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

Reserved on: 11.03.2026
Pronounced on: 08.04.2026

\+ MISC. APPEAL (FEMA) 2/2025
\+ MISC. APPEAL (FEMA) 3/2025
\+ MISC. APPEAL (FEMA) 4/2025

SUNITA MEHTA .....Appellant
SUBASH MEHTA .....Appellant
SANJAY MEHTA .....Appellant

Through: Mr.R.K. Handoo, Mr.Yoginder Handoo, Mr.Ashwin Kataria, Mr.Garvit Solanki, Mr.Gaurav Vishwakarma, Mr.Aditya Aggarwal, Advs.

versus

SPECIAL DIRECTOR ENFORCEMENT DIRECTORATE .....Respondent

Through: Mr.Arkaj Kumar, SC with Mr.Aakarsh Mishra, Ms.Vaishanavi Bhargava, Mr.Akshat Khanna and Mr.Karsh Sarosh Rebelo, Advs.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MR. JUSTICE RAVINDER DUDEJA

J U D G M E N T

NAVIN CHAWLA, J.

1. These appeals have been filed by the appellant(s) under Section 35 of the Foreign Exchange Management Act, 1999 (hereinafter referred to as 'FEMA') challenging the final orders passed by the

learned Appellate Tribunal for Foreign Exchange in the appeals, details of which are mentioned in the form of a chart hereinunder for easy reference:

Appeal No. before this Court	**Appeal No. before the Appellate Tribunal**	**Date of the Impugned Order**
MISC. APPEAL (FEMA) No. 2/2025	Appeal No. 212/2010	31.05.2012
MISC. APPEAL (FEMA) No. 3/2025	Appeal No. 210/2010	31.05.2012
MISC. APPEAL (FEMA) No. 4/2025	Appeal No. 213/2010	31.05.2012

2. As the three appeals arise from the common facts and raise common issues, they are being taken up together for disposal by way of this common judgment.

3. The following Show Cause Notices were issued to the appellant(s), which resulted, first in the Adjudication Order No. ADJ/25-28/B/SDE/RAJ/2010/FEMA dated 17.08.2010 passed by the Adjudicating Authority and thereafter, the impugned order of the Appellate Tribunal. For the sake of easy reference, they are detailed hereinunder in the form of a chart:

Appeal No. before this Court	**Appeal No. before the Appellate Tribunal**	**Date of show cause notice**	**Date of the order of the Adjudicating Authority**
MISC. APPEAL (FEMA) No. 4/2025	Appeal No. 213/2010	SCN No. T-4/07-B/SDE/KNR/2008 dated 12.09.2008	17.08.2010
MISC. APPEAL (FEMA) No. 2/2025 and 3/2025	Appeal No. 210/2010 and 212/2010	SCN No. T-4/16-B/SDE/KNR/2008 dated 31.10.2008	17.08.2010

MISC. APPEAL (FEMA) No. 3/2025	Appeal No. 210/2010	SCN No. T-4/66-B/SDE/KNR/2009 dated 24.02.2009	17.08.2010
MISC. APPEAL (FEMA) No. 3/2025	Appeal No. 210/2010	SCN No. T-4/28-B/SDE/KNR/2009 dated 07.05.2009	17.08.2010

4. The show cause notices allege contravention of Section 3(b) of FEMA, read with Section 6(3)(f) of FEMA and Regulation 5(1)(iv) and Schedule 4 of the Foreign Exchange Management (Deposit) Regulations, 2000 (hereinafter referred to as 'Regulations'). All the show cause notices are premised on allegations that the appellant(s) had opened 'Non-Resident (Non-Repatriable) Rupee Accounts' ('NRNR Accounts') while they were in Canada. They had, later, in the year 2001, obtained loans against these NRNR Accounts, the proceeds of which were then used by the appellant(s) to open further NRNR Accounts with other banks. It was alleged that the opening of the subsequent NRNR Account with funds which did not come from outside India but were raised in the form of a loan within India, amounted to contravention of provisions of Section 6(3)(f) of FEMA read with Regulation 5(1)(iv) and Schedule 4 of the Regulations.

5. In response to these show cause notices, the appellant(s) had asserted that in the year 2001, they found out that the cooperative banks where they had opened their NRNR Accounts, were in financial trouble. They came to India to withdraw their money from these accounts, however, the banks were not ready to do so and instead advised that the amount be taken by them as a loan. Having no choice,

they withdrew the money in form of loan and then reinvested the money in the subsequently opened NRNR Accounts.

