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"31 FAQs on CBI–ED Nexus for Investigations into Crimes & Proceeds of Crime"

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With warm wishes

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DARSHAN MALA SERIES (DMS)

31 Frequently Asked Questions (FAQs) on the CBI ➔ ED Nexus in the Investigation of Crimes and Proceeds of Crime

*The **Darshan Mala Series (DMS)** presents weekly research and updates based on information available in the public domain.*

*This edition, comprising **31 Frequently Asked Questions (FAQs)**, examines the **CBI–ED nexus** in relation to the investigation of crimes and proceeds of crime, including the respective roles, jurisdiction, investigative processes, and areas of interaction between the two agencies.*

*The Series covers matters reported in the public domain concerning **exclusive and/or designated Special Courts**, proceedings before such Courts, and proceedings relating to adjudication and other judicial or quasi-judicial processes concerning enforcement, investigation, attachment, prosecution, and related matters.*

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31 FAQs on CBI→ED nexus for investigations against Crimes & Proceed of crimes

INDEX

Author's Profile for 31 FAQs on CBI➔ ED nexus for investigations against Crimes & Proceed of crimes

31 FAQs on CBI➔ED nexus for investigations against Crimes & Proceed of crimes

(Source of information's used in preparation of weekly updates are taken from public domain)

1. What is CBI➔ED nexus for investigations against Crimes & Proceed of crimes?

(i) *The CBI–ED nexus is quite strong, but the **2 agencies investigate** "different" **legal offences and operate under** "different" **statutes**.*

(ii) *In many cases, the **CBI investigation** becomes the **foundation for** the **ED investigation**, particularly **when** the **CBI** case **involves a** PMLA **scheduled offence and** there is an **identifiable** Proceeds-of-Crime (**PoC**) **trail**.*

2. What is tabular format for CBI➔ED nexus against investigations

S.No	Subject	CBI	ED
(i)	**Offence**	To **investigates** the **predicate /** scheduled **offence**	**To investigates** the **money laundering** under PMLA, 2002
(ii)	**Primarily acts**	**IPC**, 1860 / **BNS,** 2023, Prevention of Corruption Act (**PCA**) 1988 and **etc**.	**PMLA**, 2002
(iii)	**Focus on**	**How** the **crime** was **committed?**	**What** was **happened to** the **PoC?**
(iv)	**Charge-sheet**	**Files** charge-sheet **before** the competent **court**	**Files** PMLA prosecution complaint **before** the ED's **Special Court**
(v)	**Establish criminal liability**	**For** the scheduled **offence**	(a) **For** money-**laundering** offence (b) **For proceedings** relating to the **attachment**/confiscation **of PoC**
(vi)	**Deals mainly with**	**Original**/predicate **crime**	**PoC** and their money **laundering** offences
(vii)	**Example**	(a) **Bribery** (b) **Corruption** (c) **Cheating** (d) **Criminal conspiracy** (e) **Etc.**	(a) **Possessing** (b) **Concealing** (c) **Using** (d) **Projecting PoC as untainted property** (e) **Claiming PoC as untainted property**

3. What is flow chart on CBI→ED nexus for investigations?

(i) *The **Supreme Court** has "expressly" **dealt** with cases **when** the **CBI FIR**/charge-sheet **constituted** the predicate **offence and** subsequently became the **basis for** the **ED's** PMLA **investigation**.*

(ii) ***Section 5** of PMLA, 2002 "specifically" **permits** provisional **attachment when** the ED **has reason to believe** that a person **possesses PoC and** that they may be dealt with so as to **frustrate confiscation** proceedings.*

(iii) *However, the **ED** is "not" **subordinate to CBI***

(iv) ***Flow chart on CBI-ED nexus for investigations***

CBI investigation

↓

Scheduled / predicate offence established or alleged

↓

Generation of PoC

↓

*ED records Enforcement Case Information Report (**ECIR**)*

↓

ED investigates laundering of the PoC

↓

Tracing / identification of PoC

↓

Provisional attachment under Section 5 PMLA, 2002

↓

*Adjudicating Authority **for confirmation of attachment***

↓

*ED's Special Court **for prosecution**/confiscation **proceedings***

4. What is best example for CBI→ED nexus against investigations?

- *The **ED** does "not" merely **act** as an **extension of CBI**.*
- *The **ED investigation** is **independently** under PMLA, 2002*

