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DARSHAN MALA SERIES (DMS)

35 Frequently Asked Questions (FAQs) on the Income Tax Department (ITD) ➔ 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 **35 Frequently Asked Questions (FAQs)**, examines the **Income Tax Department (ITD) ➔ ED nexus for investigations and Adjudications across the India**, 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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35 FAQs on ITD ➔ ED nexus for investigations and Adjudications across the India

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35 FAQs on ITD → 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 ITD → ED nexus?

(i) *There is a significant and legally recognised* ***nexus between the Income Tax Department (ITD) and the Enforcement Directorate (ED)****, particularly where financial or tax-related irregularities may also disclose matters falling within the jurisdiction of the ED.*

(ii) *This nexus becomes particularly relevant were* ***tax evasion, undisclosed income, bogus transactions, fraud, unexplained assets, foreign assets, or the generation, layering, movement or transfer of illicit funds*** *may also be connected with a* ***scheduled offence under the Prevention of Money Laundering Act, 2002 (PMLA)****.*

(iii) *Importantly, the ITD and ED* ***do not conduct the same investigation or adjudication****. The ITD primarily acts under the* ***Income-tax Act, 1961*** *for determination and recovery of tax and related proceedings, whereas the ED exercises jurisdiction under statutes such as the* ***PMLA, 2002 and FEMA, 1999****, according to the nature of the matter.*

(iv) *Therefore,* ***the same underlying facts or transactions may give rise to parallel proceedings before the ITD and ED****, but their* ***statutory objectives, jurisdiction, questions for determination, evidentiary requirements and legal consequences are distinct****.*

(v) *Consequently, an ITD investigation, assessment, search, seizure or other proceeding may* ***generate information or material relevant to an ED investigation****, and information lawfully available from the ED may likewise be relevant to tax proceedings. However,* ***the initiation, continuation or outcome of one proceeding does not automatically determine the outcome of the other****.*

(vi) ***In simple terms:***

Same facts

↓

Possible information flow / investigative nexus

↓

Separate statutory proceedings

↓

Separate adjudicatory conclusions and consequences.

2. What is ITD → ED basic relationship?

S.No	Aspect	Income Tax Department (ITD)	Enforcement Directorate (ED)
(i)	**Principal laws**	*Income-tax Act, 1961 and the income-tax legislation applicable for the relevant assessment period.*	*PMLA, 2002 for money-laundering FEMA, 1999 for foreign-exchange violations.*
(ii)	**Main objective**	*Determine taxable income, assess tax liability and enforce collection of tax.*	*Investigate money-laundering under PMLA and investigate/adjudicate contraventions of FEMA through the statutory framework.*
(iii)	**Nature**	*Primarily fiscal/revenue proceedings prosecution may arise in cases where the Income-tax Act creates an offence.*	*PMLA: criminal law framework FEMA: principally civil/ administrative enforcement framework.*
(iv)	**Key question**	*Whether income/assets/transactions have been correctly disclosed and what tax liability follows.*	*Under PMLA, whether there are proceeds of crime connected with a scheduled offence and whether they have been involved in money-laundering under FEMA, whether a contravention of FEMA has occurred.*
(v)	**Principal consequences**	*Tax, interest, penalty and, where applicable, prosecution.*	*PMLA: provisional attachment, adjudication/confiscation consequences and prosecution, subject to the statutory process. FEMA: monetary penalty and other consequences provided by FEMA.*

S.No	Aspect	Income Tax Department (ITD)	Enforcement Directorate (ED)
(vi)	**Adjudication**	*Income-tax authorities and appellate authorities under the Income-tax Act.*	*PMLA: Adjudicating Authority for statutory attachment/confiscation proceedings and Special Court for PMLA offences. FEMA: Adjudicating Authority under FEMA, with appellate mechanisms.*
(vii)	**Relationship between the two**	*ITD findings/material can become relevant information for another enforcement agency where the facts disclose issues falling within ED's statutory jurisdiction.*	*ED may use information/material originating from tax proceedings where legally relevant, but an ITD finding does not automatically establish a PMLA offence or FEMA contravention.*

- ***Most important conceptual point***

(i) *The **ITD–ED nexus is not a merger of jurisdiction**. The two agencies operate under different statutes and pursue different statutory objectives.*

(ii) *For example, an income-tax investigation may uncover **undisclosed income, accommodation/bogus transactions, unexplained assets, hawala-type transactions or foreign-asset issues**. If the underlying facts also disclose a matter falling within ED's jurisdiction—particularly a **scheduled offence generating proceeds of crime** for PMLA purposes—the information may become relevant to an ED investigation.*

(iii) *Conversely, **an ED investigation may generate financial information that is relevant to an income-tax assessment or investigation**.*

- ***But there is an important legal safeguard**:*

(iv) ***A finding by ITD is not automatically binding upon ED, and an ED finding is not automatically binding upon ITD.***

(v) *Each authority must establish the ingredients required under its **own governing statute** and follow its own investigative, adjudicatory and appellate framework.*

(vi) *"ED investigates money laundering under PMLA & FEMA violations under FEMA" a more legally precise formulation is:*

(vii) ***"ED investigates offences of money-laundering under PMLA, 2002 and investigates /enforces contraventions of FEMA, 1999 in accordance with the respective statutory framework."***

(viii) *This distinction will make your **ITD–ED nexus** chapter much stronger, particularly when you move from:*

Information sharing

↓

Investigation

↓

Attachment

↓

Adjudication

↓

Prosecution/confiscation.

3. What is flow chart for information sharing?

Income Tax Department (ITD) Investigation

↓

Detection of serious financial irregularity / suspected tax evasion / undisclosed income / suspicious transactions

↓

Assessment of whether the facts indicate commission of a PMLA Scheduled (Predicate) Offence

↓

Relevant information / documents shared with ED through legally permissible channels

↓

ED examines the information and independently forms the basis for action under PMLA

↓

ED Investigation under PMLA, 2002

↓

Tracing / identification of Proceeds of Crime and Money-Laundering activity

Important legal point

(i) *The* ***ITD finding is not automatically binding on ED****.*

(ii) *Information received from ITD can serve as an important intelligence/ investigative input, but* ***ED has its own statutory jurisdiction and must independently proceed under PMLA*** *where the requirements of the Act are satisfied.*

(iii) *Also, technically,* ***"scheduled offence"*** *is the PMLA expression the underlying offence is commonly called the* ***predicate offence****.*

4. What is information sharing by ITD to ED?

(i) *The* ***Income Tax Department (ITD)*** *may share relevant information with other law-enforcement or regulatory agencies where, during its proceedings or investigation, it comes across information indicating serious financial irregularities or possible criminal activity.*

(ii) *Such information may include, for example:*

- *(a)* *Large amounts of* ***unexplained cash***
- *(b)* ***Bogus accommodation entries***
- *(c)* ***Fabricated or false invoices***
- *(d)* ***Fictitious or shell entities***
- *(e)* ***Fraudulent or bogus deductions/claims***
- *(f)* ***Undisclosed foreign assets or transactions***
- *(g)* *Suspected* ***hawala transactions***

(h) *Possible **layering or movement of funds***

(i) *Proceeds or funds apparently connected with **criminal activity**.*

(iii) *Where the information shared by the ITD indicates facts potentially falling within the jurisdiction of the **Enforcement Directorate (ED)**, the information may provide a **lead or source of intelligence for further examination/ investigation by ED**.*

(iv) *In particular, where the facts disclose a possible **scheduled offence and PoC**, ED may examine the matter under the **Prevention of Money Laundering Act, 2002 (PMLA)**. Similarly, information concerning suspected contraventions involving foreign exchange may be relevant to proceedings under the **Foreign Exchange Management Act, 1999 (FEMA)**.*

(v) *However, **ITD's information is not automatically binding upon ED**, nor does the sharing of information by itself establish a PMLA or FEMA violation. **ED has to independently satisfy the statutory requirements and exercise its powers in accordance with the applicable law.***

