

IN THE SPECIAL COURT AT BOMBAY
Constituted under the Special Court (Trial of Offences Relating to
Transactions in Securities) Act, 1992

CUSTODIAN'S REPORT NO. 6 OF 2025

The Custodian ...Applicant
Versus
Regarding Assets and Liabilities Position of ...Respondent
Notified Party Jaideep J Pathak (Since Deceased)

Mr. J. Chandran, with Aditi Pandey and Ms. Shilpa Bhate (through VC), for the Custodian.

Mr. Piyush Raheja, with Sonali Aggarwal, i/b M/s Dhruve Liladhar & Co, for Snehal Pathak-Legal Heirs of Notified Party-Jaideep Pathak.

Mr. Avinash Bangera, i/b Disha Karambar & Associates, for M/s Sundaram Asset Management Company Limited.

Mr. Pritesh Chatterjee, for the Income Tax Authority.

CORAM : N. J. JAMADAR, J.
Judge, Special Court

RESERVED ON : 13th FEBRUARY 2026

PRONOUNCED ON : 20th FEBRUARY 2026

ARUN
RAMCHANDRA
SANKPAL

Digitally signed by
ARUN
RAMCHANDRA
SANKPAL
Date: 2026.02.21
14:27:05 +0530

ORDER:

1. Heard the learned Counsel for the parties.
2. By this Report the Custodian seeks the following orders/directions:

“(a) Further treatment of the Income Tax demand under Section -11(2) (a) and Section 11(2) (c) of the Act and also the amount of Rs.50 Lakhs already paid to the Income Tax

Department against the said demand, keeping in view the fact that the demand raised by the Income Tax Department is stated to be protective in nature and cannot be enforced. In the said circumstances, a direction to the Income Tax Department may be issued to clarify its stand with regard to the demands raised against Jaideep J Pathak, the Notified Party.

(b) Direction to Standard Chartered Bank to submit a clear position of demand, if any, against Jaideep J Pathak, or else, submit a 'Nil' demand confirmation.

(c) As per the available records, Jaideep J Pathak, the Notified Party has since passed away and his legal heirs have not approached the Hon'ble Special Court or the Custodian Office so far on any issue. Thus, in the event of the Income Tax Demands under Section 11(2) (a) and Section 11(2) (c) of the Act being not enforceable and there is no liability towards Banks & Financial institutions under Section 11(2) (b) of the Act and in the circumstances when legal heirs of Jaideep Pathak, the deceased Notified Party, are not showing any interest, it may be considered appropriate to issue a final notice to the legal heirs of the said Notified Party and if no response is received from them within a reasonable time, the entire assets of the said Notified Party may be transferred to the Consolidated Fund of India.

(d) Appropriate orders/directions to M/s Sundaram Assets Management Company Limited to furnish the amount of interest generated and paid to IEPF on account of 3,60,000 PNB Mutual Funds Premium Plus Units, 1991, as per the prayer clause in Miscellaneous Application No. 11 of 2023,

which was allowed vide the Hon'ble Special Court order dated 13th October 2023.

(e) Appropriate orders/directions to IEPF to deposit the amount of interest generated and paid to IEPF by M/s Sundaram Assets Management Company Limited on account of 3,60,000 PNB Mutual Funds Premium Plus Units, 1991 with the Custodian.

(f) Further, in view of the position brought out in Para-10 of the present report and since no claimant has come forward, the Hon'ble Special Court may be pleased to issue orders/directions to transfer the assets pertaining to MA No. 68 of 2009 to the Consolidated Fund of India.”

3. Late Jaideep J Pathak was notified by the Custodian vide Notification dated 20th November 2001 under Section 3(2) of the Trial of Offences Relating to Transactions in Securities Act, 1992 (“the TORT Act, 1992”). Simultaneous with the Notification, all the properties of Jaideep Pathak stood statutorily attached under sub-Section (3) of the Section 3 of the TORT Act, 1992.