(i) ***The CBI's role***

- *To **investigate** the **cheating when** a person **cheated** the **Govt**. and generated INR **100 crore**.*

(ii) ***The ED's role***

(a) *To **investigate what happened to** that INR **100 crore**?*

(b) *To **investigate** was **it transferred through shell companies**, converted into property, **routed abroad**, layered through bank accounts, or **projected** as **legitimate money**?*

(iii) ***The CBI→ ED nexus***

(a) *Hence, even though the **CBI's scheduled offence** may **trigger** or provide the factual **foundation for** the **ED***

(b) *The **ED** has **to establish** the **ingredients of** money-**laundering** under PMLA, 2002.*

(iv) ***The Supreme Court recognition***

- *The Supreme Court has **recognised** precisely this **relationship**, in one case, the Court recorded **that** the **CBI offences became** the "predicate offence" **leading to investigation by** the **ED** under PMLA, 2002.*

5. What is happens when CBI closes the case?

(i) *The **Supreme Court** has **considered** situations **when** the **CBI FIR** concerning the scheduled offence was subsequently **closed**, **beside** the **ED** had already **registered** an **ECIR and initiated** PMLA **proceedings**.*

(ii) *The precise **consequence depends on** the nature and **stage of** the **CBI proceedings** and the judicial orders involved.*

*(iii) The **CBI closure report** / acquittal / quashing of the scheduled offence can **have major implications for** the corresponding **ED proceedings**.*

*(iv) Normally **3 actions** are **involved in** the **investigations** commencing **from CBI's** FIR and ending **to ED's** attachments like:*

*(a) CBI's **FIR***

*(b) ED's **investigation***

*(c) ED's **attachment***

*(v) **ED's investigations** shall be badly **affected due to CBI closure report** accepted by CBI's competent court **because** the existence of **PoC is intrinsically linked to criminal activity** relating to a scheduled offence.*

*(vi) **However**, the legal **consequence** must **be examined based on** the exact nature of the **CBI order**:*

*(a) Closure **report** merely **filed***

*(b) Closure **report accepted by** CBI's competent **court***

*(c) **Discharge***

*(d) **Quashing** of **FIR***

*(e) **Acquittal***

*(f) **Conviction***

*(g) **Partial** acquittal*

*(h) **Conviction of some accused** but acquittal of others*

6. What is best example for CBI→ED reverse nexus against investigations?

*(i) The **reverse nexus** is also **possible** therefore the **relationship** is "not" **always CBI → ED**.*

*(ii) **Example for CBI → ED reverse nexus***

*(iii) During a PMLA investigation, **ED** may **discover** an independent **offence**, these are **falling** with**in CBI's jurisdiction** and **ED** may **share** information/**material with CBI** for:*

*(a) **Fraud***

*(b) **Forgery***

*(c) **Corruption***

*(d) **Cheating***

*(e) **Criminal***

*(f) **Conspiracy***

*(g) **Etc.***

*(iv) **The Supreme Court's role***

- *There are also recent instances when the **Supreme Court** has **instructed** / ordered **for coordination between CBI**, **ED**, SEBI and SFIO, including **exchange of documents** and complaints **between agencies**.*

7. What is distinction between CBI and ED for adjudication?

*(i) There is **actually** "no common" **CBI–ED adjudication mechanism**.*

*(ii) The **CBI investigates** but it does "not" normally **have** an adjudicating authority **comparable to** the **PMLA Adjudicating Authority***

*(iii) The **ED's adjudication mechanism** / flow chart*

*ED **Investigation***

↓

*Provisional **Attachment***

↓

*Adjudicating **Authority***

↓

*Special **Court***

(iv) *The Adjudicating **Authority under PMLA examines** whether the provisional **attachment** under **Section 5** of PMLA, 2002 **should be confirmed**.*

(v) *The **Supreme Court record** itself illustrates the process where ED's **Section 5** of PMLA, 2002 **attachment** was **placed** before the Adjudicating Authority **for confirmation**.*

(vi) *The **CBI establishes**/investigates the underlying **criminality***

(vii) *The **ED investigates** the financial consequences and **laundering of** the **PoC** generated **from** that **criminality***