(vi) ***In simple terms:***

ITD investigation

↓

Detection of financial irregularity / suspicious transaction

↓

Information gathered by ITD

↓

Information shared with ED, where relevant

↓

ED independently examines the information

↓

PMLA/FEMA jurisdiction, if statutory requirements are satisfied

↓

ED investigation / appropriate proceedings

(vii) ***Conclusion***

- *The ITD–ED nexus is therefore best described as an* ***information/intelligence-sharing and inter-agency coordination nexus****, rather than one agency's findings automatically becoming the findings of the other agency.*

5. What is the best example for information sharing by ITD to ED?

- ***M/s Vinayak Nirman Pvt. Ltd. is a useful example of ITD → ED information sharing.***

(i) *The Income Tax authorities reportedly shared information concerning an allegedly bogus* ***Section 80IB deduction obtained through a fabricated completion certificate****.*

(ii) *The information was examined from the perspective of an underlying* ***scheduled offence and identifiable proceeds of crime****, following which the ED initiated action under the* ***PMLA, 2002****, including investigation and provisional attachment proceedings, subject to the statutory requirements.*

(iii) ***In simple terms:***

ITD/CBDT investigation

↓

Detection of ***allegedly bogus Section 80IB deduction***

↓

Use of a ***fabricated completion certificate***

↓

Information shared with ***ED***

↓

ED examines whether the underlying conduct involves a ***PMLA scheduled offence*** *and identifiable* ***proceeds of crime (PoC)***

↓

ED initiates PMLA investigation*, where the statutory requirements are satisfied*

↓

Possible ***provisional attachment of property*** *representing proceeds of crime* *(iv)* ***Conclusion***

ITD detects tax-related irregularity

🡻

Information is shared

🡻

ED independently examines the scheduled-offence/PoC element

🡻

PMLA action.

6. What is information sharing by ED to ITD?

- ***ED ➔ ITD nexus*** *arises principally under* ***Section 66 of the Prevention of Money-Laundering Act, 2002 (PMLA)****.*

(i) ***Section 66(1), PMLA*** *enables the Director/authorised officer of the ED to furnish information obtained during PMLA proceedings to specified authorities where such information is considered necessary for the purposes of that authority's functions.*

(ii) ***Section 66(2), PMLA*** *provides a further mechanism where, in the course of proceedings under the PMLA, the ED has reason to believe that another law has been contravened. The ED may furnish the relevant information to the concerned authority competent to take action under that other law.*

(iii) *Accordingly, where an* ***ED investigation uncovers information relating to income-tax evasion, undisclosed income, false claims, unexplained assets, bogus transactions or other possible contraventions of tax law****, the information may be shared with the* ***Income Tax Department (ITD)*** *for appropriate action under the applicable tax laws.*

(iv) ***In simple terms***

ED investigation under PMLA

🡻

Detection of information indicating possible contravention of tax law

🡻

Information furnished under Section 66, PMLA

↓

Income Tax Department (ITD)

↓

Independent examination/investigation under Income-tax law

↓

Tax assessment / reassessment / penalty / prosecution, as legally applicable

(v) ***Key distinction***

- *The ED's sharing of information does **not automatically establish tax liability**. The ITD has to independently examine the information and take action in accordance with the Income-tax Act and applicable procedure.*

7. What is the key principle for information sharing by ED to ITD?

ED Investigation

↓

Detection of undisclosed income / possible tax violation

↓

Relevant information / documents shared with ITD

↓

ITD examines the information under the Income-tax Act, 1961

↓

Independent Income-tax proceedings

↓

Assessment / reassessment / penalty / other action, as legally applicable

- ***Key legal point***

(i) *The important distinction is that ED's findings or information do not automatically become binding on the Income-tax Department.*

(ii) *ITD can use information received from ED as intelligence/information for its own proceedings, but the tax authority must independently apply the Income-tax Act and follow the applicable procedural requirements.*

8. What is the flow chart for information sharing by ED to ITD?

ED investigation

↓

Detection of information having income-tax relevance

↓

Information shared with ITD under the applicable statutory mechanism

↓

ITD examines the information independently

↓

Income-tax investigation / assessment / reassessment / other proceedings, as legally applicable

(i) ***Typical information that may have ITD relevance***

- ***ED investigation may reveal****:*

  (a) Undisclosed income

  (b) Unexplained investments

  (c) Unaccounted cash

  (d) Unexplained bank credits

  (e) Undisclosed foreign assets

  (f) Benami-type or beneficial-ownership arrangements

  (g) Accommodation entries

  (h) Fake or shell entities

  (i) Fabricated or manipulated documents

  (j) Fictitious expenses

  (k) Artificial or manipulated losses

  (l) Fraudulent tax claims

  (m) Diversion or siphoning of funds

  (n) Unexplained acquisition of properties

  (o) Undisclosed beneficial ownership

  (p) Layering of funds or transactions indicating concealed income

(ii) ***Important legal distinction***

- *The ED's finding is information/input for ITD it does not by itself constitute an income-tax assessment.*

ED investigation
↓
Relevant financial/tax information
↓
Lawful information sharing
↓
Independent examination by ITD
↓
Proceedings by ITD if the statutory conditions are satisfied.

(iii) *In particular, Section 66 of the PMLA, 2002 contains provisions enabling disclosure/furnishing of information to authorities performing functions under other laws, subject to the statutory conditions. Therefore, the stronger formulation is "ED may furnish/share relevant information with ITD under the applicable statutory framework", rather than saying that ED always shares such information.*

(iv) ***In simple terms***

ED detects financial information during a PMLA investigation
↓
Shares relevant information with ITD through the legally permitted mechanism
↓
ITD independently determines whether action is warranted under the Income-tax Act.

9. Whether tax evasion is automatically money laundering under PMLA, 2002?

No

(i) ***Tax evasion is not automatically money laundering under the PMLA, 2002.***

(ii) *For PMLA liability, the case must satisfy the statutory requirements relating to* ***"proceeds of crime" (PoC)*** *arising from a* ***scheduled offence*** *under the PMLA*

Schedule, and the person must be shown to have engaged in the acts constituting ***money-laundering under Section 3****.*

(iii) ***"A mere addition under the Income-tax Act"*** *should be understood carefully. An income-tax assessment addition by itself does not establish that the amount is proceeds of crime.*

(iv) *There must be a legally sustainable connection between the property/value alleged to be proceeds of crime and a scheduled offence.*

(v) *The* ***Income-tax Act, 1961*** *and its amendments should not be described as creating a general rule that every tax offence is a PMLA scheduled offence.*

(vi) *Every tax-evasion case is not a money-laundering case. However, a tax-related transaction may have PMLA consequences where the facts establish a scheduled offence, identifiable proceeds of crime arising from that offence, and the statutory ingredients of money-laundering under Section 3.*

(vii) ***"Every money-laundering case may have a tax dimension, but every tax-evasion case is not a money-laundering case under PMLA, 2002."***

(viii) ***Conclusion***

- *The precise position can depend on* ***which tax offence is alleged and the applicable PMLA Schedule entry****, so it is better not to make the statement absolute without examining the particular offence.*

10. What is best example for tax evasion is "not" automatically money laundering?

(i) *A businessman earns* ***INR 10 crore of undisclosed business income*** *and does not disclose it in his Income-tax return. The Income-tax Department may consequently determine the* ***tax payable****, along with applicable* ***interest and penalty*** *under the Income-tax Act.*

(ii) *However, the mere fact that INR 10 crore was undisclosed or that tax was evaded does not, by itself, automatically mean that the INR 10 crore constitutes "proceeds of crime" (PoC) under the PMLA, 2002.*

