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DARSHAN MALA SERIES (DMS)

31 Frequently Asked Questions (FAQs) on the Reserve Bank of India (RBI) → Enforcement Directorate (ED) nexus for investigations and adjudications across the India

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 Reserve Bank of India (RBI) → Enforcement Directorate (ED) nexus for investigations and adjudications across the India, including respective roles, jurisdiction, investigative processes, and areas of interaction between the two agencies.

The Series covers matters reported in the public domain concerning 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.

The Darshan Mala Series has been initiated with inspiration from the vision of the Hon'ble Prime Minister of India to promote greater public awareness and informed discussion on matters relating to governance, accountability, transparency, administration, enforcement, and the functioning of the justice delivery system.

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31 FAQs on RBI → ED nexus for investigations and adjudications across the India

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Author's Profile for 31 FAQs RBI → ED nexus for investigations and adjudications across the India



31 FAQs on RBI → ED nexus for investigations and adjudications across the India

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

1. What is RBI → ED nexus for investigations and adjudications in India?

- (i) The RBI → ED nexus is principally through the FEMA, 1999.
- (ii) The RBI and ED have different statutory roles, but their functions intersect substantially in foreign-exchange matters where the ED's function is adjudication

2. What is division of responsibility between RBI and ED?

- The ED itself describes FEMA as a civil law, while stating that the ED is responsible for investigating and adjudicating FEMA violations under section 3(a) of FEMA, 1999

S.No	Area	Reserve Bank of India (RBI)	Directorate of Enforcement (ED)
(i)	Primary role	(a) Working as regulator or administrator for foreign exchange (b) It's regulating authorised persons (c) Dealing FEMA-related transactions	It's investigating and enforcing agency for foreign-exchange violations and money laundering both
(ii)	Principal laws	(a) FEMA, 1999 (b) RBI Regulations (c) RBI Directions (d) RBI Notifications	(a) Foreign Exchange Management Act (FEMA), 1999 (b) Prevention of Money Laundering Act (PMLA), 2002 (c) Fugitive Economic Offenders Act (FEOA), 2018
(iii)	Nature of FEMA role	(a) RBI's regulatory compliances (b) RBI's permissions (c) RBI's reporting (d) RBI's monitoring (e) RBI's compounding in matters falling within RBI's jurisdiction	(a) It's investigating suspected FEMA contraventions under the section 3(a) of FEMA, 1999 (b) It's issuing Show Cause Notices (SCNs)



			(c) Enforcement functions under the FEMA, 1999 (d) Adjudication functions under the FEMA, 1999
(iv)	Compounding	RBI is compounding Authority for FEMA contraventions within its assigned jurisdiction, subject to the statutory or executive exceptions	The ED has compounding powers in specified FEMA contravention matters under the Section 3(a) of FEMA, 1999.
(v)	FEMA adjudication	It's not the general FEMA Adjudicating Authority merely because RBI regulates the transactions	The ED officers can act as FEMA Adjudicating Authorities under the statutory framework and impose penalties "after" adjudication.
(vi)	Investigation	It's regulating or the inspecting and supervisory functions, not the principal FEMA investigating agency	(a) Its principal agency for investigation of suspected FEMA contravention matters under the Section 3(a) of FEMA, 1999. (b) The ED reports 44,369 FEMA investigations initiated up to March 31, 2026.
(vii)	Criminal dimension	It's generally, not the investigating or prosecuting agency for the PMLA, 2002	(a) It's investigating PMLA offences (b) Tracing or the attachment of Proceeds of Crime (PoC) (c) Prosecution before PMLA Special Court under the PMLA, 2002
(viii)	FEOA, 2018	It's having no principal enforcement role	(a) It's enforcing the FEOA, 2018 (b) It's attaching the property under the PMLA, 2002 (c) It's carrying confiscation proceedings under the PMLA, 2002.