(viii) *The **PMLA** Adjudicating **Authority** "separately" **adjudicates** the **legality of** ED's provisional **attachment***

8. What is flow chart on CBI→ED nexus for investigations and adjudications?

CBI Registration of FIR/RC

↓

CBI Investigation of Scheduled/Predicate Offence

↓

CBI collects evidence of crime and financial transactions

↓

CBI Charge-sheet / Final report before the competent court

↓

ED examines whether crime generated "proceeds of crime"

↓

*ED registers/opens PMLA investigation Enforcement Case Information Report (**ECIR**)*

↓

ED search / seizure / summons / statements / bank & financial investigation

↓

ED Identification & tracing of PoC

↓

ED Provisional Attachment under Section 5 PMLA, 2002

↓

ED Complaint before PMLA Adjudicating Authority

↓

ED Adjudicating Authority issues notice under Section 8 PMLA, 2002

↓

ED Adjudicating Authority Confirmation / non-confirmation of attachment

↓

ED's Special Court

↓

Trial of money-laundering offence and eventual confiscation/restoration as provided by PMLA, 2002

9. What is CBI's "specific" role for investigations and adjudications?

(i) *The **CBI** ordinarily **investigates** the **underlying** criminal **offence** like:*

- *(a) Bribery/Corruption*
- *(b) Cheating*
- *(c) Criminal Conspiracy*
- *(d) Fraud*
- *(e) Forgery*
- *(f) Bank Fraud*
- *(g) Criminal Breach of Trust*
- *(h) Offences Under the Prevention of Corruption Act (PCA) 1988*
- *(i) Other Offences which are included in the Schedule to PMLA, 2002.*

(ii) *The **CBI** is required **to investigate** the fraud **when** a person or group of persons alleged fraudulently **obtained money from** a **bank**.*

(iii) *The **CBI** is required **to investigate** that **who committed fraud***

(iv) *The **CBI** is required **to investigate** that **how offence committed**.*

(v) *The **CBI** is required **to file chargesheet before** the **competent court**.*

10. What is ED's "specific" role for investigations and adjudications?

*(i) The **ED** is required **to investigate** the **underlying** money laundering **offence***

*(ii) The **ED** is required **to investigate** that **what happened of money** generated **from** schedule **offence***

*(iii) The **ED** is required **to investigate**:*

*(a) Whether **money transferred to shell companies?***

*(b) Whether **money used to acquire immovable properties?***

*(c) Whether **money transferred to outside India?***

*(d) Whether **money transferred to related entities?***

*(e) Whether **money converted into apparently legitimate investments?***

11. What is flow chart for CBI's chargesheet and ED's attachment?

CBI FIR/RC

↓

CBI investigation

↓

CBI report/charge-sheet concerning scheduled offence

↓

ED identifies PoC

↓

ED attachment

12. Whether ED is 100% depended on CBI's investigation?

No

*(i) The **ED** is **not** 100% **depended** on CBI's **investigation***

*(ii) The **ED** is **not to investigate** the offence **on behalf of CBI***

*(iii) The **ED** is **to independently investigates** for:*

(a) *Proceeds of Crime (**PoC**)*

(b) ***Generation** of PoC*

(c) ***Possession** of PoC*

(d) ***Concealment** of PoC*

(e) ***Acquisition** of PoC*

(f) ***Use** of PoC*

(g) ***Layering** of PoC*

(h) ***Transfer** of PoC*

(i) ***Projection**/Claiming as Untainted Property of PoC*

(j) *The **persons involved in** the **laundering** process.*

13. Whether CBI and ED are permitted to conduct the parallel investigations?

Yes

(i) *The **CBI** is **not required to complete** 100% **investigations** and to file chargesheet before the **competent court when ED** is **required to commence investigation** under PMLA, 2002*

(ii) *The **CBI** investigation and the **ED investigation can proceed simultaneously**, although each agency must remain **within its statutory jurisdiction**.*

(iii) *The CBI and the ED's **parallel investigations** do **not** mean that the 2 agencies have **identical jurisdiction**.*

14. Who is adjudicating authority for CBI and ED?

(i) *The **CBI** does **not have** a **PMLA-type** Adjudicating **Authority**.*

(ii) *The **CBI file** its **chargesheet** / Final Report **to competent Court***

