



2026:DHC:2161-DB



\$~15 to 21, 29 and 30

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 12th March, 2026

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+ **MISC. APPEAL (FEMA) 25/2025**

CITIBANK N.A.

.....Appellant

Through: Mr. Rajeev K. Virmani, Sr. Adv, Ms. Rashmi Virmani, Mr. Krishan Tewary, Ms. Shriya Gambhir, Ms. Diva Saigal, Advs.

versus

SPECIAL DIRECTOR OF ENFORCEMENT

.....Respondent

Through: Mr. Vivek Gurnani, Panel Counsel, Mr Kanishk Maurya Adv. for DoE.

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+ **MISC. APPEAL (FEMA) 26/2025**

HONGKONG AND SHANGHAI BANKING CORPORATION LTD.

.....Appellant

Through: Mr. Ateev Mathur, Mr. Amol Sharma, Mr. Sanjay Gupta Mr. Anmol Mehta & Ms. Tanya Baijla, Advs.

versus

ENFORCEMENT DIRECTORATE

.....Respondent

Through: Mr. Vivek Gurnani, Panel Counsel, Mr Kanishk Maurya Adv. for DoE.

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+ **MISC. APPEAL (FEMA) 27/2025**

CITIBANK, N.A.

.....Appellant

Through: Mr. Rajeev K. Virmani, Sr. Adv., Ms. Rashmi Virmani, Mr. Krishan Tewary, Ms.



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Shriya Gambhir, Ms. Diva
Saigal, Advs.

versus

SPECIAL DIRECTOR OF ENFORCEMENT

.....Respondent

Through: Mr. Vivek Gurnani, Panel
Counsel, Mr Kanishk Maurya
Adv. for DoE.

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+ **MISC. APPEAL (FEMA) 28/2025 & CRL.M.A. 10747/2009**
THE BANK OF TOKYO MITSUBISHI, UFJ LTD.

.....Appellant

Through: Mr. Varun Chandiok, Mr.
Yashwant Sanenbam, Advs.

versus

DIRECTOR OF ENFORCEMENT

.....Respondent

Through: Mr. Vivek Gurnani, Panel
Counsel, Mr Kanishk Maurya
Adv. for DoE.

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+ **MISC. APPEAL (FEMA) 29/2025 & CRL.M.A. 10749/2009**
THE BANK OF TOKYO MITSUBISHI, UFJ LTD.

.....Appellant

Through: Mr. Varun Chandiok, Mr.
Yashwant Sanenbam, Advs.

versus

DIRECTOR OF ENFORCEMENT

.....Respondent

Through: Mr. Vivek Gurnani, Panel
Counsel, Mr Kanishk Maurya
Adv. for DoE.

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+ **MISC. APPEAL (FEMA) 30/2025**
CITIBANK .N.A

.....Appellant

Through: Mr. Rajeev K. Virmani, Sr.
Adv., Ms. Rashmi Virmani,
Mr. Krishan Tewary, Ms.
Shriya Gambhir, Ms. Diva



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Saigal, Advs.

versus

ASSISTANT DIRECTOR OF ENFORCEMENT

.....Respondent

Through: Mr. Vivek Gurnani, Panel
Counsel, Mr Kanishk Maurya
Adv. for DoE

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MISC. APPEAL (FEMA) 31/2025

CITI BANK N.A.

.....Appellant

Through: Mr. Rajeev K. Virmani, Sr.
Adv., Ms. Rashmi Virmani,
Mr. Krishan Tewary, Ms.
Shriya Gambhir, Ms. Diva
Saigal, Advs.

versus

SPECIAL DIRECTOR OF ENFORCEMENT

.....Respondent

Through: Mr. Vivek Gurnani, Panel
Counsel, Mr Kanishk Maurya
Adv. for DoE.

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MISC. APPEAL (FEMA) 7/2026

STATE BANK OF INDIA NRI BRANCH

.....Appellant

Through: Mr. AP Singh, Mr. Varnit
Vashistha, Advs.

versus

SPECIAL DIRECTOR OF ENFORCEMENT

.....Respondent

Through: Mr. Vivek Gurnani, Panel
Counsel, Mr Kanishk Maurya
Adv. for DoE.