(iii) *For PMLA purposes, the statutory ingredients of the relevant scheduled offence and the requirements of Section 3 of the PMLA must independently be satisfied. Therefore, tax evasion and money laundering are not synonymous merely because the same undisclosed income is involved.*

(iv) ***In Simple terms***

Undisclosed income INR 10 crore
↓
Income-tax assessment
↓
Tax + applicable interest/penalty
↓
Does not automatically = PMLA "proceeds of crime"
↓
Additional PMLA statutory requirements must be established

(v) ***Conclusion***

(a) *Every tax violation is not automatically money laundering there must be a legally sustainable connection with "proceeds of crime" arising from a scheduled offence and the other ingredients prescribed by the PMLA.*

(b) *The precise tax offence and its status as a scheduled offence must be examined in the particular facts and under the applicable PMLA Schedule.*

11. What is flow chart for ITD ➔ ED nexus?

(i) *The flow can be made clearer by showing that **ITD and ED perform different but interconnected functions**—tax determination on one side and PMLA proceeds-of-crime/laundering investigation on the other:*

ITD Investigation
↓
Detection of tax irregularity / fraudulent claim / undisclosed income
↓
Examination of whether the conduct is connected with fraud or a PMLA scheduled offence

↓

Information / material shared with ED, where legally relevant

↓

ED investigates the scheduled offence and the resulting PoC

↓

Tracing of PoC

(a) Generation

(b) Possession

(c) Use

(d) Layering / routing

(e) Acquisition of property/assets

↓

Investigation of money-laundering activity

↓

Attachment / adjudication proceedings under PMLA, where statutory conditions are satisfied

↓

Prosecution / confiscation consequences, as applicable Parallel roles

Stage	***Income Tax Department (ITD)***	***Enforcement Directorate (ED)***
Primary focus	*Tax liability and tax violations*	*Money laundering and PoC*
Determines	*Concealed income, wrongful deduction/ refund, tax payable, interest, penalty and prosecution consequences*	*Whether PoC exists, its source, movement, possession/use and laundering*
Core question	***"What income was concealed or wrongly claimed, and what are the tax consequences?"***	***"What are the PoC, where did they go, who handled them, and were they projected as legitimate?"***
Adjudication	*Income-tax proceedings under the applicable tax law*	*PMLA attachment/adjudication and related proceedings, subject to statutory requirements*

(ii) ***In Simple terms:***

Fake documents

↓

Fraudulent tax deduction/refund obtained

↓

Illicit financial benefit generated

↓

Funds routed through multiple entities/accounts

↓

Property/shares/business assets acquired

↓

Funds projected as legitimate

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

- *To determines the **tax violation and tax consequences**.*

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

- *To act where the statutory PMLA conditions are met, investigates the **scheduled offence, PoC and laundering of those proceeds**.*

(v) ***Conclusion***

(a) *A tax addition or tax irregularity **by itself does not automatically establish money laundering under PMLA**.*

(b) *The PMLA analysis requires the statutory connection with a **scheduled offence and proceeds of crime**, along with the other applicable requirements.*

12. What is best example for ITD → ED nexus against "criminal" offence?

(i) ***Best example: INR 100 crore found in a bank account***

(ii) ***Scenario:** INR 100 crore is found in a bank account of a company/person, and the origin of the money is suspicious.*

Stage	***ITD — Income-tax perspective***	***ED — PMLA perspective***
Source	*What is the source of INR 100 crore?*	*What criminal activity generated the property?*
Disclosure	*Was the income disclosed in the return/books?*	*Does the property constitute **proceeds of crime (PoC)**?*

Stage	***ITD — Income-tax perspective***	***ED — PMLA perspective***
Taxability	*Is the amount taxable under the Income-tax Act?*	*Is there a **scheduled offence** underlying the property?*
Accounting	*Was it properly recorded? Are the books genuine?*	*Who generated, possessed, transferred or concealed the PoC?*
Tax payment	*Was applicable tax paid?*	*Was the PoC concealed, possessed, acquired, used or projected/claimed as untainted property?*
Consequence	*Assessment, tax, interest and applicable penalty/prosecution may follow.*	*If PMLA ingredients are established, attachment/prosecution and other PMLA consequences may follow.*

(iii) ***In Simple terms***

INR 100 crore found in bank account

↓

ITD: *Source → disclosure → taxability → books → tax payment*

↓

If criminal/scheduled-offence indicators emerge

↓

Information/investigative material may be relevant to ED

↓

ED: *Scheduled offence → PoC → generation/possession/use/concealment → laundering activity*

↓

PMLA proceedings, if statutory ingredients are satisfied

(iv) ***Key distinction***

(a) *The **same INR 100 crore can be relevant to both ITD and ED, but for different statutory purposes**:*

(b) ***ITD:** primarily asks, **"Is this taxable/unaccounted income and what are the consequences under tax law?"***

(c) ***ED:*** *asks,* ***"Is this property connected with a scheduled offence and does conduct satisfy the definition of money-laundering under PMLA?"***

(v) ***Conclusion***

(a) ***INR 100 crore of unexplained money ≠ automatically INR 100 crore of PoC.***

(b) *The criminal/predicate offence and the other requirements of PMLA must independently be established.*

13. What is flow chart for ITD's adjudications?

*Income-tax Assessing Officer (**AO/ITO**)*

↓

Assessment Order *— determination of taxable income, tax, interest, penalty, etc.*

↓

*Commissioner of Income-tax (Appeals) [**CIT(A)**]*

↓

*Income Tax Appellate Tribunal (**ITAT**)*

↓

High Court

(on a substantial question of law)

↓

Supreme Court

(on an appeal involving a question of law, subject to applicable jurisdiction)

In simple terms

AO/ITO *→ CIT(A) →* ***ITAT*** *→ High Court →* ***Supreme Court***

14. What is flow chart for ED's adjudications?

ED investigation

↓

Provisional Attachment Order (PAO) *Section 5, PMLA, 2002*

↓

Adjudicating Authority

Determines whether the provisional attachment should be confirmed

↓

Confirmation of Attachment

If the Adjudicating Authority confirms the attachment

↓

Appellate Tribunal (AT)

Appeal against the Adjudicating Authority's order

↓

High Court

Appeal on a question of law

↓

Supreme Court

Further appeal, subject to the statutory requirements

- ***Key point:***

  *(i) A **PAO under Section 5 is provisional** it is **not itself the final confiscation** of the property.*

  (ii) The adjudication/confirmation process under the PMLA follows before the matter can ultimately proceed toward confiscation.

15. What are provisional attachments and confirmations by adjudicating authority?

(Source of information's ED's latest published statistics as on March 31, 2026)

*(i) **PMLA Provisional Attachments and Confirmation by Adjudicating Authority***

*According to the **ED's latest published statistics as on March 31, 2026**:*

Particulars	***Number of PAOs***	***Amount involved***
*Provisional Attachment Orders **(PAOs)** **issued by ED***	***3,501***	*Approx. INR **2.36 lakh crore***
PAOs confirmed by** PMLA Adjudicating **Authority	***2,593***	*Approx. INR **1.29 lakh crore***

(ii) ***In simple terms:***

ED's investigation

↓

Provisional Attachment Order (PAO) under Section 5, PMLA

↓

Adjudicating Authority examines the attachment

↓

Confirmation of attachment, where statutory requirements are satisfied

(iii) *Thus, the* ***3,501 PAOs amounting to approximately INR 2.36 lakh crore represent provisional attachments****, whereas* ***2,593 PAOs involving approx. INR 1.29 lakh crore had been confirmed by PMLA Adjudicating Authority****.*

(iv) ***Important distinction:***

(a) *A* ***PAO issued by ED is not itself the final confiscation*** *of the property.*

(b) *Confirmation by the Adjudicating Authority is a separate statutory stage under the PMLA.*

16. Whether income tax assessment is override ED's PMLA proceedings?

No

(i) *The key point is that* ***Income-tax proceedings and PMLA proceedings operate in different legal fields****, so an Income-tax assessment does not automatically override an ED proceeding.*