(iii) *The **ED approach for** provisional **attachment before** adjudicating **authority***

(iv) *The Adjudicating **Authority** is required **to examine** under **Section 5** of PMLA 2002 **whether** provisionally **attachment** is required **to continue** or **to** revoke / **cancel*** *(v) The Adjudicating **Authority** is required **to issue** Show Cause Notice (**SCN**) **to** the **person** concerned under **section 8** of PMLA 2002 **whether** the **property** should be declared **involved in** money **laundering and for** explaining about:*

(a) Source of income

(b) Earnings

(c) Assets

15. What are 3 judicial / administrative proceedings for CBI and ED?

S.No	***Stage***	***Authority***	***Principal question***
(i)	***CBI criminal investigation***	*CBI*	*Whether **scheduled / predicate offence** was committed?*
(ii)	***PMLA attachment adjudication***	*ED's Adjudicating Authority*	*Whether the property **involved in money-laundering** and is the attachment liable to be confirmed?*
(iii)	***PMLA criminal trial***	*ED's Special Court*	*Whether the **offence of money-laundering** has been committed?*

16. What are ED's actions when CBI accused is acquitted?

*(i) Normally **3 actions** are **involved in** the **investigations** commencing **from CBI's** FIR and ending **to CBI's** acquitted like:*

*(a) CBI's **investigations***

*(b) CBI's **findings** for scheduled **offence***

*(c) CBI's competent **court** has **acquitted** the **accused***

*(ii) **ED's investigations** shall be badly **affected due to accused acquitted** by CBI's competent court **because** the **existence** of PMLA 2002 **is intrinsically linked to criminal activity** relating to a scheduled offence.*

*(iii) **However**, the legal **consequence** must **be examined based on** the exact nature of the **CBI's competent court order**:*

*(a) Why and **how** the **acquittal occurred**?*

*(b) What is **finality of** the **order**?*

*(c) What are precise **findings concerning** the scheduled **offence**?*

*(d) What are **PoC**?*

(iv) *The **CBI acquittal** "not" **automatically terminates ED proceedings**, therefore it needed to **be examined whether** the judicial **determination** has **extinguished the** scheduled **offence** which is the **source of** the alleged **PoC** and, consequently, **whether** the statutory **foundation for** the **PMLA** proceedings **survives***

17. Whether CBI evidence can become ED evidence?

Yes

(i) *The **documents collected by** the **CBI** can be extremely **important to ED** like:*

- (a) *FIR*
- (b) *Search/seizure records*
- (c) *Bank statements*
- (d) *Forensic reports*
- (e) *Company records*
- (f) *Statements*
- (g) *Emails*
- (h) *Accounting records*
- (i) *Property documents*
- (j) *Charge-sheet*
- (k) *Witness statements*
- (l) *Documentary evidence establishing the scheduled offence*

(ii) *The **ED can independently collect** and rely upon relevant material in its PMLA investigation.*

(iii) ***Conversely**, **ED's** financial **tracing may** provide information **useful to CBI**.*

(iv) *This creates a **2-way evidentiary** and intelligence nexus, "without" **making** one agency **subordinate to** the **other**.*

18. What are important criteria for CBI→ ED nexus?

(i) ***Jurisdictional nexus***

- *The **CBI investigates** the scheduled **offence** and the **ED investigates** money-**laundering**.*

(ii) ***Factual nexus***

- *The **CBI** and **ED both** may **examine** the "same" **transaction**, persons, companies and **documents**.*

(iii) ***Evidentiary nexus***

- *The **material** generated **in 1 investigation can** become **relevant to** the **other**.*

(iv) ***Procedural nexus***

- *The **progress of** the scheduled-offence **proceedings** can have **consequences for** PMLA **attachment**/prosecution.*

(v) ***Adjudicatory nexus***

- *The **CBI's** criminal **proceedings** and **ED's** attachment **adjudication** /PMLA trial are **separate proceedings** before different authorities.*

- ***Conclusion***

  *(a) The **CBI establishes** the "crime"*

  *(b) The **ED follows** the "money"*

  *(c) The Adjudicating **Authority examines** the attachment*

  *(d) The **ED's** Special **Court** ultimately **determines** criminal **liability for** money-**laundering**.*