6. The Adjudicating Authority, *vide* its common order dated 17.08.2010, imposed penalties on the appellant(s) and also ordered the confiscation of the amount lying in their NRNR Accounts.

7. Aggrieved by the same, the appellant(s) filed appeals under Section 19 of FEMA before the Appellate Tribunal, however, the same were dismissed by the Appellate Tribunal by way of its common order dated 31.05.2012, impugned in the present set of appeals.

SUBMISSIONS OF THE LEARNED COUNSEL FOR THE APPELLANT(S):

8. Mr.R.K. Handoo, the learned counsel appearing for the appellant(s), submits that the impugned order of the learned Tribunal fails to appreciate that Regulation 5(1)(iv) of the Regulations, violation of which has been alleged against the appellant(s), casts a duty only on the '*Authorised Dealer*' and, therefore, any contravention of the same can only lead to a penalty proceeding against such '*Authorised Dealer*' and not against the appellant(s) who had opened such accounts.

9. He further submits that, in any case, Regulation 5(1)(iv) of the Regulations stood omitted by a Notification dated 01.03.2002. As the show cause notices were issued thereafter, the same were not maintainable and liable to be quashed on this ground. In support, he places reliance on the judgment of the Supreme Court in ***Rayala***

Corporation (P) Ltd. & Anr. v. Director of Enforcement, New Delhi, (1969) 2 SCC 412.

10. He further submits that in terms of the Circular dated 04.03.2002 issued by the Reserve Bank of India, the maturity proceeds of the deposits under NRNR Accounts could be credited to the account holder's Non-Resident (External) Rupee Account ('NRE Account'), which was freely convertible. He submits that, therefore, even assuming a technical violation in opening the new accounts, the appellant(s) could not have been penalised.

11. He submits that without prejudice to the above, no reason has been assigned for confiscating the amount lying to the credit of the accounts of the appellant(s) in addition to the penalty imposed upon them. He submits that being an order without reason, the same is liable to be set aside as confiscation of the amount lying in the NRNR accounts cannot be automatic under FEMA.

SUBMISSIONS OF THE LEARNED COUNSEL FOR THE RESPONDENT:

12. Mr.Arkaj Kumar, the learned standing counsel appearing for the respondent, on the other hand, submits that in terms of Schedule 4 of the Regulations, an NRNR Account can be opened only from the funds remitted from outside India. He submits that in terms of Clause 8 of Schedule 4 of the Regulations, loans/overdrafts against the security of these deposits can be utilised only for personal purposes or for carrying on business activities and not for re-lending. He submits

that, therefore, the amount of the loan could not have been re-invested by the appellant(s) by opening further NRNR Accounts.

13. He submits that, therefore, there was a violation of Regulation 5(1)(iv) read with Schedule 4 of the Regulations, making the appellant(s) liable for not only imposition of penalty under Section 13(1) of FEMA, but also of confiscation of the amount under Section 13(2) of FEMA. He submits that no separate reasons are required to be given for the purposes of confiscation as it is at the discretion of the Adjudicating Authority.

14. On the submission of omission of Regulation 5(1)(iv) of the Regulations, placing reliance on the judgments of the Supreme Court in ***Fibre Boards Private Limited, Bangalore v. Commissioner of Income Tax, Bangalore***, (2015) 10 SCC 333 and ***Shree Bhagwati Steel Rolling Mills v. Commissioner of Central Excise & Anr.***, (2016) 3 SCC 643, he submits that in terms of Section 6 and Section 6A of the General Clauses Act, 1897, mere repeal of the Regulation would not absolve the appellant(s) of the consequences of their violation while the Regulations were in force. He submits that the judgment of the Supreme Court in ***Rayala Corporation (P) Ltd.*** (supra) has also been distinguished by the Supreme Court in the above referred judgments.

ANALYSIS AND FINDINGS

15. We have considered the submissions made by the learned counsels for the parties as also perused the records of the appeals.

16. Regulation 5(1)(iv) of the Regulations reads as under:

> *"**5. Acceptance of deposits by an Authorised Dealer/authorised bank from persons resident outside India.** -(1) An Authorised Dealer in India may accept deposit-*
> *(iv) under the Non-resident (Non-Repatriable) Rupee Account Scheme, (NRNR account), specified in Schedule 4, from any person resident outside India."*

17. In terms of the above Regulation, an Authorised Dealer in India may accept, under an NRNR Account, amounts from any person resident outside India in accordance with the Scheme specified in Schedule 4 of the Regulations.