(ii) ***Correct legal position***

(a) ***Independent jurisdictions:***

The Income-tax Department determines ***taxable income and tax liability*** *under the Income-tax Act, while the ED examines* ***proceeds of crime, money laundering and attachment/confiscation*** *under PMLA.*

(b) ***No automatic binding effect:***

An Income-tax assessment, addition or recovery order does ***not, by itself,***

conclusively determine *whether particular property constitutes proceeds of crime under PMLA. Similarly, an ED attachment does not automatically determine the taxpayer's final income-tax liability.*

(c) ***Same disputed funds — possible conflict:***

Where both proceedings concern the ***same identified funds/property****, the courts may consider which proceeding should take precedence to prevent one authority from frustrating the statutory process of the other.*

(d) ***Delhi High Court principle:***

In the case you refer to, ACIT v. State & Ors., the Court dealt with the situation where funds were allegedly connected with PMLA proceedings and observed the concern with ***premature appropriation for tax recovery*** *when that could prejudice the PMLA process.*

(e) ***Therefore:***

PMLA does not generally "override" Income-tax proceedings*, nor does Income-tax generally "override" PMLA. The practical position is* ***coordination + preservation of the respective statutory powers****, particularly when the same property/funds are involved.*

(iii) ***Flow chart***

Income-tax assessment

↓

Determines ***taxable income / tax liability ED investigation under PMLA***

↓

Determines issues concerning ***proceeds of crime / money laundering***

↓

Attachment under PMLA

↓

Adjudication / further PMLA proceedings

If the same funds are involved: *→ Courts may restrict* ***premature tax recovery/appropriation*** *if it would prejudice the PMLA process.*

(iv) ***Conclusion***

- *An Income-tax assessment does not automatically override ED's PMLA proceedings. Likewise, an ED PMLA proceeding does not automatically determine the taxpayer's income-tax liability. Each authority acts within its own statute, subject to judicial coordination where the same property or funds are involved.*

17. What is flow chart for parallel investigations by ITD and ED?

(i) *The* ***ITD → ED nexus is generally parallel, not a hierarchical appeal/ review relationship****. A clearer flow chart is:*

ITD → ED: Investigation & Adjudication Nexus

Income Tax Department (ITD) investigation

🡻

Detection of suspicious transaction / undisclosed income / suspected fraud

🡻

Relevant information shared with ED

🡻

ED examines whether the facts disclose a possible PMLA scheduled offence

🡻

ED's independent PMLA investigation

🡻

Tracing of proceeds of crime (PoC)

🡻

Search / seizure / statements / bank-account & asset tracing, as legally applicable

🡻

Provisional Attachment Order (PAO) under Section 5, PMLA

🡻

Adjudicating Authority examines the attachment under Section 8, PMLA

↓

Confirmation / other order regarding attachment

↓

Further judicial proceedings, including appeals, where applicable

↓

Possible confiscation / restoration or restitution, subject to PMLA proceedings

(ii) ***In the reverse direction:***

ED → ITD ED's PMLA investigation

↓

Discovery of undisclosed income / tax-related information

↓

Information's furnished to ITD, where legally permissible

↓

Independent Income-tax proceedings

↓

Assessment / reassessment / penalty / prosecution, as applicable

(iii) ***In simple terms***

- ***ITD proceedings do not automatically determine PMLA liability, and ED proceedings do not automatically determine income-tax liability.*** *Each authority exercises its* ***own statutory jurisdiction****. Information may flow between the agencies, but the receiving agency must independently apply the relevant statute and satisfy its own legal requirements.*

(iv) ***Conclusion***

ITD ↔ ED = information-sharing and investigative nexus, but independent investigation and adjudication under their respective statutes.

18. What is conclusion for ITD ➔ ED nexus?

(i) *The* ***Income Tax Department (ITD)*** *and the* ***Enforcement Directorate (ED)*** *may examine the same financial transactions, but their* ***statutory purposes and adjudicatory consequences are different****.*

(ii) ***Flow chart***

ITD Investigation/Assessment

↓

Detection of undisclosed income / tax violation

↓

Information sharing with ED, where relevant

↓

ED's independent PMLA investigation

↓

Identification of scheduled offence + Proceeds of Crime (PoC)

↓

Tracing of laundering / possession / concealment / use / projection

↓

PMLA attachment & adjudication

(iii) ***Conclusion***

(a) ***ITD follows the money primarily to determine tax liability****—income, source, disclosure, taxability, interest and penalty under the applicable income-tax law.*

(b) ***ED follows the money under PMLA to establish the statutory elements of money-laundering****, including the existence of* ***Proceeds of Crime (PoC)*** *and the laundering process.*

(c) ***Information may flow in both directions—ITD → ED and ED → ITD—but information sharing does not transfer jurisdiction.***

(d) ***An ITD assessment does not automatically establish money-laundering****, and an ED proceeding does not automatically determine the taxpayer's income-tax liability.*

(e) *Therefore,* ***both proceedings can run in parallel****, subject to each authority independently satisfying the requirements, evidentiary standards and procedural safeguards of its* ***own governing statute****.*

19. What is legal principle for ITD ➔ ED nexus?

(i) ***Information sharing, evidentiary use, and adjudicatory findings are legally distinct stages****. Neither department is automatically bound by the other's conclusion merely because information was exchanged.*

(ii) ***3 concepts must be kept separate***

(a) ***Information sharing***

- *Exchange of relevant information between statutory authorities.*

(b) ***Investigation / evidence***

- *Independent collection, verification and evaluation of facts by the receiving authority.*

(c) ***Adjudication / finding***

- *Determination by the competent authority under the applicable statute.*
- ***Information shared ≠ automatic adoption of conclusion ≠ binding adjudicatory finding.***

(iii) ***ITD → ED***

(a) *Under* **Section 138 of the Income-tax Act, 1961***, specified Income-tax authorities can furnish information to authorities performing functions under specified laws, subject to the statutory conditions and procedure.*

(b) *Thus, information originating from an Income-tax proceeding can become an* **input for ED investigation***, but ED must apply the PMLA framework independently.*

(iv) ***ED → ITD***

(a) *Similarly,* **Section 66 of the PMLA, 2002** *contains provisions enabling the Director/authorised authority to furnish information to specified authorities, including tax and foreign-exchange authorities, and provides for sharing where another law appears to have been contravened.*

(b) *Thus, the statutory framework itself contemplates* **two-way information flow***.*

(v) ***Core principle***

ITD finding

🡻

Information to ED

🡻

Independent PMLA investigation

🡻

Independent ED finding *and conversely*

ED finding/information

🡻

Information to ITD

🡻

Independent Income-tax proceedings

🡻

Independent tax finding

(v) ***Conclusion***

- *The* ***ITD assessment does not automatically decide the PMLA issue****, and an* ***ED investigation/attachment does not automatically decide the Income-tax liability****. The evidentiary material may overlap, but the* ***jurisdiction, statutory tests, burden/procedure and ultimate adjudicatory findings remain distinct****.*

20. What is Practical inter-agency matrix for ITD → ED nexus?

(i) *The* ***practical inter-agency matrix*** *can be stated as follows. The central principle is* ***independent adjudication****: information may flow between agencies, but one agency's investigative material or adjudicatory finding does not automatically bind another agency.*

S. No.	Agency	Can generate information for ED?	Can receive ED information?	Independent adjudication / decision-making?	Is other agency's finding automatically binding?
(i)	**ITD**	**Yes**	**Yes**	**Yes** — assessment and appellate mechanisms under tax law	**No**
(ii)	**ED – PMLA**	**—**	**Yes**	**Yes** — PMLA Adjudicating Authority / appellate process	**No**
(iii)	**ED – FEMA**	**—**	**Yes**	**Yes** — FEMA adjudication / appellate process	**No**
(iv)	**CBI**	**Yes**	**Yes**	**Criminal court process**	**No**
(v)	**DRI**	**Yes**	**Yes**	**Customs adjudication / criminal process**	**No**
(vi)	**SFIO**	**Yes**	**Yes**	**Criminal prosecution / MCA mechanisms**	**No**
(vii)	**FIU-IND**	**Yes**	**Yes**	**No conventional adjudication** — primarily financial-intelligence functions	**No**
(viii)	**SEBI**	**Yes**	**Yes**	**Yes** — regulatory/adjudicatory mechanisms	**No**

(ii) ***Practical legal effect***

- ***Information sharing ≠ evidentiary proof ≠ adjudicatory finding.***

(iii) *The matrix therefore operates in three distinct stages:*

(iv) ***Information sharing***

ITD, ED, CBI, DRI, SFIO, FIU-IND, SEBI and other competent authorities may lawfully exchange relevant information subject to their respective statutory powers and safeguards.