19. What is comparison between CBI, ED, DRI, SFIO, Income Tax, SEBI and RBI?

S.No	*Agency*	*Principal statute / framework*	*Primary function*	*Predicate / underlying offence?*	*Financial investigation*	*Attachment / freezing power*	*Adjudication / final forum*
(i)	***CBI***	*(a) DSPE Act* *(b) PCA* *(c) BNS* *(d) Other laws*	*(a) Corruption* *(b) Fraud* *(c) Conspiracy* *(d) other offences within jurisdiction*	***Yes**, where the offence is a **PMLA scheduled offence***	***Yes**, incidental to criminal investigation*	*Court-directed / statutory seizure **no general PMLA attachment power***	*The **competent Court***

(ii)	**ED**	(a) PMLA, 2002 (b) FEMA, 1999	(a) Money laundering (b) Foreign-exchange violations	**Yes, for PMLA, scheduled offence is the predicate offence**	**Core function**	(a) PMLA **Section 5** (b) FEMA **Section 37** (c) Related powers	(a) PMLA Adjudicating **Authority** (b) ED's Special **Court** (c) Appellate **forums**
(iii)	**DRI**	(a) Customs Act, 1962 (b) NDPS Act where applicable	(a) Smuggling (b) Customs-duty evasion (c) Prohibited/ (d) restricted imports & exports	Can be, where the Customs/ other offence is a **PMLA scheduled offence**	Yes	Customs seizure/ confiscation mechanisms	(a) Customs Adjudicating **Authority** (b) **CESTAT** (c) **Court**
(iv)	**SFIO**	Companies Act, 2013	Investigation of serious corporate fraud	Can be, where underlying offence is scheduled under PMLA	**Yes**, corporate/ financial fraud	Powers under Companies Act, including statutory search/seizure	(a) Special **Court** (b) **NCLT/** NCLAT **depending on issue**
(v)	**Income Tax Deptt.**	Income-tax Act, 1961	(a) Tax assessment (b) Undisclosed income (c) Tax evasion	Can generate information/ evidence relevant to PMLA	Yes	Provisional attachment / recovery mechanisms under Income-tax Act	Income-tax **Authorities** CIT(A) ITAT **High** Court **Supreme Court**
(vi)	**SEBI**	(a) SEBI Act, 1992 (b) Securities laws	(a) Securities-market violations (b) Insider trading (c) Manipulation and securities fraud	Can provide predicate facts certain offences may be PMLA scheduled offences	Yes	Freezing of securities/accounts and statutory regulatory measures	SEBI **adjudication** SAT **Supreme Court**
(vii)	**RBI**	(a) RBI Act (b) FEMA framework (c) Banking Regulation Act	(a) Monetary/ banking regulation (b) FEMA administration (c) Regulatory supervision	Generally **regulatory/ referral role**, rather than predicate-crime investigation	Regulatory financial intelligence	Regulatory restrictions; FEMA matters may be referred to ED	(a) **RBI** / competent **authority** (b) **FEMA** adjudication principally **through ED**

20. What is CBI→ED nexus with RBI / Banks, Income tax, SEBI, DRI, Customs & SFIO?

RBI / Banks

↓

Suspicious / irregular financial transaction

Income Tax

↓

Undisclosed income / tax irregularity ***and*** *"criminal"* ***offence***

SEBI

↓

Market manipulation / securities fraud

DRI

↓

Customs / smuggling / trade-related offence

SFIO

↓

Serious corporate fraud under section 447 of Companies Act, 2013

CBI

↓

Corruption / fraud / conspiracy / criminal offence

All of these may generate information relevant to:

ED

↓

PMLA / FEMA investigation

- *The* ***ED*** *frequently* ***becomes*** *the* ***financial-investigation*** *convergence* ***point for information*** *originating* ***from*** *several* ***regulators and*** *investigating* ***agencies****.*

21. What is importance of predicate offence under PMLA for CBI, DRI, SFIO & SEBI?

- *The **underlying** "criminal" **activity** is **treated** a **predicate** / schedule **offence** **when** it's **covered** with**in** PMLA **Schedule** like:*

