Business visa holders conducting business in India held 'resident in India'; no FEMA violation as transactions were in INR :

The **High Court** held that individuals who entered India on **business visas** and were actively conducting business in India qualified as **“persons resident in India”** under FEMA, as they did not fall within any statutory exceptions.

Key findings:

- Since the respondents were **resident in India**, several FEMA provisions applicable to non-residents were **not attracted**.
- All transactions, including the **purchase of immovable property**, were carried out in **Indian Rupees (INR)**.
- There was **no evidence of any foreign exchange transaction**, remittance, or involvement of foreign currency.
- Consequently, **prior approval under FEMA was not required** for the transactions in question.
- The Court upheld the setting aside of **penalties, confiscation orders, and related enforcement actions**, finding no FEMA violation.

Takeaway

Merely holding a foreign nationality or entering India on a business visa does not automatically make a person a non-resident under FEMA. If a person is carrying on business and qualifies as a **resident in India**, and the transactions are undertaken entirely in INR without involving foreign exchange, FEMA restrictions applicable to non-residents may not apply.