↓

Independent investigation / evidence

The receiving agency must evaluate the information, collect admissible/relevant evidence and establish the ingredients of the offence or statutory violation under ***its own governing legislation****.*

↓

Independent adjudication / decision

The competent authority or court must independently determine liability, attachment, confiscation, penalty or criminal guilt, as applicable.

(v) ***In simple terms***

- ***An ITD assessment does not automatically establish a PMLA offence an ED finding does not automatically determine income-tax liability and an investigation or finding by one agency is not, by itself, binding upon another statutory adjudicating authority.***

(vi) ***Conclusion***

(a) ***"Inter-agency cooperation may create an evidentiary or investigative lead, but it does not replace the independent statutory satisfaction required by the receiving agency or adjudicating authority."***

(b) *The word* ***"independent"*** *is therefore the controlling principle throughout the ITD → ED nexus.*

21. What is difference between ED's investigations and Adjudications?

(i) ***Difference between ED Investigation and PMLA Adjudication***

Aspect	***ED Investigation***	***PMLA Adjudicating Authority***
Primary function	*Investigates alleged money-laundering and traces the* ***proceeds of crime (PoC)***	*Determines statutory consequences relating to attachment/seizure /freezing after the prescribed process*
Authority	*Enforcement Directorate / authorised investigating officers*	***Adjudicating Authority constituted under Section 6***

Aspect	ED Investigation	PMLA Adjudicating Authority
Relevant provisions	*Primarily investigative provisions of PMLA, including Sections 16–18 and related provisions*	***Sections 6 and 8***
Focus	*Collection of information/evidence, tracing money and assets, identifying the laundering process and persons involved*	*Examination of the complaint, attachment/seizure/freezing and the affected person's explanation*
Source of income/ assets	*ED may investigate and trace the financial trail, including the alleged source*	*Under Section 8 proceedings, the person's explanation regarding the* ***source of income, earnings or assets*** *can become relevant*
Outcome	*Investigation may lead to a complaint/prosecution and/or attachment proceedings as authorised by PMLA*	*Statutory adjudicatory order concerning the attachment/seizure/freezing*
Final judicial determination	***No***	***No — it remains subject to the statutory appellate/judicial framework***

(ii) ***The practical ITD → ED nexus***

ITD detects unexplained/undisclosed income or suspicious transactions

↓

Information may be shared with ED

↓

ED independently investigates under PMLA

↓

ED traces the alleged proceeds of crime and their connection with the scheduled offence

↓

Attachment/seizure/freezing proceedings, where legally applicable

↓

Complaint before the PMLA Adjudicating Authority

↓

Adjudicating Authority exercises its statutory jurisdiction under Sections 6 & 8

↓

Appellate / Special Court / constitutional judicial process, as applicable

(iii) ***In simple terms***

- *The **ITD's assessment does not automatically become the ED's PMLA finding**, and conversely, an **ED investigation or PMLA adjudication does not automatically determine the taxpayer's income-tax liability**.*

(iv) ***Conclusion***

- ***Information sharing ≠ Investigation/evidence ≠ Adjudication/final judicial determination.***

22. What is best example for ITD → ED nexus?

- ***Facts:** A company claims **INR 200 crore as bogus expenses**.*

(i) ***ITD investigation — Income-tax angle***

- *The ITD examines the books, invoices, bank transactions and supporting documents and finds that the INR 200 crore expenses are not genuine.*

(ii) ***ITD question:***

(a) *Was the expenditure genuine?*

(b) *Was income concealed or wrongly reduced?*

(c) *What is the resulting **tax liability / income-tax consequence**?*

(iii) ***ED investigation — PMLA angle***

- *Suppose the ED's independent investigation reveals that the same INR 200 crore was connected with a **scheduled offence**, was generated as **proceeds of crime**, and was subsequently routed through **15 shell entities** and invested in property.*

(iv) ***ED question:***

(a) *What is the scheduled offence?*

(b) *What constitutes the **proceeds of crime (PoC)**?*

(c) *Who possessed or dealt with the PoC?*

(d) *Was it* ***layered, concealed, possessed, acquired or projected as untainted property****?*

(v) ***The nexus***

ITD investigation

↓

INR 200 crore bogus expenditure detected

↓

Tax / income-tax consequences

↓

Information / evidence may be shared

↓

ED investigation

↓

Possible scheduled offence

↓

Proceeds of Crime (PoC)

↓

Layering through shell entities

↓

Acquisition / investment in property

↓

PMLA money-laundering proceedings

(vi) ***Investigation ≠ adjudication***

ITD	***ED***
Determines the ***income-tax consequences*** *of the transaction*	*Investigates* ***money laundering under PMLA***
May find expenditure bogus/unexplained	*Must establish the PMLA ingredients independently*

ITD	ED
Assessment/finding concerns tax liability	*PMLA proceedings concern PoC and money laundering*
Its material may provide information/evidence to ED	*ED's material may also be relevant to tax proceedings*

(vii) ***Conclusion***

(a) The same INR 200 crore transaction can be relevant to both ITD and ED, but the two agencies answer different legal questions.

(b) ITD primarily determines the tax consequences of the transaction, whereas ED investigates whether the transaction is connected with a scheduled offence and involves PoC and money laundering under PMLA.

(c) A finding by ITD that INR 200 crore is bogus or unexplained does not, by itself, establish money laundering

(d) The ED must independently establish the PMLA ingredients.

(e) The nexus is factual and evidentiary—not an automatic transfer of adjudicatory findings from one agency to the other.

23. Whether ITD and ED proceedings are permitted parallelly?

Yes

(i) ***ITD and ED proceedings can generally proceed in parallel****, because they operate under different statutory frameworks & address different legal questions.*

(ii) The key point is that ***parallel proceedings do not automatically mean that one proceeding controls or supersedes the other****.*

(iii) ***Practical chronology to examine***

Stage	***ITD / ED event***	***Why it matters***
(a)	***Income-tax search / survey date***	*Establishes when ITD obtained the material*
(b)	***Predicate-offence FIR / complaint date***	*Important for identifying the scheduled offence under PMLA*

Stage	ITD / ED event	Why it matters
(c)	**ED ECIR date**	Shows commencement/timing of ED's PMLA investigation
(d)	**Income-tax assessment date**	Shows when ITD determined tax liability
(e)	**ED Provisional Attachment Order (PAO) date**	Relevant to attachment of alleged proceeds of crime
(f)	**PMLA complaint date**	Shows initiation of proceedings before the Special Court
(g)	**Adjudicating Authority order date**	Relevant to confirmation of attachment
(h)	**Subsequent criminal-court proceedings**	May affect the continuation or legal basis of PMLA proceedings

• The important legal distinction •

(iv) **ITD proceeding**

- *Principally determines* ***income-tax liability****—for example, whether income was concealed, expenses were bogus, or income was assessable.*