3. What is flow chart for RBI → ED nexus?

The RBI is dealing with information, inspection and reporting issue under the FEMA, 1999



Suspected FEMA contravention identified under the FEMA, 1999





Information or reference reaches to the ED or ED independently takes up investigation under the FEMA, 1999



The ED investigates under the FEMA, 1999 “not” under the PMLA, 2002



The ED may issue or bring proceedings before FEMA Adjudicating Authority under the FEMA, 1999 “not” under the PMLA, 2002



Person or company may seek compounding under Section 15 under the FEMA, 1999



The RBI considers compounding where it has jurisdiction under the FEMA, 1999



The ED’s “No Objection” may become relevant in an ED-investigated matter under the FEMA, 1999 “not” under the PMLA, 2002

- *The last point is particularly important.*
- *In a recent 2026 case, the ED reported that the RBI passed a FEMA compounding order under the FEMA, 1999 “after” obtaining ED’s “No Objection”, following an ED investigation and complaint before the Adjudicating Authority under the FEMA, 1999 “not” under the PMLA, 2002.*

4. Whether the RBI control the ED under the FEMA, 1999?

No

- (i) *The ED officers are specifically empowered to investigate contraventions under the section 13 of FEMA, 1999 “not” under the PMLA, 2002.*
- (ii) *The Central Govt. is permitted to authorise certain other officers, including specified RBI officers, to investigate FEMA contraventions under the section 37 of FEMA, 1999 “not” under the PMLA, 2002*
- (iii) *The RBI is regulatory, monetary or foreign-exchange administrator*



5. What is important practical nexus between RBI and ED?

- (i) The RBI's regulatory ecosystem generates a substantial amount of information relevant to FEMA enforcement under the FEMA, 1999 like:
 - (a) Foreign Investment (FI) reporting
 - (b) FDI or FEMA violations
 - (c) Delayed FC-GPR/FC-TRS reporting
 - (d) Overseas investment
 - (e) Remittances and foreign assets
 - (f) Export proceeds
 - (g) Import payments
 - (h) ECB
 - (i) NRO, NRE or FCNR transactions
 - (j) LRS transactions
 - (k) Suspected unauthorised foreign exchange transactions.
- (ii) The ED is permitted to investigate independently or on information received from other authorities, where the matter indicates a possible FEMA contravention
- (iii) The ED's current annual report expressly describes that the ED as the agency tasked with enforcement of FEMA under the FEMA, 1999 "not" under the PMLA, 2002.

6. What is an appears simple FEMA violation but a bigger than FEMA violation?

- (i) A flow chart for a transaction initially appears to be merely a FEMA violation but it's involved much more than merely a FEMA violation under FEMA, 1999 like:
 - Unauthorised foreign remittance
 - ↓
 - Foreign asset
 - ↓
 - Found-tripping
 - ↓
 - Layering
 - ↓
 - Acquisition/investment in India



- (ii) *The ED is permitted “to investigate money-laundering dimension” independently of the FEMA proceedings when the facts satisfy the statutory requirements of the PMLA, 2002.*

7. What are 3 parallel dimensions in 1 transaction?

- *ED officially has responsibility for the FEMA, 1999 and PMLA, 2002 “both”* ●

- (i) ***The RBI regulatory proceedings***



The compliances under the FEMA, 1999



The compounding under the FEMA, 1999

- (ii) ***The ED FEMA proceedings***



The investigations under the FEMA, 1999



The adjudications under the FEMA, 1999

- (iii) ***The ED PMLA proceedings***



The Proceeds of Crime (PoC) under the PMLA, 2002



The attachments under the PMLA, 2002



The prosecutions before PMLA Special Court under the PMLA, 2002

8. What are 4 stages for RBI → ED nexus?

- (i) ***Stage 1 — Regulatory intelligence***

- *The RBI detects or receives information concerning foreign-exchange irregularity under the FEMA, 1999.*

- (ii) ***Stage 2 — Enforcement investigation***

- *The ED investigates the suspected FEMA contravention under the FEMA, 1999.*



(iii) Stage 3 — Adjudication / compounding

- The FEMA adjudication proceeds independently, where legally permissible, compounding under Section 15 of FEMA, 1999 may be pursued “not” under the PMLA, 2002.

