

Business Standard

Lack of full Bench takes a toll on SAT's functioning and efficiency

Industry players fear that if the Bench is not restored soon, it could hamper the fundraising and expansion plans of companies with pending litigation

Khushboo Tiwari | Mumbai



Due To The Prolonged Non-Availability Of The Bench, Legal Players Said That Appeals May Be Filed In The High Court. However, The Scope For Relief Would Be Limited

The absence of a full Bench at the Securities Appellate Tribunal (SAT) has crippled its functioning leading to delays and disruptions.

Industry players fear that if the Bench is not restored soon, it could hamper the fundraising and expansion plans of companies with pending litigation. Legal experts said that such delays can deter international investors due to lack of vital dispute resolution.

SAT hears and disposes appeals against the orders of the Securities and Exchange Board of India (Sebi), the Insurance Regulatory Development Authority of India (Irdai), and the Pension Fund Regulatory and Development Authority (PFRDA) along with appeals against the stock exchanges and depositories.

With no judicial member, several cases, which had already been argued, will need to be heard afresh. This includes matters pertaining to Sahara India Life Insurance and Bombay Dyeing — which is awaiting regulatory clearance before it can bring a rights issue. Cases pertaining to Eros International and National Spot Exchange are among other pending cases at the tribunal.

“The prolonged vacancy at the SAT is pressing, impacting the business and regulatory landscape significantly. This delay not only affects the tribunal's efficiency but also hampers the resolution of critical cases,” said Sumit Agrawal, former Sebi officer and founder of Regstreet Law Advisor.

“The uncertainty created by these delays could deter international investors considering investments in India, as effective dispute resolution is a vital consideration for them,” Agrawal added.

At present, the three-member tribunal only has Meera Swarup as technical member. The appointment of a judicial member by the government is awaited. Former chair of the tribunal Justice Tarun Agarwala vacated office in December 2023.

Due to the prolonged non-availability of the Bench, legal players said that appeals may be filed in the high court. However, the scope for relief would be limited.

Pulkit Sukhramani, partner, JSA, said, "If today an ex-parte ad-interim order similar to the one in the matter of Zee Enterprises was passed, the parties would be constrained to approach the high court for relief. The scope of relief, which can be claimed from a high court in writ proceedings, is limited compared to the tribunal. A similar situation had emerged in 2018 and resulted in a significant pile up of cases and delays in final disposal of matters."

The Union ministry of finance had first invited applications in August 2023 to fill the position of presiding officer at the tribunal. The cabinet secretary and finance secretary are part of the search-cum-selection committee.

Legal players said delays in appointments could impact the confidence towards the broader market and regulatory compliance framework.

"Though the government has moved towards the tribunal model of judiciary, it will be only effective if the tribunal members with relevant expertise and judicious mind are appointed at the right time. This challenge in vacancy has been seen in past not only at the SAT, but also to FEMA tribunal and National Company Law Tribunal (NCLT)," said Vyapak Desai, Lead - International Disputes & Investigations, Nishith Desai Associates.

There is already a large backlog of cases and legal experts say the list is growing. The tribunal is being forced to adjourn cases on a daily basis.

Nidhi Singh, partner, IndiaLaw LLP, said, "Number of appeals filed against Sebi orders is increasing every year. The proposal to increase the number of Benches and members of SAT has been pending since 2016. However, SAT still has only one Bench and that also regularly lacks appropriate quorum. In the short term, there should be clear cut plans to fill up vacancies in SAT. And, in the long term, more Benches should be constituted for speedy disposal of appeals."

First Published: Feb 12 2024 | 8:22 PM IST

Page URL :https://www.business-standard.com/companies/news/securities-appellate-tribunal-functioning-crippled-due-to-lack-of-members-124021201195_1.html