

# The Special Court (Trial of Offences Relating to Transactions Insecurities) Act, 1992

February 27, 2013

## Section 1. Short title and commencement

### **No.27 OF 1992**

[18th August, 1992]

An Act to provide the establishment of a Special Court for the trial of Offences relating to transactions in securities and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:–

(1) This Act may be called the Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992.

(2) It shall be deemed to have come into force on the 6th day of June, 1992.

## Section 2. Definitions

In this Act, unless the context otherwise requires,–

(a) "Code" means the Code of Criminal Procedure, 1973(2 of 1974):

(b) "Custodian" means the custodian appointed under sub-section (1) of section 3;

(c) "Securities" includes—

(i) Shares, Scripps, stocks, bonds, debentures, debenture stock, units of the Unit Trust of India or any other mutual fund or other marketable securities of a like nature in or of any incorporated company of other body corporate;

(ii) Government securities; and

(iii) Rights or interests in securities;

(d) "Special Court" means the Special court established under sub-section (1) of section 5.

## Section 3. Appointment and functions of Custodian

(1) The Central Government may appoint one or more Custodians as it may deem fit for the purposes of this Act.

(2) The Custodian may, on being satisfied on information received that any person has been involved in any offence relating to transactions in securities after the 1st day of April, 1991 and on and before the 6th June, 1992, notify the name of such person in the Official Gazette.

(3) Notwithstanding anything contained in the Code and any other law for the time being in force, on and from the date of notification under sub-section (2), any property, movable or



immovable, or both, belonging to any person notified under that sub-section shall stand attached simultaneously with the issue of the notification.

(4). The property attached under sub-section (3) shall be dealt with by the Custodian in such manner as the Specula court may direct.

(5) The Custodian may take assistance of any person while exercising his powers or for discharging his duties under this section and section 4.

## Section 4. Contracts entered into fraudulently may be cancelled

(1) If the Custodian is satisfied, after such inquiry as he may think fit, that any contract or agreement entered into at any time after the 1st day of April 1991 and on and before the 6th June, 1992 in relation to any property of the person notified under sub-section (2) of section 3 has been entered in to fraudulently or to defeat the provisions of this Act, he may cancel such contract or agreement and on such cancellation such property shall stand attached under this Act:

Provided that no contract or agreement shall be cancelled except after giving to the parties to the contract or agreement a reasonable opportunity of being heard.

(2) Any person aggrieved by a notification used by sub-section (2) of section 3 or any cancellation made under sub-section (1) of section 4 or any other order made by the Custodian in exercise of the powers conferred on him under section 3 or 4 may file a petition objecting tot he same within thirty days of the assent to the Special Court (Trial of Offences Relating to Transactions in Securities) Bill, 1992 by the President before the Special Court where such notification, cancellation or order has been issued before the date of assent to the Special Court (Trial of Offences Relating to Transactions in securities) Bill, 1992 by the President and where such notification, cancellation or order has been issued on or after that date, within thirty days of the issuance of such notification, cancellation or order, as the case may be; and the Special court after hearing the parties, may make such order as it deems fit.

## Section 5. Establishment of Special Court

(1) The central Government shall, by notification in the Official Gazette, establish a Court to be called the Special court.

(2) The Special court shall consist of a sitting Judge of the High Court nominated by the Chief Justice of the High Court within the local limits of whose jurisdiction the Special court is situated, with the concurrence of the Chief Justice of India.

## Section 6. Cognizance of cases by special Court

The Special Court shall take cognizance of or try such cases as are instituted before it or transferred to it as hereinafter provided.

## Section 7. Jurisdiction of Special Court

Notwithstanding anything contained in any other law, any prosecution in respect of any offence referred to in sub-section (2) of section 3 shall be instituted only in the Special Court and any prosecution in respect of such offence pending in any court shall stand transferred to the Special Court.



## Section 8. Jurisdiction of Special Court as to joint trails

The Special Court shall have jurisdiction to try any person concerned in the offence referred to in sub-section (2) of section 3 either as a principal conspirator or abettor and all other Offences and accused Persons as can be jointly tried therewith at one trial in accordance with the Code.

## Section 9. Procedure and Powers of Special Courts

(1) The Special Court shall, in the trial of such cases, follow the procedure prescribed by the Code for the trial of warrant cases before a magistrate.

(2) Save as expressly provided in this Act, the provisions of the code shall, in so far as they are not inconsistent with the provisions of this Act, apply to the proceedings before the Special Court and for the purposes of the said provisions of the Code, the Special Court shall be deemed to be a court of Session and shall have all the powers of a Court of Session, and the person conducting a prosecution before the Special Court shall be deemed to be a Public Prosecutor.

(3) The Special Court may pass upon any person convicted by it any sentence authorised by law for the punishment of the offence of which such person is convicted.

(4) While dealing with any other matter brought before it, the Special Court may adopt such procedure as it may deem fit consistent with the principles of natural justice.

## Section 10. Appeals

(1) Notwithstanding anything in the Code, an appeal shall lie from any judgement, sentence or order, not being interlocutory order, of the Special Court to the Supreme Court both on facts and on law.

(2) Except as aforesaid, no appeal or revision shall lie to any court from any judgement, sentence or order of the Special court.

(3) Every appeal under this section shall be preferred within a period of thirty days from the date of any judgement, sentence or order of the Special Court:

Provided that the Supreme Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of thirty days.

## Section 11. Discharge of liabilities

(1) Notwithstanding anything contained in the Code and any other law for the time being in force the Special court may make such order as it may deem fit directing the custodian for the disposal of the property under attachment.

(2) The following liabilities shall be paid or discharged in full, as far as may be, in the order as under:—

(a) All revenues, taxes, cesses and rates due from the persons notified by the Custodian under sub-section (2) of section 3 to the Central Government or any State Government or any local authority;



(b) All amounts due from the person so notified by the Custodian to any bank or financial institution or mutual fund;

(c) Any other liability as may be specified by the Special Court from time to time.

## Section 12. Protection of action taken in good faith

(1) No suit, procession or other legal proceeding shall lie against the Central Government or the Custodian for anything which is in good faith done or intended to be done under this Act.

(2) No suit or other legal proceeding shall lie against the Central Government or any of its officers or other employees for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

## Section 13. Act to have overriding effect

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law, other than this Act, or in any decree or order of any court, tribunal or other authority.

## Section 14. Power to make rules

(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expire of the session immediately following the session or the successive sessions aforesaid, both House agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## Section 15. Repeal and savings

(1) The Special court (Trial of Offences Relating to Transactions in Securities) Ordinance, 1992 (Ord.10 of 1992) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of this Act.