(i) ***CBI ➔ ED nexus***

(a) ***When CBI investigates corruption/fraud and** the **offence is** a scheduled **offence under** PMLA **schedule and** generates identifiable **PoC** the information / FIR / **charge-sheet** relating to the scheduled offence can **become** the **basis for ED to investigate** the offence of money**-laundering** under **Section 3** of the PMLA.*

(b) *The **ED** investigation **focuses on** the **laundering**, possession, concealment, acquisition, use, or **projection of** the **PoC**, **subject to** the statutory requirements of the **PMLA**, 2002.*

(ii) ***DRI ➔ ED nexus***

(a) ***When DRI detects serious customs-related offence and** the **offence is** a scheduled **offence under** PMLA **schedule and** generates identifiable **PoC** the information/FIR/ **charge-sheet** relating to the scheduled offence can **become** the **basis for ED to investigate** the offence of money**-laundering** under **Section 3** of the PMLA*

(b) *The **ED** investigation **focuses on** the **laundering**, possession, concealment, acquisition, use, or **projection of** the **PoC**, **subject to** the statutory requirements of the **PMLA**, 2002.*

(iii) ***SFIO ➔ ED nexus***

(a) ***When SFIO discovers serious corporate fraud and** the **offence is** a scheduled **offence under** PMLA **schedule and** generates identifiable **PoC** the information/FIR/ **charge-sheet** relating to the scheduled offence can **become** the **basis for ED to investigate** the offence of money**-laundering** under **Section 3** of the PMLA*

(b) *The **ED** investigation **focuses on** the **laundering**, possession, concealment, acquisition, use, or **projection of** the **PoC**, **subject to** the statutory requirements of the **PMLA**, 2002.*

(iv) ***SEBI ➔ ED***

(a) ***When SEBI detects securities fraud/manipulation and** the **offence is** a scheduled **offence under** PMLA **schedule and** generates identifiable **PoC** the information/FIR/ **charge-sheet** relating to the scheduled offence can **become** the **basis for ED to investigate** the offence of money**-laundering** under **Section 3** of the PMLA*

(b) *The **ED** investigation **focuses on** the **laundering**, possession, concealment, acquisition, use, or **projection of** the **PoC**, **subject to** the statutory requirements of the **PMLA**, 2002.*

22. What is RBI➔ED nexus?

(i) ***RBI** is primarily **a regulator**, "not" a conventional criminal **investigating agency** like CBI or ED. The **FEMA**-related violations, **information can flow**:*

RBI regulatory examination

🡻

Identification of suspected FEMA violation

🡻

Referral / information to ED

🡻

ED investigation under FEMA

(ii) *The **ED** is the principal **agency** responsible **for investigation** and **enforcement** of FEMA, 1999, therefore **RBI ➔ ED** is principally a **regulatory-to-enforcement** nexus.*

(iii) *Hence **RBI ➔ ED** nexus is **different from CBI ➔ ED** = predicate-crime-to-money-laundering **nexus**.*

23. What is DRI ➔ ED nexus?

*(i) The **DRI** is particularly important in customs cases and **focuses on**:*

- *(a) Smuggling*
- *(b) Customs-duty evasion*
- *(c) Undervaluation*
- *(d) Misdeclaration*
- *(e) Prohibited/restricted goods*
- *(f) Import/export fraud.*

*(ii) The **ED** is particularly important in certain cases and **focuses on**:*

- *(a) Foreign exchange*
- *(b) Overseas remittances*
- *(c) Hawala*
- *(d) Layering*
- *(e) Foreign assets*
- *(f) Proceeds of crime (PoC)*
- *(g) Money laundering.*

24. What is best example for DRI ➔ ED nexus?

- ***A fake import declared at INR 100 crore***

  ↓

  *DRI to discovers **whether actual** value was INR **250 crore***

  ↓

  *INR **150 crore** differential **routed through overseas** entities*

  ↓

  *DRI **investigates** customs **offence***

- *The **ED investigates** the **financial/foreign-exchange** and PMLA dimensions **when** statutory **conditions** are **met**.*

25. What is flow chart for SFIO→ED nexus?

- *The SFIO investigates the corporate fraud.*

  ↓

  Company

  ↓

  Fake invoices

  ↓

  Circular transactions

  ↓

  Related-party entities

  ↓

  Diversion of funds

  ↓

  Layering through subsidiaries

  ↓

  ED can then investigate:

  ↓

  Where did the diverted money go?

