditors and distribute the monies available under Section (11)(2)(a), (b) and (c). Reference is made to the decision of the Supreme Court in *Kudremuth ORE Co. Ltd. Vs. Fairgrowth Financial Services Ltd*[1]. The learned counsel has invited my attention to observation in paragraph 7 in that judgment, which states that Section 11 of the Act exclusively empowers the Special Court to give directions in the matter of properties of a Notified Party and that the foundation for jurisdiction under Section 11 to deal with any property is that the property should have been under attachment. It is contended that the foundation of jurisdiction under Section 11 issued that the property should be attached and powers under Section 11 can only be utilized in respect of these properties, including by disbursal of funds. He fairly concedes that the Special Court is not bound by the Code of Civil Procedure in view of Section 9A(4) and Section 9(5) also does not mention the requirements of Order XXI of the CPC. The Special Court he admits has laid down its own procedures.

[1] (1994) 4 SCC 246

22. Mr. Chatterji has also invited my attention to the decision of *Bank of India Finance Ltd. Vs. Custodian and Ors.,*[2] *(1997) NSCC 488*, and the observation in paragraph 13 that the Custodian has three main functions; firstly, the authority to notify a person involved in any offence under the Act; secondly, the power to cancel contracts and agreements in relation to such notified persons and; thirdly, he is entitled to deal with the property of a notified person, as directed by the Special Court. The Custodian has to assist in attachment and manage the same thereafter. Whether or not the properties are attached or not, the properties do not vest in the Custodian unlike that of a Receiver. This, in my view, is no longer res integra.

23. Mr. Chatterji then invites my attention to the decision of *LS Synthetics Vs. Fairgrowth Financial Services Ltd.*[3] in which the Supreme Court observed that the Special Court is not a recovery court and that the decree needs to be segregated into principal and interest and ad-hoc release of funds can only be effected under Section 11. Inviting my attention to MA/79/2004 in MA/222/1996 in the case of *Custodian Vs. Fairgrowth Financial Services Ltd.* and a judgment of this court dated 13th February 2007, Mr. Chatterji submitted that while distributing interest under Section 11(2)(c), the Income Tax Authority will have priority. In any event, the Revenue would include all amounts payable

[2] (1997) NSCC 488
[3] (2004) 11 SCC 456

to the Income Tax Authorities including interest due to the Tax Department.

24. Reliance is also placed on the decision of this court in MA/150/1999, in which case, the court observed that ascertained liability would include norms that were pending in appeal that there is no bar in disbursement of funds to the Income Tax Department *(IT Department)*. According to Mr. Chatterji, interest demands of the IT Department must be paid before disbursing any amounts to the banks. The demands of the IT Department have already been lodged in the court as of 9th July 2021 being SPMP (L) no.32 of 2021 and in view thereof, no ad-hoc release can be made without disposing that application.

25. Mr. Chatterji then submitted that since the Custodian is not akin to a Receiver and the property does not vest in him, he cannot disburse and release funds except in accordance with Section 11. Reference to SPMP(L)/32/2021 has led me to consider the application in that MA. The prayers in that application read as follows :

> "(a) The Hon'ble Court be pleased to release amount due and payable to the Income Tax Department against the interest under Sections 234(A), 234(B), 234(C), 234(D) to 22, along with penalty under various provisions of the Income Tax Act, 1961, of Notified Parties for the statutory period as per chart annexed hereto and marked as Exhibit-A under Section 11(2)

(c) of the TORTS Act.

(b) Such other reliefs as the Hon'ble Court deem fit and proper;

(c) For costs of the petition."

26. This application is filed only on 8th July 2021 and sets out that all Revenues of the Central Government or State Government are liable to be paid in priority over the amounts claimed by banks and financial institutions. The liabilities in the present case range from 1st April, 1991 to 6th June 1992, resulting from Assessment Years 1992-93 and 1993-94. It is contended that in *Harshad Shantilal Mehta Vs. Custodian*[4] the court had concluded that an ascertained liability could include the amounts presently payable by Notified Parties as taxes. The attention of the court is invited to paragraph 26 of the judgment, in which the Supreme Court held that every kind of a tax liability of the Notified Party for any period that is not covered under Section 11(2)(a), though the liability may continue to be of the Notified Party, shall be discharged under the directions of the Special Court under Section 11(2)(c) or the taxing authority may recover the same from subsequently acquired property of a Notified Person.