(v) **ED proceeding**

- *Under PMLA, principally examines whether there is a* ***scheduled/ predicate offence, proceeds of crime, and laundering of those proceeds****, and whether the statutory requirements for attachment/ prosecution are satisfied.*

(vi) **In simple terms**

- ***The same underlying transaction can generate parallel ITD and ED proceedings, but the finding in one proceeding is not automatically the final adjudication of the issue in the other proceeding.***

(vii) **Most important caution**

- *The* ***chronology can become legally decisive****, particularly where the issue concerns:*

(a) *Whether a valid **scheduled offence** existed*

(b) *Whether the alleged property constitutes **proceeds of crime***

(c) *Whether the ED proceeding was initiated/continued in accordance with PMLA*

(d) *Whether an attachment was legally sustainable*

(e) *The effect of a subsequent **acquittal, discharge, quashing or closure** of the predicate offence*

(f) *Whether any **judicial order** has specifically stayed or otherwise affected one of the proceedings.*

(viii) ***Conclusion***

- *The safest approach is to prepare a **single date-wise ITD–ED chronology** and then examine the legal consequence of each event rather than treating the ITD assessment and ED proceeding as one combined adjudication.*

24. Whether 2 proceedings can run parallelly?

Yes

- ***Two proceedings can generally run parallelly**, but they operate under different statutes, purposes, and decision-making authorities.*

⬣ Legal position ⬣

(i) ***Income-tax proceedings need not ordinarily wait for ED proceedings.***

- *There is no general rule that an Income-tax assessment must be completed before the Enforcement Directorate (ED) can commence or continue a PMLA investigation.*

(ii) ***ED proceedings need not ordinarily wait for Income-tax proceedings.***

- *Conversely, there is no general rule that the ED investigation or PMLA proceedings must conclude before the Income-tax Department can complete its assessment.*

(iii) ***Same transaction can therefore be examined from different statutory angles:***

(a) ***Income-tax Department***

- *Income, disclosure, taxability, unexplained money / transactions, tax liability*

(b) ***ED***

- *Scheduled offence, proceeds of crime, laundering, possession/use/ concealment of proceeds, and PMLA consequences.*

(iv) ***One proceeding does not automatically determine the other.***

- *A finding in an Income-tax assessment is not, by itself, a conclusive determination of money-laundering liability. Similarly, an ED action does not automatically determine the taxpayer's final Income-tax liability.*

(v) ***However, findings and evidence may have evidentiary relevance.***

- *Information, documents, bank records, statements or findings generated in one proceeding may be shared with or relied upon by the other authority, subject to the applicable statutory provisions and judicial scrutiny.*

(vi) ***In simple terms***

- ***Parallel proceedings ≠ conflicting proceedings.***

(vii) ***The key distinction:***

- ***Information may overlap, but statutory jurisdiction, investigation and adjudication remain legally distinct.***

(viii) ***Conclusion***

- ***The ITD and ED proceedings may proceed simultaneously, unless a specific statutory provision, binding judicial order, or the particular facts of the case require otherwise.***

25. What are binding effects for ITD➔ED nexus?

(i) Binding effects in the ITD → ED nexus

Stage	Position	Binding effect
Information	*ITD and ED may share and independently use relevant information, subject to statutory safeguards.*	**Not binding**
Evidence	*Evidence collected by one agency may be considered by the other, subject to the applicable evidentiary and procedural law.*	**Not automatically binding**
Investigation findings	*One agency's investigative conclusion may be relevant material for the other agency.*	**Persuasive/relevant, but not conclusive**
Final adjudicatory finding	*A final order of ITD/ED ordinarily does not automatically determine the outcome of proceedings before the other statutory authority.*	**Not ordinarily binding**
Judicial determination	*A competent court's binding judgment may have binding/preclusive effect according to the applicable law, including principles of precedent, res judicata/issue estoppel where applicable.*	**Potentially binding**

(ii) Core legal principle

- ***Information may travel between ITD and ED evidence may be considered by both but an administrative/statutory authority's final finding does not ordinarily travel as an automatically binding finding to another independent statutory authority.***

(iii) Conclusion

(a) ***ITD information → ED investigation → ED adjudication*** *does* ***not*** *mean that the ED must mechanically accept every ITD finding.*

(b) ***ED information → ITD proceedings → ITD adjudication*** *does* ***not*** *mean that the ITD must mechanically accept every ED finding.*

(c) *The key distinction is between* ***"relevance/evidentiary use"*** *and* ***"binding legal effects."*** *A finding can be highly relevant without being legally conclusive*

26. What is best example for binding effects?

(i) ***Best example for binding effects***

Situation	***Receiving authority may use***	***But must independently decide***
ITD finds INR 100 crore unexplained income	*ED may use the assessment findings, documents and material as information/evidence*	*Whether the amount represents* ***"proceeds of crime" under PMLA*** *and whether other PMLA requirements are satisfied*
ED finds INR 100 crore to be PoC	*ITD may consider ED's findings, documents and investigation material*	*The* ***income-tax treatment****, including whether it is taxable income, the relevant year, additions, deductions, etc.*

● *The key distinction* ●

(ii) ***ITD finding ≠ automatically binding on ED***

- *ITD's conclusion that* ***INR 100 crore is unexplained income*** *can be relevant material for ED, but ED cannot simply treat that conclusion as conclusively establishing* ***PoC****. ED has to independently establish the ingredients required under PMLA.*

(iii) ***ED finding ≠ automatically binding on ITD***

- *ED's conclusion that* ***INR 100 crore is PoC*** *can be relevant material for ITD, but ITD must independently determine its* ***taxability and tax consequences under the Income-tax Act****.*

(iv) ***In simple terms***

- ***"Information and evidence may travel between ITD and ED statutory findings do not automatically travel as binding adjudications."***

(v) ***Conclusion***

ITD finding

↓

Relevant material for ED

↓

ED's independent PMLA determination

↓

No automatic binding effect.

27. What is status of ED's investigations when ITD's ITAT has withdrawn allegations?

(i) ***Correct legal position***

Situation	***Effect on ED/PMLA proceedings***
ITAT merely gives a different view on ***taxability***	*ED investigation may generally continue independently*
ITAT finds that the alleged income/ transaction ***did not exist at all***	*Strong impact on ED's factual foundation*
ITAT finally holds that the alleged transaction was ***genuine****, contrary to ITD's allegation*	*ED must consider that finding it is not automatically bound, but cannot simply ignore it*
Allegation was the only basis for identifying the ***INR 100 crore as PoC***	*ED's case may be materially weakened*
The alleged ***scheduled/predicate offence itself fails or is quashed/acquitted***	*Potentially fundamental consequence for the PMLA case, depending on the precise offence and judicial findings*

Situation	***Effect on ED/PMLA proceedings***
ITAT order is under appeal / not final	*Its evidentiary and precedential weight is different from a final determination*
*ED has **independent evidence** establishing a scheduled offence and PoC*	*PMLA proceedings may survive despite the ITAT's different tax conclusion*

(ii) ***The key distinction***

- *The most important question is **what exactly did the ITAT withdraw/reject?***

(a) *The ITD alleged that INR 100 crore was bogus/unexplained and treated it as undisclosed income where ITAT merely says that "The assessee is **not taxable on this INR 100 crore** under the particular Income-tax provision,"*

(b) *The ITD's decision does **not necessarily mean** that "The INR 100 crore was not generated through criminal activity and cannot be PoC."*

(c) *However, the ITAT makes a final factual finding saying that "The alleged INR 100 crore transaction was genuine the ITD's allegation of bogus accommodation entries is not established,"*

(d) *Thereafter the finding can be **far more significant for ED**, because the factual foundation relied upon to identify the INR 100 crore as PoC may have disappeared.*

(iii) ***In simple terms***

(a) ***The ITAT rejection ≠ automatic closure of ED proceedings.***

(b) ***The ITAT final finding:***

Examine its subject matter

↓

Compare it with ED's scheduled offence and PoC

↓

Determine whether the factual foundation of the PMLA case survives.