(iv) Stage 4 — PMLA escalation

- When the underlying facts involve a scheduled offence or “criminal activity” and identifiable Proceeds of Crime (PoC) “both”, the matter can acquire a PMLA dimension under the PMLA, 2002, which is substantially more serious than a standalone FEMA contravention under the FEMA, 1999.

9. What is statutory framework for RBI → ED → FEMA → PMLA relationship?**(i) Overall flow for RBI or FEMA statutory framework under the FEMA, 1999**

RBI, Banks or AD Banks

↓
Regulatory information,
reporting, inspection,
suspected FEMA irregularity

ED's
FEMA Investigation under the FEMA, 1999

↓
(a) Investigations
(b) Documents
(c) Evidences

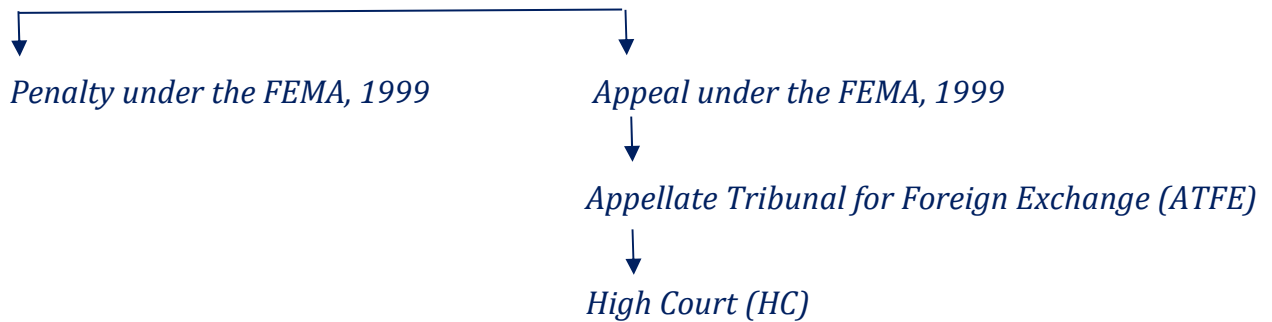
FEMA Complaint under the FEMA, 1999

↓
FEMA Adjudicating Authority under the FEMA, 1999

↓
Show Cause Notice (SCN) or Hearing under the FEMA, 1999

↓
Adjudication Order under the FEMA, 1999





(ii) Overall flow for ED or PMLA statutory framework under the PMLA, 2002

The intelligences under the PMLA, 2002



The investigations under the PMLA, 2002



The complaints under the PMLA, 2002



The adjudications under the PMLA, 2002



The penalty recovery, with separate routes for prosecution and seizure in appropriate cases under the section 37A of the PMLA, 2002.

10. What is difference between RBI's compounding and ED's investigations?

- (i) A person is permitted to approach RBI for compounding of a FEMA contravention under the FEMA, 1999, subject to the applicable rules.
- (ii) The RBI is permitted to compound FEMA contraventions under the section 13 of FEMA, 1999, subject to the applicable rules.
- (iii) The ED is permitted to compound FEMA contravention under the section 3(a) of the FEMA, 1999, subject to the applicable rules "not" under the PMLA, 2002.
- (iv) The RBI is "not permitted to dispose" 100% through compounding "without having no objection" from the ED where the FEMA investigation is conducted by the ED under the FEMA, 1999 "not" under the PMLA, 2002.