4. A Public Notice dated 19th October 2005 was published in newspapers inviting claims against the parties/entities, notified under the TORT Act, 1992, including against Jaideep Pathak.

5. In response thereto, only the Income Tax Department (“ITD”) submitted a claim, under Section 11(2)(a) and 11(2)(c) of the TORT Act, 1992. The claim of the ITD, as reiterated in the communication

dated 12th March 2015, quantifies the liability of late Jaideep Pathak as under:

(Amount in Rs. Lacs)

Priority dues		Non-Priority dues				
AY	Tax	AY	Tax	Penalty	Interest	Total
1991-92	--	1991-92	4.74		16.19	20.93
1992-93	318.69	1992-93	--	--	1027.04	1027.04
1993-94	12.42	1193-94	--	--	32.59	32.59
Total	331.11	Total				1080.56

6. By an order dated 22nd January 2016, in Custodian Report No.11 of 2015, this Court directed the Custodian to release an amount of Rs. 50 Lakhs in favour of ITD upon an undertaking to bring back the said amount on such conditions as may be directed by the Special Court.

7. Consequently, upon an undertaking dated 21st January 2016 furnished by the Principal Commissioner of Income Tax-19, Mumbai, the Custodian released the said amount of Rs. 50 Lakhs in favour of ITD on 18th February 2016.

8. The Standard Chartered Bank, with whom Jaideep Pathak was employed as a Back Office Manager, had initially laid a claim of Rs.5,68,75,958/- against Jaideep Pathak, for fraudulently issuing 15 Pay Orders without underlying transactions. However, Standard Chartered Bank did not submit any specific claim in response to the public notice

dated 19th October 2005. Instead vide communication dated 3rd September 2007, Standard Chartered Bank laid claims against the assets of Hiten P. Dalal, another Notified Party. The Custodian thus asserts no specific claim can be said to have been raised by Standard Chartered Bank against Jaideep Pathak.

9. Jaideep Pathak passed away on 30th July 2015. However, the estate of late Jaideep Pathak continues to be under attachment.

10. In paragraph 8 of the Report, the Custodian has enumerated the assets standing to the credit of the attached account of late Jaideep Pathak. In paragraph 9, there is a reference to the assets seized by CBI from Dinesh D Chaturvedi who was closely connected with the said Notified Party. However, late Jaideep Pathak and the said Dinesh Chaturvedi and Dinanath K Bhore, the Respondents in MA No. 68 of 2009, have disowned the said assets, by filing Affidavits. The Custodian thus seeks directions with regard to those assets also.

11. The material on record indicates, there are no liabilities, except the income tax demands. In regard to the said demands as well, there have been subsequent developments which, in the view of the ITD itself, rendered the recovery of those demands unenforceable.

12. In the wake of the allegations of siphoning off funds to the tune of Rs. 5,68,75,958/-being the value of 15 pay orders allegedly, issued without underlying transactions by late Jaideep Pathak, the Assessment

Officer, included the said amount as income of the Assessee (late Jaideep Pathak) in Assessment Year 1992-1993 and, consequently, additions in AYs 1991-1992 and 1993-1994 on protective basis.

13. The Notified Party-Assessee, had preferred Appeals against the said assessment orders before the CIT (A). Those Appeals were dismissed. However, in further Appeal before the Income Tax Appellate Tribunal (“ITAT”), it was ruled that there can be no protective Appellate order and CIT (A) ought to have decided all the Appeals after the decision in case of Standard Chartered Bank for AY 1992-1993, and, thus, set aside the orders of CIT (A) in all four Appeals, with a direction that CIT(A) will pass fresh orders in accordance with law after considering the decision on the addition of Rs.5,68,75,958/-, which was made in the case of Standard Chartered Bank on substantive basis in AY 1992-1993.

14. In view of the aforesaid development, vide letter dated 7th June 2023, the ITD informed the Custodian that “the demand raised on account of the addition of Rs.5,68,75,958/- on protective basis in AY-1992-93 and consequential addition in AYs-1991-92 and 1993-94 are protective demands, therefore, recovery of the same is not enforceable.”