18. Schedule 4 of the Regulations, in turn, provides that any person resident outside India (except individuals/entities of Pakistan/Bangladesh nationality/ownership) may open NRNR Accounts with an Authorised Dealer, and that such accounts should be opened in Indian rupees out of funds remitted from outside India through normal banking channels. It further states that premature withdrawal of NRE/FCNR deposits for opening NRNR deposits with an Authorised Dealer other than the one with whom the NRE/FCNR account is maintained will attract a penalty, if any, as per the directions issued by the Reserve Bank of India from time to time. It further states that loans/overdrafts in India against the security of these deposits may be granted by the Authorised Dealer to account holders/third parties for personal purposes or for carrying on business activities and not for carrying on agricultural/plantation activities or

real estate business, or for relending. Clauses 1 and 8 of Schedule 4 of the Regulations are reproduced hereinunder:

> *"**1. Eligibility.**—Any person resident outside (except individuals/entities of Pakistan/Bangladesh nationality/ownership) may open NRNR accounts with an Authorised Dealer.*
>
> *Accounts should be opened in Indian rupees out of the funds remitted from outside India through normal banking channels (in freely convertible currency). In the case of NRIs/OCBs, such accounts may also be opened by transfer of funds from their existing NRE/FCNR deposit accounts. Premature withdrawal of NRE/FCNR deposits for opening NRNR deposits with an Authorised Dealer other than the one with whom the NRE/FCNR account is maintained will attract penalty, if any, as per the directions issued by Reserve Bank from time to time.*
>
> *xxx*
>
> ***8. Loans/overdrafts.**—Loans/overdrafts in India, against the security of these deposits may be granted by the Authorised Dealer to account holders/third parties for personal purposes or for carrying on business activities and not for carrying on agricultural/plantation activities or real estate business, or for relending, subject to their normal commercial judgement. Repayment of loans/liquidation of overdraft to the account holder shall be by way of inward remittance from outside India through normal banking channels or by debit to NRE/FCNR/NRO/NRNR/NRSR account of the depositor or by adjustment against maturity proceeds of deposit. Repayment of loans availed by third parties may be made out of their own resources."*

19. From the above, it would be evident that while Regulation 5(1)(iv) of the Regulations permits an Authorised Dealer to accept a deposit under the NRNR Account, such an account can be opened only by a person who is a resident outside India and through the funds remitted from outside India. The obligation cast is, therefore, both on the Authorised Dealer as also on such person who owns the account. A violation of the same in terms of Section 13(1) of FEMA would therefore attract a penalty for both, that is, the Authorised Dealer as also the account holder. We quote Section 13(1) of FEMA as under:

> *"**13. Penalties.—**(1) If any person contravenes any provision of this Act, or contravenes any rule, regulation, notification, direction or order issued in exercise of the powers under this Act, or contravenes any condition subject to which an authorisation is issued by the Reserve Bank, he shall, upon adjudication, be liable to a penalty up to thrice the sum involved in such contravention where such amount is quantifiable, or up to two lakh rupees where the amount is not quantifiable, and where such contravention is a continuing one, further penalty which may extend to five thousand rupees for every day after the first day during which the contravention continues."*

20. From the above, the submission of the learned counsel for the appellant(s) that penalty for the violation of Regulation 5(1)(iv) read with Schedule 4 of the Regulations can be imposed only on the Authorised Dealer and not on the appellant(s), therefore, cannot be accepted.

21. As regards the omission of Regulation 5(1)(iv) of the Regulations by the Notification dated 01.03.2002 and its effect on the subsequently issued show cause notices to the appellant(s), we shall first quote Section 6 and Section 6A of the General Clauses Act as under:

> *"**6. Effect of repeal.**—Where this Act, or any Central Act or Regulation made after the commencement of this Act, repeals any enactment hitherto made or hereafter to be made, then, unless a different intention appears, the repeal shall not—*
>
> *(a) revive anything not in force or existing at the time at which the repeal takes effect; or*
>
> *(b) affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder; or*
>
> *(c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed; or*
>
> *(d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or*
>
> *(e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;*
>
> *and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the repealing Act or Regulation had not been passed.*
>
> ***6A. Repeal of Act making textual amendment in Act or Regulation.—**Where any Central Act or Regulation made after the commencement of this Act repeals any enactment by which the text of any Central Act or Regulation was amended by the express omission, insertion or*

> *substitution of any matter, then, unless a different intention appears, the repeal shall not affect the continuance of any such amendment made by the enactment so repealed and in operation at the time of such repeal."*

