

Test - 1

provision should be written as "As per SEC 13 of FEMA Act

→] Actions can be taken under section 13 [i] are as follows :-

i] Penalties -

- If amount is quantifiable - Penalty upto thrice the sum involved in such contravention.
- If amount is not quantifiable - Penalty upto ₹ 2 lakh.
- Continuing Contravention - In case of continuing contravention penalty of ₹ 5,000 can be imposed.

case based questions should be written in 3 parts

ii] Confiscation -

1st. Relevant Provision of the Act

2nd. explain the given case

3rd Write a Clear conclusion of the case.

iii] Direction -

The Adjudicating Authority can be directed to return the assets of any person committing the contravention has been brought back into India or retain outside India as per the direction.

In the present case X Ltd has made the overseas direct investment without the approval of RBI which is the violation of sec 13 of FEMA Act

Conclusion:

In the light of above provisions, X Ltd is liable for the penalty of 3 Times which is $3 \times 2 \text{ Million} = 6 \text{ Million}$

→ 2] For remittance of assets or winding up proceeds of the branch/office other than project office. AD's may permit remittance upon submission of -

i] RBI approval - copy of RBI's permission for establishing the office.

ii] Auditor's Certificate - Confirming

- Calculation of remittable amount with assets / liabilities of the office.
- Settlement / provision for all liabilities including employee's benefits.
- No un-repatriated foreign income.
- Compliance with RBI regulation.

iii] Report from the Registrar of company regarding compliance with the provision of the RBI regulation in case of winding up of office in India.

Question is asking for processing of establishing branch office in India by non resident person under FEMA Act. please refer to the suggested Answer and complete the Answer

2 ✓
→ 3 Documents to be submitted by a person resident in India for transfer of shares are as follows :-

- i] Name and address of Transferor and Transferee
- ii] Reason for Transfer
- iii] Relationship between the Transferor and Transferee.

→ 4 No person resident in India shall make ODI in foreign entity engaged in -

- i] real estate activity.
- ii] Gambling in any form.

dealing in financial products linked to the Indian Rupees

'Real estate activity' includes buying and selling of real estate, Trading in Transferable Development Right, but does not ~~include~~ include construction of Township, development of commercial and residential premises, roads and bridges for selling or leasing.

in the present case, Non resident person has made ODI violating the FEMA act

Therefore, Indian manufacturing company does not make investment as per the ODI rules because the ~~company~~ company is engaged in real estate activity.

3 ✓
you have cover explained this question perfectly but you need to follow the suggested format to answer case based questions

→ 3] External commercial Borrowings [ECB] are commercial loans raised by eligible resident entities from recognised non-resident entities and should conform to parameters such as minimum maturity, all in cash ceiling, permitted and non permitted end uses etc.

* Framework for raising ECB

Parameters foreign currency denominated ECB, Indian currency denominated ECB.

Forms of ECB

- a] Bank loan
- b] Trade and 3 years and floating rates
- c] notes and debentures except fully convertible debentures

d] FCCB, FCEB and foreign financial lease

a] Bank loan

b] Trade beyond 3 years

c] fixed and floating rates notes, bonds, debentures except fully convertible debentures.

d] FCCB, FCEB & foreign and financial lease.

e] Plain vanilla rupee denominated bond including overseas.

Eligible borrowers All entities are eligible to receive FDI. further, following entities are eligible to raise ECB :-

- i] Port Trust
- ii] SIDBI
- iii] EXIM Bank of india

Entities are eligible to raise ECB are as follows :-

i] Registered entities engaged in micro finance activities, Registered Not for profit companies, registered society, Trust, co-operatives and Non-Government organisations.

→ 6] Procedure of raising ECB are as follows :-

- i] check the route.
- ii] for approval route approach to AD bank.
- iii] AD bank shall submit application to RBI.
- iv] RBI would place such application before empowered committee.
- v] Empowered should have external and internal members.

detailed answers required
pls refer to suggested answer

→ 7] Special Economic Growth (SEZ) are specifically delineated duty free enclave and shall deemed to be foreign territory for the purposes of trade operations and duties and tariffs. Special Economic Growth are growth engines that can boost manufacturing, increasing exports and creating jobs. They need special fiscal and regulatory policies to ensure smooth operations with modern infrastructure and support services.

Pls refer to suggested answer and complete it

→ 8] E The term 'Export' means -

- taking goods / services out of India from Special Economic Zone [SEZ]
- Supplying goods and providing services from Domestic Tariff Area to Units or Developer,
- Supplying goods and providing services from one unit to another unit in same or different Special Economic Zone [SEZ].

→ Functions of SEZ Authority

- i] Development of infrastructure in SEZ.
- ii] Promoting exports from SEZ.
- iii] Reviewing performance of SEZ.
- iv] Levy user or service charges or fees or rent for use of property belonging to authority.
- v] Performing such other functions as may be prescribed.