11. What is ED's investigations and FEMA's adjudications under the FEMA, 1999?

The ED Intelligence under the FEMA, 1999



Preliminary examination or investigation under the FEMA, 1999



Summons, documents, statements or banking under the FEMA, 1999



Search, seizure or other investigative measures under the FEMA, 1999



Complaint under the FEMA, 1999



FEMA Adjudicating Authority under the FEMA, 1999



Show Cause Notice (SCN) under the FEMA, 1999



Reply and personal hearing under the FEMA, 1999



Adjudication Order under the FEMA, 1999



Penalty under the FEMA, 1999



Recovery or appeal under the FEMA, 1999

- *The ED's latest published statistics show the scale of this FEMA mechanism, as of March 31, 2026, the ED reported 44,369 FEMA investigations initiated, 9,347 SCNs issued and 7,588 SCNs adjudicated under the FEMA, 1999 "not" under the PMLA, 2002*

12. What are ED's functions for investigations & adjudications under FEMA, 1999?

- The ED's statutory role includes investigation and adjudication/penalty under the FEMA, 1999 "not" under the PMLA, 2002.*
- The ED's current organisational material also records that, from June 2025, FEMA/FERA adjudication was centralised at Headquarters under a dedicated Special Director (Adjudication) / ADS or Joint Directors (Adjudication) / ADJ structure under the FEMA, 1999 "not" under the PMLA, 2002.*



- (iii) *The ED said the restructuring was intended to address potential conflict of interest between regional investigation and adjudication “not” under the PMLA, 2002.*
- (iv) *Therefore, the ED investigating officers and ED adjudicating authority both are within the ED under the FEMA, 1999 “not” under the PMLA, 2002.*

13. When the FEMA, 1999 becomes the PMLA, 2002?

- (i) *A simple FEMA contravention does “not automatically” become money laundering under the PMLA, 2002.*
- (ii) *However, when the underlying facts involve a scheduled offence and the statutory requirements concerning Proceeds of Crime (PoC) and money-laundering “both” are satisfied, a PMLA investigation can arise under the PMLA, 2002.*

(iii) **Therefore, the architecture changes:**

Underlying offence under the PMLA, 2002



Proceeds of Crime (PoC) under the PMLA, 2002



Money laundering under the PMLA, 2002



ED – PMLA Investigation under the PMLA, 2002



Attachment, Arrest or Search etc. under the PMLA, 2002



Prosecution Complaint under the PMLA, 2002



PMLA Special Court under the PMLA, 2002

(iv) **Conclusion**

- *The ED describes PMLA, 2002 as a criminal law and FEMA, 1999 as a civil law, with ED enforcing “both” statutes.*



14. What is best example for parallel role of RBI, FEMA/ED and PMLA?

● **Suppose INR 50 crore remitted outside India** ●

(i) **Track A – Role of RBI**

(a) Was the remittance authorised under the FEMA, 1999?

(b) Were FEMA, LRS or ODI requirements complied with under the FEMA, 1999?

(c) Were reporting requirements fulfilled under the FEMA, 1999?

● **Regulatory consequences or possible compounding under the FEMA, 1999**

(ii) **Track B – Role of FEMA-ED**

● **Was there a contravention under the FEMA, 1999?**

ED investigation under the FEMA, 1999



FEMA complaint under the FEMA, 1999



Adjudication under the FEMA, 1999



penalty under the FEMA, 1999

(iii) **Track C — Role of ED-PMLA**

● **Was the money connected with a scheduled offence and does it constitute Proceeds of Crime (PoC) involved in money laundering under PMLA, 2002?**

PMLA investigation under the PMLA, 2002



Attachment or prosecution under the PMLA, 2002



PMLA Special Court under the PMLA, 2002

● **These tracks should “not” be mechanically combined.**

15. What is appellate procedure under the FEMA, 1999?

Adjudicating Authority under the FEMA, 1999



Special Director (Appeals) under the FEMA, 1999





Appellate Tribunal for Foreign Exchange (ATFE) under the FEMA, 1999



High Court under the FEMA, 1999

- *The ED's FEMA lifecycle specifically identifies appellate proceedings before the Special Director (Appeals) or ATFE.*