(c) *A particularly important point is that* ***res judicata, issue estoppel and precedent should not be stated as automatically applying between ITAT and ED proceedings****.*

(d) *Their applicability depends on the statutory framework, identity of issues/ parties, nature of the determination and the relevant judicial doctrine.*

(e) *The stronger proposition is that a* ***final judicial/quasi-judicial finding on an identical foundational fact may have substantial evidentiary and legal consequences****, even if it is not formally binding in the same manner as a judgment between identical parties.*

(iv) ***Practical test for an ED case,*** *ask these* ***5 questions****:*

(a) ***What was the exact ITAT finding?***

(b) ***Was it a tax-law finding or a factual finding about the underlying transaction?***

(c) ***Is the same INR 100 crore being alleged by ED as PoC?***

(d) ***Does the ED have independent evidence of the scheduled offence and generation of PoC?***

(e) ***Has the predicate offence itself survived, been quashed, or resulted in acquittal?***

(v) ***Conclusion***

(a) ***An ITAT order rejecting ITD's allegation does not, by itself, extinguish ED's PMLA investigation.***

(b) ***However, where the ITAT's final finding negates the very transaction, criminality, or factual foundation from which ED derives the alleged PoC, that finding can substantially undermine—and in an appropriate case may fundamentally affect—the continuation of the PMLA proceedings.***

28. What is nexus test for ITD ➔ ED?

(i) *The central question is **not merely whether the Income Tax Department and ED have exchanged information**.*

(ii) *The real question is whether there is a **legally sustainable chain connecting the alleged tax-related conduct, the scheduled offence, the alleged Proceeds of Crime (PoC), and the PMLA offence under Section 3**.*

S.No.	***Nexus question***	***What must be tested***
(a)	***What is the original offence?***	*Is there a **scheduled offence** under the PMLA, and what is the precise criminal allegation?*
(b)	***What is the alleged PoC?***	*Precisely identify the **property/value** alleged to constitute or represent proceeds of crime and its link to the scheduled offence.*
(c)	***What did ITD actually decide?***	*Was it only an **income-tax addition**, or did the ITD record findings indicating fabrication, fraud, falsity or other conduct relevant to a scheduled offence?*
(d)	***What did ED actually allege?***	*Identify the precise allegation under **Section 3 PMLA**—particularly the alleged process/activity involving the PoC.*
(e)	***What information actually moved?***	*Identify the **actual letter, report, complaint, assessment material, intelligence input or reference** transmitted between ITD and ED. Information-sharing should not simply be presumed.*
(f)	***What has actually been adjudicated?***	*Keep separate: **IT assessment order → IT appellate order → ED PAO → PMLA Adjudicating Authority order → Special Court judgment**. Each has a different legal function and effect.*

S.No.	Nexus question	What must be tested
(g)	**Are the findings consistent or contradictory?**	Determine whether later findings **support, modify, negate or contradict** the factual foundation relied upon by ED.

• The critical distinction •

(iii) **An ITD finding does not automatically become a PMLA finding.**

(a) Similarly, an **income-tax addition by itself does not automatically establish a scheduled offence, PoC, or the Section 3 PMLA offence**.

(b) The ED must establish the legally required nexus independently on the facts and evidence of the case.

(c) Conversely, an ITD appellate finding that **substantially rejects the factual foundation** relied upon by ED can become highly relevant to the sustainability of the ED case—especially where the ED's allegation depends materially upon that rejected foundation.

(iv) **In simple terms**

Scheduled offence

↓

Criminality / underlying unlawful activity

↓

Proceeds of Crime

↓

Possession / concealment / acquisition / projection or claiming as untainted

↓

Section 3 PMLA allegation

↓

ED evidence and investigation

↓

Adjudication / Special Court findings

(v) ***Conclusion***

- *If a material link in this chain is **absent, legally unavailable, or conclusively undermined by a competent adjudicatory finding**, that is where the real **ITD → ED nexus issue** arises.*

29. What is conclusion for ITD ➔ ED nexus?

- ***Relevant Supreme Court material and recent developments for ITD➔ ED nexus*** ●

  - *The conclusion can be strengthened by adding the Supreme Court's **PMLA principles** and a caution that Sections 138 and 66 facilitate information-sharing but **do not merge the two statutory jurisdictions**.*

- ***Relevant Supreme Court material and recent developments for ITD → ED nexus*** ●

(i) ***Vijay Madanlal Choudhary v. Union of India — Constitution Bench, 2022***

(a) *The foundational principle is that **"proceeds of crime" is the jurisdictional foundation of PMLA**.*

(b) *A scheduled offence and criminal activity relating to that scheduled offence must exist mere financial irregularity or unexplained income, by itself, does not automatically become proceeds of crime.*

(c) *The Supreme Court has emphasised that PMLA operates when property constitutes proceeds of crime connected with a scheduled offence.*

(d) ***ITD → ED implication:***

- *An ITD finding such as "income is unexplained", "expense is bogus" or "income is undisclosed" can be relevant **information/material**, but ED must independently establish the PMLA requirements—particularly the existence and linkage of proceeds of crime to a scheduled offence.*

(ii) ***Supreme Court, 8 April 2024 — 2024 INSC 301***

(a) *The Court reiterated that where the offences relied upon are **not scheduled offences, there cannot be proceeds of crime and consequently no Section 3 PMLA offence**.*

(b) *This is particularly important for the ITD → ED nexus:* ***a tax violation does not become a PMLA predicate merely because it involves a large amount of money.*** *The statutory schedule and the necessary criminal nexus must independently exist.*

(iii) ***Supreme Court, 2 February 2024 — Criminal Appeal @ SLP (Crl.) No. 12063/2023***

(a) *The Court observed that the existence of proceeds of crime is a* ***condition precedent*** *for the offence of money-laundering and found, prima facie, that unaccounted money and acquisition of property were insufficient where there was no demonstrated link with the predicate offence.*

(b) *This supports a useful* ***nexus test****:*

Tax irregularity
🡻
Criminal activity relating to scheduled offence
🡻
Identifiable proceeds of crime
🡻
Laundering activity/property
🡻
PMLA jurisdiction.

(c) *A missing link cannot simply be supplied by an ITD assessment order.*

(iv) ***Supreme Court, 7 October 2025 — 2025 INSC 1194***

(a) *The Court considered the effect of developments in the underlying scheduled offence and the argument that absence of a live scheduled offence affects the PMLA case.*

(b) *The judgment is important because it shows that the relationship between the predicate offence and PMLA proceedings must be examined* ***on the actual procedural and factual status of the scheduled offence****, rather than by treating the two proceedings as completely independent.*

(v) Conclusion

Issue	ITD → ED position
Information	Can flow between agencies subject to statutory safeguards
Evidence/material	Can be considered by the other agency
ITD assessment	Relevant material, but **not automatically a PMLA finding**
ITD tax addition	Does **not by itself** establish proceeds of crime
Scheduled offence	Must independently satisfy PMLA requirements
Proceeds of crime	Must be connected to criminal activity relating to the scheduled offence
ED investigation	ED applies the PMLA test independently
Adjudication	Each authority applies its own statutory jurisdiction
Other agency's finding	May have evidentiary/practical significance, but is not automatically conclusive

30. Whether a mere Income-tax violation is constituting a PMLA scheduled offence?

No

(i) Refined legal position

Issue	Position
Mere non-disclosure / unaccounted income	**Not automatically PMLA PoC**
Mere tax liability or tax evasion	**Not automatically a scheduled offence**
Property acquired through legitimate business/ income but not disclosed for tax	May have **income-tax consequences**, but that alone does not establish PoC
Property derived from criminal activity constituting a scheduled offence	**Can constitute PoC**, subject to the PMLA requirements
Money subsequently layered, concealed, possessed, acquired or projected as untainted	May attract the **PMLA laundering offence**, if the statutory ingredients are established