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MISC. APPEAL (FEMA) 8/2026

STATE BANK OF INDIA, MAIN BRANCH

..... Appellant

Through: Mr. AP Singh, Mr. Varnit



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Vashistha, Advs.

versus

SPECIAL DIRECTOR OF ENFORCEMENT

.....Respondent

Through: Mr. Vivek Gurnani, Panel
Counsel, Mr Kanishk Maurya
Adv. for DoE.

CORAM:**HON'BLE MR. JUSTICE NAVIN CHAWLA****HON'BLE MR. JUSTICE RAVINDER DUDEJA****NAVIN CHAWLA, J. (ORAL)**

1. These appeals have been filed under Section 35 of the Foreign Exchange Management Act, 1999, challenging the orders passed by the learned Appellate Tribunal for Foreign Exchange, New Delhi in the appeals reference of which is being given in the form of chart herein under.

<i>Appeals listed before us.</i>	<i>Original Criminal Appeal</i>	<i>Appeals before the learned Tribunal and date of impugned order</i>
MISC. APPEAL (FEMA) 25/2025	CRL.A. 510/2009	Appeal No. 183/2008 Date: 28.05.2009
MISC. APPEAL (FEMA) 26/2025	CRL.A. 609/2009	Appeal No. 210/2008 Date: 28.05.2009
MISC. APPEAL (FEMA) 27/2025	CRL.A. 610/2009	Appeal No. 987/2004 Date: 30.06.2009
MISC. APPEAL (FEMA) 28/2025	CRL.A. 673/2009	Appeal No. 189/2008 Date: 28.05.2009



MISC. APPEAL (FEMA) 29/2025	CRL.A. 674/2009	Appeal No. 209/2008 Date: 28.05.2009
MISC. APPEAL (FEMA) 30/2025	CRL.A. 741/2009	Appeal No. 184/2005 Date: 28.07.2009
MISC. APPEAL (FEMA) 31/2025	CRL.A. 1007/2009	Appeal No. 961/2004 Date: 16.09.2009
MISC. APPEAL (FEMA) 7/2026	CRL.A. 8/2010	Appeal No. 187/2008 Date: 28.05.2009
MISC. APPEAL (FEMA) 8/2026	CRL.A. 9/2010	Appeal No. 188/2008 Date: 28.05.2009

2. As all the appeals raise same question of law on the maintainability of the proceedings, they are being disposed of by this common judgment.

3. The learned Senior Counsel appearing for the appellants in MISC. APPEAL (FEMA) 25/2025, MISC. APPEAL (FEMA) 27/2025, MISC. APPEAL (FEMA) 30/2025, MISC. APPEAL (FEMA) 31/2025 and the learned counsels appearing for the appellants in the other appeals, jointly submit that the common issue of law that arises for consideration in the present appeals is whether the Show Cause Notice(s) issued to the appellants for the alleged contravention of various provisions of The Foreign Exchange Regulation Act, 1973(FERA Act, 1973), as well as of Para 13B.22 of Chapter 13 of the Exchange Control Manual, 1993 in some of the appeals, are liable to be quashed on the ground of delay alone. In support of their plea, they have placed reliance on a judgment of the



Supreme Court in *Union of India and Anr. Vs. Citi Bank N.A.*, (2022) 19 SCC 188.

4. On the other hand, the learned counsel for the respondent submits that the above judgment would have no application on the facts of the present case, inasmuch as the inquiry against the appellants had been initiated in the year 1995 itself. The appellants, therefore, cannot take the plea of destruction of the records in terms of the applicable rules, as they were required to preserve the same for the purposes of the inquiry. He submits that the judgment of the Supreme Court, therefore, would not apply to the facts of the present case.

5. We have considered the submissions made by the learned counsels for the parties.

6. We would first, in form of a chart, display the period of the alleged transactions and the date of the issuance of the Show Cause Notice(s) to the appellants in each of the appeals as under:

<i>Appeals</i>	<i>Period of Transaction</i>	<i>Issuance Date of Show Cause Notices</i>
MISC. APPEAL (FEMA) 25/2025	08.08.1992 to 10.05.1994	04.04.2002
MISC. APPEAL (FEMA) 26/2025	17.09.1992 to 18.07.1994	04.04.2002
MISC. APPEAL (FEMA) 27/2025	24.01.1992 to 01.02.1992	15.03.2002
MISC. APPEAL (FEMA) 28/2025	21.04.1994 to 24.08.1994	04.04.2002