16. What is appellate procedure under the PMLA, 2002?

ED under the PMLA, 2002



Adjudicating Authority under the PMLA, 2002



PMLA Special Court under the PMLA, 2002



High Court under the PMLA, 2002



Supreme Court under the PMLA, 2002

17. What is useful professional framework for FEMA/ED practice?

S.No.	Question	Why it matters
(i)	<i>What information originated with RBI / the Authorised Dealer (AD) Bank?</i>	<i>For establishing the regulatory background, reporting trail & nature alleged irregularity.</i>
(ii)	<i>What exact FEMA provision is allegedly contravened?</i>	<i>For determining the alleged contravention, applicable legal requirements, potential penalty, and available remedies.</i>
(iii)	<i>Is the matter before RBI for compounding or before ED for investigation?</i>	<i>For identifying the competent authority, applicable procedure, and appropriate forum.</i>
(iv)	<i>Has ED issued a Show Cause Notice (SCN) or filed a FEMA complaint before the Adjudicating Authority?</i>	<i>For determining the procedural stage and the appropriate response or remedy.</i>
(v)	<i>Is there a PMLA or scheduled-offence dimension?</i>	<i>For helping to determine whether facts may involve separate money-laundering proceedings in addition to FEMA consequences.</i>



18. What is RBI/ FEMA's role and ED/PMLA's role?

- (i) *The RBI is primarily the regulatory gateway under the FEMA, 1999*
- (ii) *The ED is the enforcement or investigation arm under the FEMA, 1999*
- (iii) *The FEMA Adjudicating Authority determines contravention and penalty under the FEMA, 1999*
- (iv) *The RBI is permitted to compound eligible FEMA contraventions under the FEMA, 1999*
- (v) *The PMLA creates a separate criminal-enforcement track where its statutory conditions are met under the PMLA, 2002.*
- (vi) ***There is also a historical RBI-ED connection***
 - *When the Enforcement Unit was created in 1956, it was assisted by an officer deputed from RBI.*

● **The Supreme Court and High Courts Judgments for the RBI → ED Nexus** ●

19. What is Supreme High Court case of J. Sri Nisha v. Special Director (2026)?

- **Section 37A of the FEMA, 1999 for acquisition or holding of foreign securities**
“without” requisite RBI approval ●

- (i) The ED initiated the section 37A of FEMA, 1999, accordingly seized Indian properties of equivalent value and also initiated parallelly the section 16 for adjudication proceedings under the FEMA, 1999.
- (ii) The RBI's Competent Authority had not confirmed the Section 37A seizure, because the material did not establish the necessary foundation for the statutory “reason to believe” under the FEMA, 1999.
- (iii) The Supreme Court held that this finding had a significant bearing on the parallel adjudication proceedings under the FEMA, 1999.
- (iv) The Supreme Court also observed that a writ against an SCN is ordinarily not entertained, but exceptional intervention remains possible where there is patent lack of jurisdiction, non-application of mind, abuse of process or violation of natural justice under the FEMA, 1999.

(v) **Conclusion**

- **This case gives you an important litigation checkpoint under the FEMA, 1999:**

Seizure under the FEMA, 1999



Competent Authority confirmation or non-confirmation under the FEMA, 1999



Effect on parallel Section 16 adjudication under the FEMA, 1999

- **Therefore, never treat a Section 37A seizure and Section 16 adjudication as completely isolated proceedings under the FEMA, 1999.**



20. What is Supreme Court case of Standard Chartered Bank v. ED (2006)?

- (i) This is a FERA, 1973 Supreme Court Constitution Bench decision, “not a FEMA, 1999” adjudication precedent.
- (ii) This decision is dealt with corporate criminal liability under FERA, 1973
- (iii) Therefore, it would not use it as a primary authority for a current FEMA Section 13 penalty proposition.
- (iv) It may be useful for historical or contextual analysis of corporate liability, but the current FEMA statutory framework should be analysed independently.