15. In the backdrop of the aforesaid developments, notices were issued to the legal representatives of the Notified Party, Standard Chartered Bank, ITD and M/s Sundaram Asset Management Company

Ltd, with whom the Mutual Fund Units, disowned by the Notified Party and his associates were lying.

16. The legal representatives of the Notified Party have not filed any Affidavit. In the written notes, it was, however, submitted that there is no subsisting enforceable liability under Section 11(2)(a) or 11(2)(c) of the TORT Act, 1992 and, thus, the amount already released, i.e., Rs. 50 Lakhs to the ITD requires reconsideration. It was, further, submitted that the assets mentioned in paragraph 8 of the Report be transferred to the Sneha Pathak, the legal heir of Jaideep Pathak.

17. The Standard Chartered Bank has filed an Affidavit to the effect that it has no claim against late Jaideep Pathak and confirmed “Nil” demand.

18. The ITD has, however, taken a stand that the ITAT order has set aside the order passed by the CIT (A) only and not the Assessment Orders. The Appeals before the CIT (A), on remand, are yet to be heard. Since the substantive addition of Rs.5,62,75,958/- was made in the income of the Standard Chartered Bank for AY-1992-93 and the protective addition was made in case of late Jaideep Pathak, and both orders were set aside by ITAT, with a direction to decide all the Appeals afresh, and those Appeals are yet to be decided by the CIT (A), the outcome of the case of late Jaideep Pathak depends on the decision in the case of Standard Chartered Bank. Thus, the adjusted refund will be

issued depending upon the outcome of the decision of the Appeals by CIT (A).

19. The situation which thus emerges is that there are no liabilities to be discharged under Section 11 of the TORT Act, 1992. In fact, there are no claims, except the income tax demand. As noted above, the income tax demand was in the nature of a protective demand against late Jaideep Pathak, as the very amount has been included in the income of the Standard Chartered Bank on substantive basis. The Appeals await adjudication by CTT (A).

20. In view of the decision of the Supreme Court in the case of **Harshad Shantilal Mehta Vs Custodian and Ors**¹ “taxes due” must refer to an ascertained liability for payment of taxes quantified in accordance with law. The observations in paragraph 24 of the judgment, read as under:-

“24. In the present case, the words 'taxes due' occur in a section dealing with distribution of property. At this stage the taxes 'due' have to be actually paid out. Therefore, the phrase 'taxes due' cannot refer merely to a liability created by the charging section to pay the tax under the relevant law. It must refer to an ascertained liability for payment of taxes quantified in accordance with law. In other word, taxes as assessed which are presently payable by the

¹ (1998) 5 SCC 1.

notified person are taxes which have to be taken into account under Section 11(2)(a) while distributing the property of the notified person. Taxes which are not legally assessed or assessments which have not become final and binding on the assessee, are not covered under Section 11(2)(a) because unless it is an ascertained and quantified liability, disbursement cannot be made. In the context of Section 11(2), therefore, "the taxes due" refer to "taxes as finally assessed".

21. On the own showing of the ITD, though the ITAT has set aside the orders passed by the CIT (A) on protective basis, on 29th October 2007, those Appeals are yet to be heard by the CIT (Appeal). The ITD has found it difficult to even state the exact status of those Appeals and Appellate Authority who is seized with those Appeals. Thus, it cannot be said that the demand made by ITD, (extracted above) is an ascertained and quantified liability.

22. In these circumstances, since there are no liabilities to be discharged from the attached assets of late Jaideep Pathak, the continued notification of late Jaideep Pathak and, consequently, his estate, becomes unwarranted. The purpose for which the properties of the Notified Party stood attached can be said to have been fulfilled as apart from an inchoate demand of the ITD, there is no claim against,

much less a liability to be discharged out of, the attached assets of late Jaideep Pathak.

23. For the forgoing reasons, I am inclined to direct the de-notification of the estate of late Jaideep Pathak and pass consequential directions.