22. In ***Rayala Corporation (P) Ltd.*** (supra), the Supreme Court, while considering the omission of Rule 132A of the Defence of India Rules by a Notification of Ministry of Home Affairs dated 30.03.1965, and its effect on the subsequently instituted proceedings on 17.03.1968, held that the proceedings were not maintainable as the saving clause therein would only protect the action already taken while the Rule was in force. The said judgment, however, was explained and distinguished in ***Fibre Boards Private Limited, Bangalore*** (supra) and later in ***Shree Bhagwati Steel Rolling Mills*** (supra). In ***Shree Bhagwati Steel Rolling Mills*** (supra), wherein the Supreme Court observed as under:

> ***"13.*** *On a conjoint reading of the three expressions "delete", "omit", and "repeal", it becomes clear that "delete" and "omit" are used interchangeably, so that when the expression "repeal" refers to "delete" it would necessarily take within its ken an omission as well. This being the case, we do not find any substance in the argument that a "repeal" amounts to an obliteration from the very beginning, whereas an "omission" is only in futuro. If the expression "delete" would amount to a "repeal", which the appellant's counsel does not deny, it is clear that a conjoint reading of Halsbury's Laws of England and the Legal Thesaurus cited hereinabove both lead to the same result, namely, that an "omission" being tantamount to a "deletion" is a form of repeal.*

14. *The learned counsel's second argument that Section 6-A of the General Clauses Act when it speaks of an "omission" only speaks of an "amendment" which omits and, therefore does not refer to a repeal, is equally fallacious. In Bhagat Ram Sharma v. Union of India, this Court held that there is no real distinction between a repeal and an amendment and that "amendment" is in fact a wider term which includes deletion of a provision in an existing statute. In the said judgment, this Court held : (SCC pp. 40-41, paras 17-18)*

> *"17. It is a matter of legislative practice to provide while enacting an amending law, that an existing provision shall be deleted and a new provision substituted. Such deletion has the effect of repeal of the existing provision. Such a law may also provide for the introduction of a new provision. There is no real distinction between 'repeal' and an 'amendment'. In Sutherland's Statutory Construction, 3rd Edn., Vol. 1 at p. 477, the learned author makes the following statement of law:*
>
> *'The distinction between repeal and amendment as these terms are used by the courts, is arbitrary. Naturally the use of these terms by the court is based largely on how the legislatures have developed and applied these terms in labelling their enactments. When a section is being added to an Act or a provision added to a section, the legislatures commonly entitled the Act as an amendment…. When a provision is withdrawn from a section, the legislatures call the Act an amendment particularly when a provision is added to replace the one withdrawn. However, when an entire*

Act or section is abrogated and no new section is added to replace it, legislatures label the Act accomplishing this result a repeal. Thus as used by the legislatures, amendment and repeal may differ in kind—addition as opposed to withdrawal or only in degree—abrogation of part of a section as opposed to abrogation of a whole section or Act; or more commonly, in both kind and degree—addition of a provision to a section to replace a provision being abrogated as opposed by abrogation of a whole section of an Act. This arbitrary distinction has been followed by the courts, and they have developed separate rules of construction for each. However, they have recognised that frequently an Act purporting to be an amendment has the same qualitative effect as a repeal—the abrogation of an existing statutory provision—and have therefore applied the term "implied repeal" and the rules of construction applicable to repeals to such amendments.'

18. Amendment is, in fact, a wider term and it includes abrogation or deletion of a provision in an existing statute. If the amendment of an existing law is small, the Act professes to amend; if it is extensive, it repeals a law and re-enacts it. An amendment of substantive law is not retrospective unless expressly laid down or by necessary implication inferred."

(emphasis supplied)

15. *It is clear, therefore, that when this Court referred to Section 6-A of the General Clauses Act in Fibre Board case and held that*

Section 6-A shows that a repeal can be by way of an express omission, obviously what was meant was that an amendment which repealed a provision could do so by way of an express omission. This being the case, it is clear that Section 6-A undisputedly leads to the conclusion that a repeal would include a repeal by way of an express omission.