21. What is Supreme High Court case of Union of India v. Ganesh Das (2000)?**● Section 10(6) of the FEMA, 1999 for purpose of foreign exchange ●**

- (i) The Supreme Court has examined the deeming provisions surrounding use of foreign exchange obtained for a declared purpose under the FEMA, 1999.
- (ii) The Supreme Court noted that Section 10(6) identifies standalone circumstances, including failure to use foreign exchange under the FEMA, 1999 for:
 - (a) The declared purpose
 - (b) The failure to surrender it within the prescribed period
 - (c) The use for a purpose “not permissible” under the FEMA, 1999.

22. What is Delhi High Court case of Emaar India Ltd v. ED (2026)?

- (i) The petitioners had compounding applications pending before RBI under FEMA, 1999
- (ii) The petitioners argued that under the Rule 9(5) of Compounding Rules 2024, the applications could become infructuous when the ED’s FEMA Adjudicating Authority proceeded with adjudication under the FEMA, 1999.
- (iii) The Delhi High Court recorded the position that, while the RBI compounding applications remained pending, the ED “should not pass a final adjudication order” under the FEMA, 1999.



- (iv) The RBI was permitted to take the compounding applications to their logical conclusion under the FEMA, 1999.
- (v) This is extremely useful procedurally under the FEMA, 1999.
- (vi) This order indicates that, at least at the interim stage, the Delhi High Court was prepared to preserve the RBI compounding process rather than allow parallel FEMA adjudication to render it ineffective under the FEMA, 1999.
- (vii) However, this “should not yet be treated as a final declaration of law”, because the order itself was an “interim procedural order” and the matter was listed for further consideration under the FEMA, 1999.

23. What is comparison between NDTV and Emaar India case?

S.No	Issue	NDTV case in Bombay High Court, 26 June 2018 and in Supreme Court, 12 August 2024	Emaar India in Delhi High Court, 23 March 2026
(i)	Compounding under the FEMA, 1999	The RBI directed to consider the compounding the applications in accordance with the FEMA, 1999.	The compounding applications remained pending before RBI under the FEMA, 1999.
(ii)	ED intervention under the FEMA, 1999	The ED's communication could not prevent RBI from considering the applications as directed by the High Court.	The ED was restrained from passing a final FEMA adjudication order while RBI's compounding applications remained pending.
(iii)	RBI Jurisdiction under the FEMA, 1999	(a) The RBI retained discretion to decide the applications according to FEMA, 1999 (b) Compounding was not the guaranteed.	The RBI was expressly permitted to take the applications to their logical conclusion.
(iv)	PMLA implications under the PMLA, 2002	The FEMA compounding should not be treated as automatic immunity from separate PMLA proceedings.	(a) The interim order concerned FEMA adjudication and the compounding



			(b) This order did not determine the merits of a PMLA investigation under the PMLA, 2002.
(v)	Nature of decision under the FEMA, 1999	(a) The substantive High Court judgment (b) Supreme Court subsequently declining to interfere.	Its interim procedural order pending further proceedings.
(vi)	Relevance of 2024 Rules under the FEMA, 1999	Its useful background on RBI's role and ED intervention in compounding.	It's Directly relevant to Rule 9(5) of Foreign Exchange (Compounding Proceedings) Rules, 2024, as relied upon by the petitioners.

24. What is Telangana High Court case of Suresh Gupta vs ED (2023)?

● Section 3 or Section 10 for nature of FEMA contravention under the FEMA, 1999 ●

- (i) The FEMA is a regulatory statute and the precise statutory prohibition must be identified under the FEMA, 1999.
- (ii) The investigation should therefore begin with the specific transaction and the exact statutory or regulatory requirement, rather than merely describing conduct as a "FEMA violation" under the FEMA, 1999.
- (iii) This is particularly important in cases involving authorised dealers, remittances and permitted purposes under the FEMA, 1999.