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MISC. APPEAL (FEMA) 29/2025	22.03.1993 to 01.02.1995	04.04.2002
MISC. APPEAL (FEMA) 30/2025	21.11.1989 to 30.03.1992	25.02.2002
MISC. APPEAL (FEMA) 31/2025	02.02.1990 to 21.11.1992	20.05.2002
MISC. APPEAL (FEMA) 7/2026	24.07.1993 to 28.08.1994	04.04.2002
MISC. APPEAL (FEMA) 8/2026	12.01.1993 to 30.07.1994	04.04.2002

7. The Supreme Court in *Citi Bank* (supra) in a batch of appeals was also considering the case where a Show Cause Notice dated 25.02.2002 had been issued to the bank alleging contravention for a period from October, 1992 to January, 1993. The Supreme Court after considering the submissions made by the counsels for the parties held that, even where a period of limitation is not provided in the statute, the authorities are required to initiate the proceedings within a reasonable period; the reasonable period would depend upon the facts and circumstances of each case. The Supreme Court then relied upon Rule 2, 3 and 4 of the Banking Companies (Period of Preservation of Records) Rules, 1985 and held that as the said rules require the preservation of records for a period of 5/8 years unless otherwise directed by the Reserve Bank of India for the record to be preserved for a longer period. The Show Cause Notice(s) issued therein were held to be liable to be quashed on the ground of delay alone. We quote



from the judgment as under:

“19. It is a settled proposition of law that when the proceedings are required to be initiated within a particular period provided under the statute, the same are required to be initiated within the said period. However, where no such period has been provided in the statute, the authorities are required to initiate the said proceeding within a reasonable period. No doubt that what would be a reasonable period would depend upon the facts and circumstances of each case.

xxx xxx xxx
24. Admittedly, in the present cases, the alleged transactions had taken place during Financial Years 1992 and 1993. Show-cause notices for the said transactions were issued in the year 2002 and that too just before the sunset period of FERA was to expire i.e. on 1-6-2002. We are therefore of the considered view that show-cause notices and the proceedings continued thereunder are liable to be set aside on this short ground.

xxx xxx xxx
26. It can thus clearly be seen that the said Rules require every banking company to preserve records stated in Rule 2 for five years and eight years for records mentioned in Rule 3, respectively. No doubt that under Rule 4 of the said Rules, RBI, having regard to the factors specified in sub-section (1) of Section 35-A, by an order in writing, is empowered to direct any banking company to preserve any of the books, accounts or other documents, etc. for a period longer than the period specified under the said Rules.

27. Undisputedly, no such order has been placed on record which required the respondent Banks to preserve records concerning the transactions in question for a period longer than eight years.

28. It could thus be seen that even under the said Rules, the Banks are required to preserve the record for five years and eight years,



respectively. On this ground also, permitting the show-cause notices and the proceedings continued thereunder of the transactions which have taken place much prior to eight years would be unfair and unreasonable.”

8. In the present batch of appeals, though for some the period in question is extending till August, 1994, the initial period ranges from January, 1990 onwards. The Show Cause Notice(s), the dates of which have been mentioned hereinabove, have been issued just before expiry of the sunset period of the FERA Act. Therefore, in our view, these appeals are covered by the judgment of the Supreme Court in *Citi Bank* (supra).

9. The submission of the learned counsel for the respondent that inquiries had been initiated in the year 1995, would not come to the aid of the respondent inasmuch as it has not been shown that any instructions were also issued to the appellants to preserve their records while the inquiry is ongoing. Even otherwise there is a further delay of almost seven years between 1995 to 2002 for issuing the Show Cause Notice(s).

10. The impugned orders passed by the learned Appellate Tribunal are hereby quashed.

11. The learned counsels for the parties submit that pursuant to the interim orders passed by the learned Appellate Tribunal, and as extended by this Court in the appeals as were originally numbered, the appellants had provided Bank Guarantees for the amount of penalty imposed on them. As the appeals have been allowed, the Bank Guarantees are hereby discharged. They shall be released by the Adjudicating Authority forthwith to the appellants.



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12. The appeals, along with pending applications, if any, accordingly stands disposed of in terms of aforesaid orders.

NAVIN CHAWLA, J

RAVINDER DUDEJA, J

MARCH 12, 2026/lks/sk/pb/ik