

SAT quashes 'unjustified' Sebi order nixing Brickwork Ratings licence

Directs regulator to issue fresh order on penalty while upholding certain violations

Khushboo Tiwari | Mumbai



3 min read Last Updated : Jun 06 2023 | 3:33 PM IST

In a major relief to Brickwork Ratings, the Securities Appellate Tribunal (SAT) on Tuesday quashed the order passed by the Securities and Exchange Board of India (Sebi) cancelling its licence as a credit rating agency.

While affirming some of the violations, the tribunal remitted the matter to Sebi to issue a fresh order on the quantum of penalty.

“Considering the totality of the violations found, we believe that the alleged violation of routine matters is not deliberate or fraught with malafide or fraud and therefore, cannot result in the cancellation of licence,” observed SAT.

Calling the cancellation “unjustified”, the tribunal added that the violations found were trivial or routine operational errors and had been “unnecessarily escalated to regulatory proceedings”.

SAT further observed that isolated instances like that of not meeting the rating criteria, not reviewing them for a shorter period, not recording names of attendees of the rating committee meeting, and failing to comply with timelines did not warrant the cancellation of licence.

For the fresh order, Sebi will have to take into consideration the observations made by SAT in the specific instances of violations and give Brickwork the opportunity of a hearing.

While considering the quantum, Sebi will also have to consider the interim order passed earlier by SAT wherein Brickwork was restrained from taking in new clients.

In an order dated October 6, 2022, Sebi cancelled the licence of Brickwork and directed the credit rating agency to wind down operations within six months for alleged violations in the rating process, due diligence, reporting of conflict of interest, and correct disclosures.

In January 2020, Sebi and the Reserve Bank of India had undertaken a joint inspection of Brickwork, where the two regulators found “several irregularities”. Following this, Sebi issued an administrative warning and directed it to rectify the discrepancies and take corrective measures.

An enquiry report submitted in April 2021 had several adverse observations against Brickwork, following which it was recommended that its licence be cancelled.

The tribunal, in its latest order, has affirmed repeated violations in the delay in recognition of default of non-convertible debentures and conflict of interest issues due to non-segregation of roles. SAT noted that these violations were not commensurate with imposing the strictest penalty.

The violation of conflict of interest has been observed in the ratings related to IDFC First while failure in the recognition of default has been in the cases of IKF Finance, Srei Infrastructure Finance, Sintex Industries, and Reliance Capital.

On Sebi’s allegation of failure to follow timelines, SAT stated that “the timelines are indicative”.

“They are not cast in stone and the completion of ratings depends on various factors which are supplied by third parties over whom the appellant has no control,” it said.

The tribunal added that Sebi’s circular for credit rating agencies does not stipulate any timeline for the completion of ratings but merely requires analysts to adhere to timelines.

Tribunal says licence cancellation “unjustified”; violations unnecessarily escalated to proceedings

Calls the violations trivial and routine operational errors

SAT affirmed some violations on conflict of interest and delay in recognising default of NCDs

Sebi directed to issue fresh order considering SAT observations and an earlier-issued interim order

Asks Sebi to allow Brickwork a hearing before deciding on the quantum of penalty