

SEBI Board Meeting Today: To Discuss Special Window For LTCG, Illiquid Cases

Tarun Sharma : 11-13 minutes (published on: 25.06.2020)

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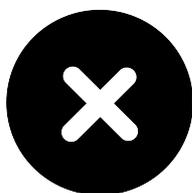
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The Securities and Exchange Board of India (SEBI), in its June 25 board meeting, is likely to discuss creating a special window for clearing the backlog of particular cases.

It is also likely to discuss creating a special window for using consent mechanisms for cases related to tax evasion through long-term capital gains and fraudulent trades in illiquid options.

Sources say that SEBI's Enforcement Department has proposed the measure for clearing large backlog.



A source close to development told Moneycontrol, "This special window could be for a particular time period, and the regulator may fix an amount for particular trade volumes. These cases are among the highest pendency cases list of SEBI."

After almost two decades, SEBI is coming out with this settlement mechanism under which entities can pay a fixed amount and evade themselves from any investigation. SEBI has around 30,000 pending cases related to long-term capital gain tax matters and 15,000 cases relating to trades executed in illiquid options.

In some cases of LTCG and illiquid options, trade entities have filed consent applications.

A source close to development told Moneycontrol, "A large number of entities have filed for consent. If the regulator gives the benefit of a special window, it would be a win-win situation for entities, as well as the regulator."

"A new specific provision dealing with settlement schemes was introduced, giving SEBI power to specify procedure and terms for any class of persons involved in respect of any similar specified defaults. Without such a provision years back, SEBI came up with the SEBI (Interest Liability Regularisation) Scheme, 2004 as a one-time opportunity for brokers to regularise their registration fee dues. With this provision in law, such schemes are to be a game changer and will reduce SEBI's enforcement load if executed properly. SEBI is already dealing with hundreds of cases where persons have been charged for dealing in illiquid options segment of Bombay Stock Exchange ("BSE"). One can hope that SEBI will come up with settlement schemes for such defaults. Another example could be a new settlement scheme for brokers entangled in NSEL imbroglio," said Sumit Agrawal, Partner - Regstreet Law Advisors and former SEBI official.

SEBI started investigating cases of tax evasion through long-term capital gain tax after the Income Tax had raised red flags in 2014.

Rajeev Kumar Agarwal, a former whole-time member, passed an ex-parte order against some entities which became helpful to the Income Tax Department in its investigation.

However, because SEBI took a long time to pass the final order against these entities because of which the matters remained in litigation at the Securities Appellate Tribunal. Even under the income declaration scheme, most income was declared by these brokers who used a long-term capital gain route for tax evasion.

In 2017, SEBI's board also discussed LTCG cases and formed a view that market regulators should be concerned about market manipulation and not tax evasion. Tax evasion through long-term capital gain tax is under the purview of the Income tax department. However, around 30,000 cases are still pending where orders are yet to be passed.

In 2018, SEBI conducted an investigation on illiquid options where entities used them for tax evasion. This time, SEBI passed an order on these entities for using the market infrastructure for manipulation.

SEBI has already passed around more than 1,500 orders against entities for the said violation. After the investigation, the Central Board of Direct Tax also took up this matter in 2019, and the I-T investigation wing conducted searches on these entities.

A source close to development told Moneycontrol, "This time, SEBI's order is helpful as it is passing orders which mainly focus on market manipulation."