16. *The learned counsel then argued that while distinguishing the Madhya Pradesh High Court judgment in Rayala Corpn. a Constitution Bench of this Court expressly held as the first reason that Section 6 applies only to repeals and not to omissions. The Fibre Board judgment has clearly held as follows : (SCC p. 354, para 31)*

> *"31. First and foremost, it will be noticed that two reasons were given in Rayala Corpn. (P) Ltd. [Rayala Corpn. (P) Ltd. v. Director of Enforcement, (1969) 2 SCC 412] for distinguishing the Madhya Pradesh High Court judgment. Ordinarily, both reasons would form the ratio decidendi for the said decision and both reasons would be binding upon us. But we find that once it is held that Section 6 of the General Clauses Act would itself not apply to a rule which is subordinate legislation as it applies only to a Central Act or Regulation, it would be wholly unnecessary to state that on a construction of the word 'repeal' in Section 6 of the General Clauses Act, 'omissions' made by the legislature would not be included. Assume, on the other hand, that the Constitution Bench had given two reasons for the non-applicability of Section 6 of the General Clauses Act. In such a situation, obviously both reasons would be ratio decidendi and would be binding upon a subsequent Bench.*

> *However, once it is found that Section 6 itself would not apply, it would be wholly superfluous to further state that on an interpretation of the word 'repeal', an 'omission' would not be included. We are, therefore, of the view that the second so-called ratio of the Constitution Bench in Rayala Corpn. (P) Ltd. cannot be said to be a ratio decidendi at all and is really in the nature of obiter dicta."*

17. *Merely because the Constitution Bench referred to a repeal not amounting to an omission as the first reason given for distinguishing the Madhya Pradesh High Court judgment would not undo the effect of ITR para 27 : SCC para 31 of Fibre Board case which, as has already been stated, clearly makes the distinction between Section 6 not applying at all and Section 6 being construed in a particular manner. Obviously, if the section were not to apply at all, any construction of the section would necessarily be in the nature of obiter dicta.*

18. *We also find that Section 6 of the General Clauses Act could not possibly apply to the facts in Rayala Corpn. case for yet another reason. Clause (2) of Rule 132-A of the Defence of India (Amendment) Rules, 1965 which was referred to in para 14 of the judgment in Rayala Corpn. reads as follows : (SCC p. 423)*

> *"14. ... '**132-A. (2)** In the Defence of India Rules, 1962, Rule 132-A (relating to prohibition of dealings in foreign exchange) shall be omitted except as respects things done or omitted to be done under that rule.'"*

19. *A cursory reading of clause (2) shows that after omitting Rule 132-A of the Defence of India Rules, 1962, the provision contains its own saving clause. This being the case, Section 6 can in any case have no application*

as Section 6 only applies to a Central Act or Regulation "unless a different intention appears". A different intention clearly appears on a reading of clause (2) as only a very limited savings clause is incorporated therein. In fact, this aspect is noticed by the Constitution Bench in para 18 of its judgment, in which the Constitution Bench states: (Rayala Corpn. case , SCC p. 425)

> *"18. ...As we have indicated earlier, the notification of the Ministry of Home Affairs omitting Rule 132-A of the DIRs did not make any such provision similar to that contained in Section 6 of the General Clauses Act.""*

23. In the present case, the only effect of the omission of Regulation 5(1)(iv) of the Regulations is that the Authorised Dealers cannot now accept NRNR Accounts. It does not obliterate the violation, if any, and the effect thereof prior to such omission.

24. In this regard, Regulation 2(a)(iii) of the Foreign Exchange Management (Deposit) (Amendment) Regulations, 2002, by which Regulation 5(1)(iv) of the Regulations was deleted, so far as it is relevant, is reproduced hereinbelow:

"2.In the Foreign Exchange Management (Deposit) Regulations, 2000.

(a) in Regulation 5,

(i) in sub-regulation (1), clauses (iv) and (v) shall be omitted;

(ii) in sub-regulation (2), for the words and figures "clauses (i), (iii) and (v)", the words and figures "clauses (i) and (iii)" shall be substituted;

(iii) after sub-regulation (2), the following sub-regulation shall be added, namely:-

"(3)(a) On and from 1st April 2002,

> *(i) no deposit, whether by way of renewal of existing deposit or otherwise, shall be accepted under the Non-Resident (Non-Repatriable) Rupee Account Scheme (NRNR Account) or the Non-Resident (Special) Rupee Account Scheme (NRSR Account);*
> *(ii) existing deposits under the NRNR Account Scheme may be continued only upto the date of maturity;*
> *(iii) on maturity of the existing deposit under the NRNR Account Scheme, the maturity proceeds shall be credited to the accountholder's Non-Resident (External) Account (NRE Account), after giving notice to the account holder."*

25. In view of the above and the law as explained by the Supreme Court in ***Shree Bhagwati Steel Rolling Mills*** (supra), we, therefore, find no merit in the submission of the learned counsel for the appellant(s) that on the omission of Regulation 5(1)(iv) of the Regulations, show cause notice for a prior violation could not be issued to the appellant(s). In fact, the only effect of the Amendment Regulation is that from that date, NRNR accounts cannot be opened or renewed by the Authorised Dealer. The existing NRNR accounts could, in fact, continue till their date of maturity, whereafter the maturity proceeds were to be credited to the account holder's NRE account after giving notice to the account holder.