25. What is Madras High Court case of S.Jagathrakshakan v. ED (2023)?

● Section 37A for seizure of equivalent value properties in India under the FEMA, 1999 ●

- (i) The ED had seized properties worth approx. INR 89.19 crore under the section 37A of and parallelly filed a complaint under the section 16 concerning foreign investments or securities under the FEMA, 1999.
- (ii) The adjudication proceedings parallelly resulted in a substantial penalty and confiscation order under the FEMA, 1999.



(iii) *The April 01, 2026 Supreme Court decision in J. Sri Nisha is particularly important because it examines the legal consequences of the earlier “non-confirmation” of the Section 37A for seizure under the FEMA, 1999.*

(iv) **Conclusion**

(a) *Whether the RBI’s Competent Authority “confirmed” the Section 37A for seizure under the FEMA, 1999?*

(b) *Thereafter, required to examine immediately the implications against the parallel adjudication under the section 16 when the Competent Authority “not confirmed” the Section 37A for seizure under the FEMA, 1999.*

26. What is Bombay High Court case of NDTV v. RBI (2018)?

(i) *In New Delhi Television (NDTV) Ltd. v. RBI & Ors., Bombay High Court, 26 June 2018, the Court considered the interaction between FEMA compounding and PMLA proceedings under the FEMA, 1999.*

(ii) *The case arose “after” ED communicated to RBI that the FEMA contraventions involved in NDTV’s compounding applications were also part of a money-laundering investigation under the FEMA, 1999.*

(iii) *The FEMA, 1999 and PMLA, 2002 operate in different fields*

(iv) *The FEMA contraventions are subject to the FEMA statutory framework, including compounding under the FEMA, 1999*

(v) *The PMLA proceedings concern the separate offence of money laundering and its statutory consequences under the PMLA, 2002.*

(vi) *The Mumbai High Court recognised that compounding a FEMA contravention under the FEMA, 1999 “cannot be used” as a mechanism to defeat or escape PMLA proceedings under the PMLA, 2002*



(vii) Practical implication

The FEMA contravention under the FEMA, 1999



The RBI compounding does “not necessarily” mean PMLA proceedings under the PMLA, 2002 “automatically” terminate.

27. What NDTV v. RBI case is providing safeguards?

- (i) *The Bombay High Court did not accept the proposition that ED could simply send a bare communication under the PMLA, 2002 saying:*
- (ii) *“We suspect money laundering” and thereby automatically extinguish RBI’s statutory compounding jurisdiction under the PMLA, 2002.*
- (iii) *The Bombay High Court held that there must be a meaningful basis for treating the matter as a serious contravention suspected of money laundering under the PMLA, 2002.*
- (iv) *The Bombay High Court recognised that an applicant could challenge both the RBI’s refusal to proceed and the ED communication forming the basis for that refusal under the PMLA, 2002.*
- (v) (a) *Therefore, the legal position is more accurately represented as PMLA investigation under the PMLA, 2002 can coexist with FEMA proceedings*

But

 (b) *The ED’s assertion cannot automatically nullify RBI’s statutory jurisdiction “without” the legal framework being satisfied under the PMLA, 2002.*
- (vi) *This distinction is very useful when examining a compounding application that has been stopped because of an ED communication under the PMLA, 2002.*

28. What is impact of 2024’s rules on NDTV v. RBI case?**● The 2024 Rules strengthen this nexus ●**

- (i) *The present framework is now Foreign Exchange (Compounding Proceedings) Rules, 2024, rather than the old 2000 Rules considered in NDTV v. RBI case.*



- (ii) *The Rule 2024, current framework specifically identifies serious contraventions suspected under the PMLA, 2002 for:*
- (a) *Money laundering*
 - (b) *Terror financing*
 - (c) *Affecting sovereignty of India*
 - (d) *Affecting integrity of India*
- (iii) *The RBI's current directions and FAQ must therefore be read alongside the 2024 Rules, being as matters outside ordinary RBI compounding under the FEMA, 1999*
- (iv) *The NDTV v. RBI remains highly relevant for the underlying legal principle, but must apply the 2024 statutory wording to a current matter under FEMA, 1999.*
- (v) *The Bombay High Court did not accept the proposition that ED could simply send a bare communication under the PMLA, 2002.*