- *The **corporate fraud** cases can **produce** a particularly extensive **SFIO–ED overlap**, while the **legal** mandates **remain distinct**.*

26. What is best example for Income Tax→ED nexus?

- ***The Income Tax investigation discovers***

  ↓

  ***Undisclosed income** INR 200 crore **and** the **investigation reveal**:*

  (a) Accommodation entries

  (b) Shell companies

  (c) Bogus invoices

  (d) Unexplained foreign remittances

(e) Benami-type structures

(f) Layering of funds

↓

*The Income Tax Department (**ITD**) **deals with the tax consequences**.*

↓

*The **ED may examine** whether the **underlying** "criminal" **offence** and financial trail **satisfy PMLA**, 2002 **requirements**.*

27. What is best example for SEBI → ED nexus?

- ***A securities-market manipulation case**:*

  ↓

  Promoter / broker / intermediary

  ↓

  Manipulation / fraudulent trading

  ↓

  Artificial price increase

  ↓

  Sale of shares

  ↓

  INR 500 crore realised

  ↓

  The SEBI may investigate the securities violation.

  ↓

- *The **ED** may subsequently **examine whether** the resulting property **constitutes PoC** and **whether** there has been **money laundering** under PMLA, 2002*

- *The **SEBI determines** securities-law **violations** and the **ED determines** the **PMLA**, 2002 **consequences when** the statutory **ingredients** are **met**.*

28. What is specific role for CBI, DRI, SFIO, Income Tax, SEBI, RBI and ED?

(i) ***The CBI's role***

- *Who **committed** the **crime**?*

(ii) ***The DRI's role***

- *What was **smuggled** / mis-declared and what **customs offence occurred**?*

(iii) ***The SFIO's role***

- *How was the **company**/corporate structure **used to commit** the **fraud**?*

(iv) ***The Income Tax's role***

- *What **income** was **concealed and** what is "criminal" **offence conducted**?*

(v) ***The SEBI's role***

- *Was the **securities** market **manipulated** or **defrauded**?*

(vi) ***The RBI's role***

- *Was there a **regulatory**/foreign-**exchange**/banking **violation**?*

(vii) ***The ED's role***

- *Where is the **money**/property and has it been **laundered** or dealt **with in violation** of FEMA, 1999?*

29. What is common transaction for CBI, DRI, SFIO, Income Tax, SEBI, RBI and ED?

- ***1 transaction** can legitimately **generate** "multiple" **proceedings** like INR **1,000 crore** corporate **fraud***

  ↓

  *The **SFIO** examines **for corporate fraud** investigation*

  ↓

  *The **CBI** examines **for criminal conspiracy**/cheating/corruption, within jurisdiction*

  ↓

  *The **Income Tax** examines **for undisclosed income**/tax consequences **and** "criminal" **offence***

  ↓

  *The **SEBI** examines **for securities**-market **violations***

  ↓

*The **ED** examines **for PMLA**/FEMA financial **trail***

↓

*The **RBI** examines **for banking**/foreign-exchange **regulatory issues***

↓

*The **DRI** examines **for import**/export/customs **violations** are **involved***

30. What is adjudication for CBI, DRI, SFIO, Income Tax, SEBI, RBI and ED?

- *An **adjudication against** "criminal" **investigation** by **CBI**, DRI, **SFIO**, Income Tax, **SEBI**, RBI or **ED***

  ↓

  The investigation

  ↓

  *The criminal prosecution **before** the **competent court**, when applicable.*

  ↓

  An administrative/regulatory adjudication

  ↓

  The Income Tax authorities, SEBI, Customs authorities or PMLA Adjudicating Authority

  ↓

  A statutory adjudication

  ↓

  An appeal to designated appellate authority, tribunal or court.

31. What is master nexus for CBI, DRI, SFIO, Income Tax, SEBI, RBI → ED?

RBI / Banks

↓

*Income Tax **evasion and** "criminal" **offence***

↓

SEBI

↓

DRI → CBI / SFIO → ED

↓

Other law-enforcement/regulatory agencies

↓

ED's investigation

↓

Attachment / seizure under applicable law

↓

PMLA Adjudicating Authority

↓

ED's Special Court

↓

Appellate / Constitutional Courts

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