THE ECONOMIC TIMES
Copyright © 2014 Bennett Coleman & Co. Ltd. • All rights reserved
Thu, 27 Jun-19; Economic Times - Delhi; Size : 156 sq.cm.;
Circulation:134320; Page : 1

ALLIED FINANCIAL SERVICES-DALMIA CEMENT CASE

Supreme Court Stays Settlement of Allied Trades

Relief for IL&FS as it must await judiciary bodies' orders, not pay from own pocket

Pavan Burugula & Maulik Vyas

Mumbai: The Supreme Court has put on hold the settlement of equity derivatives trades done by Mumbai-based broking firm Allied Financial Services by illegally using mutual fund units belonging to Dalmia Cement as collateral.

The apex court has asked clearing corporations not to settle the contracts until other judiciary bodies — including Bombay High Court and the Securities Appellate Tribunal (SAT) — pass orders. These options contracts were supposed to come up for settlement on Thursday.

The verdict comes as a breather for IL&FS Securities Services, the clearing corporation for these contracts that had filed the appeal in the Supreme Court. Since the collateral margins placed by Allied were illegally obtained, the Mumbai Police Economic Offences Wing (EOW) had frozen the collaterals. In such a scenario, IL&FS is legally bound to pay margins out of its own pocket since it had cleared the trades, translating into a ₹380-crore blow.

"There would be a stay on the payment obligation under the options contract till the first date of the hearing before the forum/court," said a bench comprising Justices Sanjiv Khanna and BR Gavai. "We further clarify that in case the applicant delays, or there is delay otherwise in listing of the matter, it will be open for the respondents to point this out to the court and ask for vacation of the stay."

Contract Trouble

Allied Fin Services used illegally obtained mutual fund units as margins

IL&FS Securities Services had cleared the trades

EOW froze the margins placed by Allied

IL&FS had legal obligation to pay the margins as its client had defaulted

IMPLICATIONS

Over 140 investors, including **40 FPIs,** may take a hit with verdict

They will have to write off the exposure

'Notional Value ₹3.5k-4k cr' ▸▸ 12

₹3.5-4kcr Notional Value: Lawyers

From Page 1

The judgement will affect at least 140 investors, including 40 foreign funds that were counterparties to the trade. These investors will now have to write off their exposure to the options contracts since there is a hold on the settlement. Lawyers privy to the development said the notional value of these options contracts is ₹3,500-4,000 crore.

"Investors on the buy side of these options contracts will have to write off the amount, or place the contracts in a suspense account, until relevant judgements are delivered," said a lawyer. "There are some reputed foreign portfolio investors (FPIs) in the list of counterparties, which would be impacted due to the apex court order."

Legal experts point out that it is the first time a judicial body has halted settlement of stock exchange trades.

Both markets regulator Sebi and SAT have taken a conservative view in matters pertaining to trade annulment or deferring settlement of trades, since it could damage the image of Indian markets. For instance, in 2016, FPI limits in HDFC Bank were breached and custodians had requested Sebi to reverse trades that were in breach. Similarly, in 2018, there was a technical glitch in the NSE platform that affected price discovery, and brokers had approached Sebi and NSE to annul or reverse the trades. In both cases, the requests were declined.

The SC has declined to offer any comments on merits of the case. "We have not expressed any opinion on the merits and all questions are left open," said the judgement.

There is a deadlock in terms of who would take the hit for the fraudulent trades. While Allied had executed the trades, the broker doesn't have the financial resources to pay up margins. On the other hand, IL&FS has been arguing that it was merely a clearing body and wasn't aware of any wrongdoing.

If both Allied and IL&FS don't pay the margins, the shortfall will have to be met from the investor protection funds. However, Sebi is not keen on such a move since the money pooled from regular investors will be used to pay for a fraud committed by Allied.