27. The applicant – the Joint Commissioner of Income Tax, OSD, Central Circle – 4, has reserved his right to raise the issue of interest to be paid under Section 11(2)(a). According to Mr. Chatterji, unless this application is first heard

[4](1998) 5 SCC 1

and decided, the applications under which the bank claims interest cannot be decided. I am unable to accept this contention of the applicant. This application has been filed belatedly and since 8th July 2021 has been lying under objections, the prayer clause is unspecific and the application does not reveal the basis of the claim, save and except to claim a total sum of Rs.14637,72,23,435/- as a priority demand that too under Section 11(2)(c). Clearly the claim is not under Section 11(2)(b). I am unable to accede to the request of Mr. Chatterji that this application must be first heard before a decision is rendered in the pending miscellaneous petitions, in which the banks have been awaiting a decision since 2003 and this belated application can well spell the disposal of the Miscellaneous Application. Besides this claim is itself questionable for reasons set out in my order in MA-211 of 2003 and when considering the fact that during the hearing of MA-211 of 2003 the Income Tax Department has presented a chart claiming a sum of Rs.17980,22,39,711/-. There is no explanation for the varying claims from time to time.

28. Be that as it may, what I find is that there is no stay of operation of the decree. Payments in a sum of Rs.114,96,62,770=98 have been made from time to time after hearing the respondent from time to time. There has been no prohibition, either by the Special Court or by the Supreme Court, in making this payment. Thus, it stands the reason that this application must be disposed since there is no stay for further proceeding in this application. Mr. Naphade's

argument that in MA 211 of 2003, there is a stay to the recovery is misconceived, as the orders of the Supreme Court staying further proceedings are in respect of the orders passed in Custodian's Report Nos. 9 of 2010 and 14 of 2011, whereby the Custodian had been directed to sell residential properties. Those orders did not operate against the decree per se. The principal sum having been paid pursuant to the decree and the order of the Supreme Court interest will have to be paid. However, this shall be paid in tow phases. Further for the statutory period the interest will have to be computed and paid under Section 11(2)(b) and in the second phase interest for the non-statutory period shall be computed from 7th June 1992 till date of receipt of the principal sum under the decree.

29. I therefore pass the following order;

a) Custodian shall pay over to the applicant interest on the principal sum of Rs.114,43,90,311.98 after giving credit for a sum of Rs. 51,99,00,000/- on date of receipt of that sum at the rate of 15 % per annum for the notified period 1st April, 1991 to 6th June, 1992 under Section 11(2) (b).

b) The computation of interest shall not include compound interest. The applicant shall within four weeks from today compute interest as aforesaid and submit the same to the Custodian who

shall have the computation verified by an empanelled Auditor. In the event of any variation Custodian shall submit such alternate computation to the applicant. In event of any disagreement liberty is reserved to the Custodian to apply to court by way of a Report.

c) Upon the amount being determined, the same shall be paid within a further period of four weeks against the applicant furnishing an undertaking of the bank through an authorised officer to bring back the amount with interest from date of receipt if the Supreme Court so directs in any proceedings pending before it or any appeal that may be filed against this order.

d) For the remainder of the period interest shall be paid at the time of final distribution under Section 11(2)(c) from 7th June, 1992 till date of receipt of the principal sum under the decree.

e) No costs.

After this order was pronounced, Mr. Chatterji representing the Income Tax Department and Mr. Naphade and Mr. Sharma representing the notified parties seek stay of operation of this order. I am not inclined to

stay the operation of the order. However, the Custodian is directed not to act upon this order for a period of eight weeks from the date it is uploaded.

[A.K. MENON, J.]