

Receipt by a person in India of Indian currency through a cheque drawn on an NRE account, even if that account had been funded by foreign currency deposits, does not by itself constitute a contravention of Section 8(1) of FERA

The **Delhi High Court** in the case of **Prakash Chandra Yadav vs Directorate of Enforcement [Misc. Appeal (PMLA) 19/2024]** dated **April 30, 2026**, has held that receipt by a person in India of Indian currency through a cheque drawn on an NRE account, even if that account had been funded by foreign currency deposits, does not by itself constitute a contravention of Section 8(1) of FERA, because the allegation is not of dealing in or acquiring “foreign exchange” within the meaning of the Act. Further, Section 8(2) of FERA is not attracted unless there is a transaction providing for conversion of Indian currency into foreign currency or foreign currency into Indian currency at rates other than those authorised by the RBI.

Thus, the Court held that, on the facts alleged, no violation of Section 8(1) or Section 8(2) of FERA was made out, set aside the Tribunal’s order dated 29.05.2024, directed refund of the penalty amount within four weeks, and allowed the appeal without costs.

The Court recorded that there was no dispute that the appellant received a cheque of Rs. 30 lakhs drawn on Akbar Veerji’s NRE account, that the account had been funded by deposits in US dollars, and that the cheque issued to the appellant was in Indian currency. On Section 2(h) of FERA, the Court observed that “foreign exchange” includes instruments, deposits, etc. payable in foreign currency, or payable in Indian currency or foreign currency at the option of the drawee or holder, the essential element being that it is payable in foreign currency at such option.

The Court observed that, in the present case, the cheque was paid and payable to the appellant only in Indian currency. On Section 8(1), the Court held that what is prohibited is dealing in foreign exchange by purchase, acquisition, borrowing, sale, transfer, lending or exchange, except through an authorised dealer. The Court expressly observed that the allegation against the appellant was not of dealing in foreign exchange or exchanging the same, but only of receiving an amount in Indian rupees from an NRE account, and that this could not amount to a violation of Section 8(1) of FERA.

The Court disagreed with the Tribunal’s reliance on the Explanation to Section 8(1), holding that the Explanation must be read strictly and according to its grammatical meaning, and that it did not support the Tribunal’s finding. It noted that there was no allegation that Akbar Veerji had opened any account with the appellant in foreign exchange or had lent money to the appellant in foreign exchange.

On Section 8(2), the Court held that the Tribunal’s view was also unsustainable because Section 8(2) applies to transactions providing for conversion of Indian currency into foreign currency or foreign currency into Indian currency at rates other than those authorised by the RBI. The Court observed that there was no allegation against the appellant either of exchange of foreign currency into Indian currency or vice versa, or of any exchange at a rate other than the rate authorised by the RBI; therefore Section 8(2) had no application on the facts.

On the suppression argument, the Court held that the earlier order dated 06.04.2009 only rejected a challenge to the order framing charge on a prima facie view and was therefore no longer relevant after the criminal proceedings ended in acquittal on 30.11.2017. The Court referred to the criminal court's findings that the funds had come through banking channels into an NRE account, that transactions out of the NRE account were in Indian rupees and made in India by cheque, and that nothing showed that the accused had acquired any foreign exchange or that the remittances into the NRE account were impermissible.

[Click here to read/ download the original judgment](#)