● *The key distinction* ●

(ii) ***"Unaccounted property" ≠ "Proceeds of crime."***

(a) *If a person acquired property through a* ***lawful source****, but failed to disclose it or pay the appropriate income tax, the tax authority may take action under the Income-tax Act.*

(b) *That fact* ***does not, without more, establish that the property was derived from a scheduled offence.***

(c) *Conversely, if the underlying property is generated through a* ***scheduled offence****, its character as proceeds of crime may arise under PMLA, and the subsequent handling/dealing with that property has to be examined under the PMLA framework.*

(iii) ***"Was income tax evaded?"***

(iv) ***"What is the original criminal activity from which the property was derived or obtained, and does that activity fall within the PMLA Schedule?"***

- *That distinction is particularly important when an Income-tax finding describes an amount merely as* ***"unexplained," "undisclosed," or "unaccounted"****: such a finding should not automatically be equated with a finding that the amount is* ***proceeds of crime*** *under PMLA.*

31. Whether ED can rely upon an Income-tax investigation report?

Yes

(i) ***The Enforcement Directorate (ED) can rely upon an Income-tax investigation report****, subject to the statutory and evidentiary requirements applicable to the ED proceedings.*

(ii) ***Section 138 of the Income-tax Act, 1961*** *provides a statutory mechanism for furnishing information obtained by Income-tax authorities to specified authorities performing functions under other laws.*

(iii) *Therefore, information or findings emerging from an* ***Income-tax investigation can be shared with and considered by the ED*** *where the statutory conditions for disclosure are satisfied.*

(iv) *However,* ***reliance on the Income-tax report does not automatically establish a PMLA offence****. The ED must independently establish the ingredients of the relevant* ***scheduled offence*** *and the alleged* ***proceeds of crime*** *under PMLA.*

(v) *Thus, the Income-tax report may constitute* ***information, material or evidence for the ED investigation****, but the ED's PMLA proceedings must have their own statutory foundation.*

(vi) ***In short terms***

ITD Investigation Report

↓

May be furnished/used by ED

↓

May form investigative material

↓

But ED must independently satisfy PMLA requirements.

32. Whether ED is permitted to obtain Income tax records?

Yes

- ***Subject to the statutory mechanism and the nature of the records.***

(i) ***Section 138 of the Income-tax Act, 1961*** *provides a statutory framework for disclosure of information obtained by Income-tax authorities to specified authorities/persons, subject to the conditions prescribed under the provision.*

(ii) *Therefore,* ***ED can obtain and use Income-tax information/records where disclosure is legally authorised****, including through the applicable statutory or inter-agency mechanism.*

(a) *However, **Section 138 does not mean that every Income-tax record is automatically available to ED**.*

(b) *The particular record, authority making the disclosure, purpose of disclosure and applicable confidentiality restrictions must be examined.*

(iii) *Once lawfully obtained, such information may be relevant to an **ED investigation under PMLA**, but its evidentiary value and the conclusions to be drawn from it remain matters for determination under the PMLA proceedings.*

33. *What happens if the predicate/scheduled offence disappears?*

(i) ***Answer** of this question is **available when** the **Supreme Court jurisprudence** becomes particularly **important**.*

(ii) *The **Supreme Court** has **held that** the **existence of** Proceeds of Crime (**PoC**) is **a condition** precedent **for** the **PMLA offence**. Hence, **if** there are **no PoC** the **Section 3** of PMLA, 2002 **cannot operate**.*

(iii) *The **Supreme Court** has **explained** in Vijay Madanlal Choudhary, **that if** the **scheduled offence** is finally **terminated by acquittal**, discharge or quashing, the **foundation for** the **PMLA case** concerning that property **can disappear**.*

(a) *The **existence of Proceeds of Crime (PoC)** is a **condition precedent** to the applicability of the PMLA offence under **Section 3**.*

(b) *The Supreme Court in **Vijay Madanlal Choudhary v. Union of India** explained that the offence of money-laundering is intrinsically connected with **"proceeds of crime" arising from a scheduled offence**. If there is no PoC, the foundational requirement for Section 3 is absent.*

(c) *Therefore, where the **predicate/scheduled offence is finally terminated**—for example, by **acquittal, discharge or quashing**—the foundation of the PMLA proceedings may also disappear **insofar as the alleged PoC is concerned**.*

(iv) *However, the effect must be examined carefully on the* ***nature and finality of the order****. A mere closure of an investigation or an interim order is not necessarily equivalent to a final judicial termination of the scheduled offence.*

(v) ***Core principle***

No scheduled offence

↓

No proceeds of crime

↓

Ordinarily no foundation for the Section 3 PMLA offence.

34. Whether acquittal in the scheduled offence automatically end the PMLA case?

Yes

(i) ***PMLA depends upon the existence of "proceeds of crime."*** *Under Section 2(1)(u), proceeds of crime are property derived or obtained, directly or indirectly, from criminal activity relating to a scheduled offence.*

(ii) *Therefore,* ***if the scheduled offence is finally wiped out****, the foundational basis for treating the property as proceeds of crime ordinarily disappears.*

(iii) *The Supreme Court has held that where a person is* ***finally acquitted/ discharged of the scheduled offence****, the PMLA case concerning proceeds arising from that offence cannot ordinarily continue independently.*

(iv) ***But the stage and nature of the acquittal matter.*** *A trial-court acquittal that is still subject to appeal may not have the same consequence as a* ***final and conclusive acquittal*** *after the appellate process is exhausted.*

(v) ***Similarly, one must distinguish between****:*

- *(a)* *Acquittal of the accused from the scheduled offence*
- *(b)* *Quashing/discharge of the scheduled offence*
- *(c)* *Acquittal that is subsequently reversed in appeal*
- *(d)* *Proceedings involving other accused, other scheduled offences, or an independently sustainable predicate offence.*

(vi) ***Conclusion***

(a) *Acquittal does not mechanically "automatically" terminate the PMLA case in every procedural situation.*

(b) *But where the acquittal/final termination of the scheduled offence is conclusive, and there is consequently no surviving criminal activity relating to a scheduled offence from which the alleged proceeds of crime can arise, the foundational basis of the PMLA proceedings ordinarily disappears.*

35. Whether a person facing PMLA also be an accused in the scheduled offence?

No.

(i) *The PMLA offence under* ***Section 3*** *is distinct from the scheduled/predicate offence. A person need not necessarily have been an accused in the scheduled offence to be prosecuted for money-laundering.*

● ***The key distinction*** ●

(ii) ***Generation of proceeds of crime:***

A person may be involved in the scheduled offence through which the proceeds of crime were generated.

(iii) ***Subsequent handling of proceeds:***

Another person, who did not participate in generating the proceeds, may subsequently ***knowingly*** *possess, conceal, use, acquire, or project/claim them as untainted property, if the statutory requirements of Section 3 are satisfied.*

(iv) ***Separate liability under PMLA:***

Therefore, the absence of the person's name as an accused in the predicate offence ***does not, by itself, prevent*** *prosecution under PMLA.*

(v) ***But there must still be a PMLA foundation:***

The prosecution must establish the necessary connection with ***"proceeds of crime"*** *and the conduct contemplated by Section 3. Merely possessing somebody* *else's property, without satisfying the statutory requirements, does not automatically constitute money-laundering.*

(vi) ***Conclusion***

(a) ***"Not an accused in the scheduled offence" ≠ "immune from PMLA."***

(b) *However,* ***"Not an accused in the scheduled offence" + "no proceeds of crime/no nexus with the Section 3 conduct"*** *can be a materially stronger defence.*

(c) *This distinction is particularly important when examining whether the* ***scheduled offence, proceeds of crime and alleged laundering activity*** *are legally connected.*

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