29. What are statics for seizing equivalent property under sec. 37A of FEMA, 1999?

- (i) *The ED reported that seized equivalent value property in India for INR 3.67 crore under the section 37A of FEMA, 1999*
- (ii) *The list of subjects of matters for seizure equivalent property value in India where ED's seizure of equivalent value property is permitted under the section 37A of FEMA, 1999:*
- (a) *The foreign securities under the FEMA, 1999*
 - (b) *The foreign exchange under the FEMA, 1999*
 - (c) *The foreign immovable property under the FEMA, 1999*

30. What is comparative chart for 10 court cases under the FEMA, 1999?

S.No.	Issue	Authority / case to study	Court / status	What to examine
(i)	Nature of FEMA or	(a) Union of India v. Ganesh Das Bhojraj	Supreme Court	(a) FEMA's regulatory or penalty framework



	penalty framework	<i>(b) Current FEMA jurisprudence</i>		<i>(b) Statutory interpretation</i>
<i>(ii)</i>	Use of foreign exchange for declared purpose	<i>Union of India v. Ganesh Das Bhojraj</i>	<i>Supreme Court</i>	<i>(a) Scope of foreign-exchange restriction (b) Interpretation of the relevant FERA provisions.</i>
<i>(iii)</i>	Application of the section 13 for penalty	<i>Application of the section 13 for adjudication cases</i>	<i>Adjudicating Authority (AA), High Courts and Supreme Court</i>	<i>Identify the exact contravention, statutory provision, person responsible, evidence and penalty</i>
<i>(iv)</i>	Compounding	<i>Application of the section 15 for RBI Master Directions or current compounding decisions</i>	<i>RBI and Statutory framework</i>	<i>(a) Whether contravention is the compoundable? (b) RBI's competent authority (c) Procedure and the effect of compounding</i>
<i>(v)</i>	Adjudication	<i>Application of the section 16 for FEMA jurisprudence</i>	<i>Adjudicating Authority (AA), Special Director, Appellate Tribunal and High Court</i>	<i>(a) Notice, opportunity, burden or evidence, adjudication order (b) Statutory appeal</i>
<i>(vi)</i>	Appeals	<i>Application of the section 35 for FEMA jurisprudence</i>	<i>High Courts and Supreme Court</i>	<i>(a) Scope of High Court appeal (b) The requirement of a question of law</i>
<i>(vii)</i>	ED's investigation or summons	<i>K.A. Mansoor v. ED</i>	<i>Appellate tribunal and High Court jurisprudence</i>	<i>(a) The section 37 of FEMA read with the section 131 Income-tax Act, 1961 (b) Summons (c) Preliminary investigation</i>



(viii)	Application of the section 37A	<i>J. Sri Nisha v. ED</i>	<i>High Court and Supreme Court status should be verified from the judgment</i>	(a) Attachment or seizure of equivalent value (b) Procedural safeguards (c) Statutory conditions
(ix)	Application of the Section 42 or individual liability	<i>Application of the section 42 for FEMA jurisprudence</i>	<i>High Courts and Supreme Court</i>	<i>Whether the individual was actually responsible for the contravention and the statutory requirements for vicarious liability?</i>
(x)	Corporate liability or FERA history	<i>Standard Chartered Bank v. ED</i>	<i>Supreme Court</i>	<i>Corporate criminal liability under FERA and distinction between corporate and individual liability.</i>

31. Whether RBI's compounding is granting immunity from PMLA investigations?

No

- (i) *The RBI's compounding of a FEMA contravention does not, by itself, immunise the person from a separate PMLA investigation/proceeding under the PMLA, 2002.*
- (ii) *There is also a very recent Delhi High Court development in March 2026 that is directly relevant to the interaction between pending RBI compounding and ED adjudication.*



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