26. The Circular dated 04.03.2002 also directed that the existing accounts under the NRNR Accounts Scheme may be continued only up to the date of maturity whereafter they shall be credited to the account holder's NRE Account. In fact, the intent of the Reserve Bank of India appears to be to provide full convertibility of deposit schemes

for non-resident Indians and for rationalising the then existing non-resident deposit schemes. Therefore, the judgment in ***Rayala Corporation (P) Ltd.*** (supra) can have no application to the facts of the present case.

27. Now proceeding further to the submission of the learned counsel for the appellant(s) that, in any case, the order confiscating the amount lying to the credit of the accounts of the appellant(s) is without any reason and, therefore, liable to be set aside, we find merit in the same. Section 13(2) of FEMA, which authorises the Adjudicating Authority to order confiscation, reads as under:

> *"**13. Penalties**.—(2) Any Adjudicating Authority adjudging any contravention under sub-section (1), may, if he thinks fit in addition to any penalty which he may impose for such contravention direct that any currency, security or any other money or property in respect of which the contravention has taken place shall be confiscated to the Central Government and further direct that the foreign exchange holdings, if any, of the persons committing the contraventions or any part thereof, shall be brought back into India or shall be retained outside India in accordance with the directions made in this behalf.*
>
> *Explanation.—For the purposes of this sub-section, "property" in respect of which contravention has taken place, shall include—*
>
> *(a) deposits in a bank, where the said property is converted into such deposits;*
>
> *(b) Indian currency, where the said property is converted into that currency; and*
>
> *(c) any other property which has resulted out of the conversion of that property."*

28. A reading of the above provision would show that the confiscation in addition to the penalty can be imposed under Section 13(1) of FEMA and may be ordered by the Adjudicating Authority "if he thinks fit". The Adjudicating Authority is exercising a quasi-judicial function and therefore, is bound to give reasons for the exercise of the discretion vested in it under Section 13(2) of FEMA. The Adjudicating Authority has, therefore, to conclude, by giving reasons for the same, as to why, in the given facts, imposition of a penalty alone will not suffice and in addition to the penalty, the property deserves to be confiscated.

29. In the present case, neither the Adjudicating Authority nor the learned Appellate Tribunal has given any reasons for directing confiscation of the property, that is, the amounts lying to the credit of the appellant(s) in their accounts. It may be noted here that the impugned order of the Adjudicating Authority records that as far as the loan transaction is concerned, the same stood repaid through the maturity amounts of the NRNR accounts of the appellants. Therefore, there was no loss of foreign exchange. In any case, these factors have not been considered either by the Adjudicating Authority or by the learned Appellate Tribunal. The orders, as far as confiscation is concerned, is non-speaking and without any reason. The impugned orders, therefore, as far as they permit confiscation of the amounts to the credit of the appellants in their NRNR accounts, cannot be sustained.

30. One option available to us would have been to remand the matter back to the Adjudicating Authority for giving reasons for confiscation of the amounts, however, given the fact that the proceedings were initiated with show cause notices dating back to the year 2008, resulting in the orders of the Adjudicating Authority in the year 2010, and the impugned order of the learned Appellate Tribunal in 2012, and much time having passed, we find that no fruitful purpose shall be served by remanding the matter back for a fresh consideration on the above aspect. Instead, on the facts, we find that there is no warrant for confiscating the amounts lying to the credit of the appellant(s) in their NRNR accounts, especially where the loan transactions stood settled on the maturity of the NRNR Accounts that they held with the previous banks/Authorised Dealers.

31. We, therefore, hold that while there is no warrant to interfere with the orders imposing penalty on the appellant(s), the impugned orders of the Adjudicating Authority, as upheld by the learned Appellate Tribunal, directing the confiscation of the amounts lying to the credit to the NRNR accounts of the appellant(s), cannot be sustained and are hereby set aside.

32. The appeals are partially allowed in the above terms.

33. The parties shall bear their own costs.

NAVIN CHAWLA, J.

RAVINDER DUDEJA, J.

APRIL 8, 2026/ns/as