24. With regard to the claim of ITD, if it turns out that the demand against late Jaideep Pathak was wholly untenable, the amount of Rs.50 Lakhs which has been released in favour of the ITD would be required to be brought back in terms of the undertaking. As the ITAT passed the orders setting aside the order passed by the CIT (A) on 29th October 2007 and the ITD has not disclosed the current status of the Appeals which are remitted back by ITAT to CIT (A) for a fresh consideration, this Court considers it necessary to prescribe a time-frame for decision of those Appeals and passing the final giving effect to orders. And, in the event, those Appeals are not decided and final orders are not passed, grant liberty to the legal representatives of late Jaideep Pathak to approach this Court for enforcement of the undertaking furnished by the Principal Commissioner of Income Tax -19 to bring back the amount of Rs. 50 Lakhs on such conditions as may be imposed by this Court.

25. In regard to the assets allegedly associated with late Jaideep Pathak, mentioned in paragraph 9 of the Report, as noted above, late Jaideep Pathak as well as Dinesh Chaturvedi and Dinanath K Bhore-

Respondent Nos. 2 to 4 in MA No. 68 of 2009 have disowned the said assets. Even in this proceeding, legal heir of the Notified Party has not laid any claim over those assets. Nor any other person has asserted any right, title and interest over those assets. Thus, at this stage, when the Court is considering final distribution of the assets of the Notified Party, and there are no claims against the assets enumerated in paragraph 9, it would be appropriate to transfer the assets pertaining to MA No. 68 of 2009 to the Consolidated Fund of India. Prayer clause (f) in the Report thus deserves to be allowed.

26. Out of those assets in regard to the PNB Mutual Funds Premium Plus Units, 1991, the Custodian seeks further information from Sundaram Asset Management Company Ltd and IEPF also. An Affidavit in Reply has been filed on behalf of the Sundaram Asset Management Company Ltd. In view of the statements in the Affidavit in Reply on behalf of Sundaram Asset Management Company Ltd, and the documents annexed thereto, at this stage, no directions are warranted against Sundaram Asset Management Company Ltd. This Court, therefore, considers it expedient to grant liberty to the Custodian to file an appropriate Report and seek further direction in regard to recovery of the Units and/or the amount of interest, based on further information that may be provided by IEPF or may emerge in future.

27. The Custodian's Report thus stands allowed in the following terms:

: O R D E R :

(i) The estate of late Jaideep J Pathak stands de-notified and released from attachment.

(ii) The assets standing to the credit of the attached account of late Jaideep Pathak, as particularised in paragraph 8 of the Report, be released in favour of the legal representatives of late Jaideep Pathak upon production of an heirship certificate.

(iii) Prayer clause (f) of the Report, which reads as under, stands allowed:

“(f) Further, in view of the position brought out in Para-10 of the present report and since no claimant has come forward, the Hon'ble Special Court may be pleased to issue orders/directions to transfer the assets pertaining to MA No. 68 of 2009 to the Consolidated Fund of India.”

(iv) The concerned CIT (A) is directed to decide the Appeals, remitted back by the ITAT by an order dated 29th October 2007, expeditiously and, thereupon the

consequential orders giving effect to the orders of CIT(A), be passed by the Competent Authority expeditiously, and, in any event, within a period of one year from today.

(v) If no final orders are passed within the said period of one year, the legal representatives of late Jaideep Pathak will be at liberty to approach this Court for enforcement of the undertaking to bring back the amount of Rs. 50 Lakhs released in favour of the Income Tax Department.

(v) Upon furnishing of the Heirship Certificate, the Custodian shall take steps to release the assets particularised in paragraph 8 of the Report in favour of such legal representatives, within a period of two months thereafter.

(vi) The Custodian is at liberty to file Report and seek further directions in regard to the recovery of PNB Mutual Funds Premium Plus Units, 1991 and/or interest in relation thereto, on the basis of further information that may be provided by IEPF or on the basis of material which may emerge in future.

Report disposed.

[N. J. JAMADAR, J.]