

## INVESTIGATION INTO 'FRAUD' AT IL&FS

# NCLAT dismisses plea by former auditors against impleadment

**ENSECONOMIC BUREAU**

NEW DELHI, MARCH 4

THE NATIONAL Company Law Appellate Tribunal (NCLAT) on Wednesday dismissed a plea moved by audit firms Deloitte Haskins & Sells and KPMG arm BSR & Associates, as well as their independent directors, against impleadment in an ongoing investigation in their role in the alleged fraud at the debt-laden Infrastructure Leasing & Financial Services Limited (IL&FS).

In its ruling, the NCLAT said that the judgment of the National Company Law Tribunal (NCLT) could not be termed as illegal and that the tribunal was empowered to pass order to implead the auditors as well as independent directors if "it forms opinion that the affairs of the company have been conducted in a manner prejudicial to the public interest".

### NCLT JUDGMENT CAN'T BE TERMED 'ILLEGAL'

■ In its ruling, the NCLAT said that the National Company Law Tribunal judgment could not be termed as illegal and that the tribunal was empowered to pass order to implead the audit firms Deloitte Haskins & Sells and KPMG arm BSR & Associates, as well as their independent directors

■ The NCLAT, however, suspended its sentence for two weeks to allow audit firms and the independent directors to challenge the judgment and decide on further course of action

■ The audit firms had been impleaded as parties by the Mumbai bench of NCLT as per a July 2019 order

A two-member bench of the NCLAT, headed by Justice S J Mukhopadhaya, stated that the rules of natural justice dictated that if the NCLT thought it fit to pass order against any party asking them to join investigation, the same must be done.

The appellate tribunal, however, suspended its sentence for

two weeks to allow the audit firms and their independent directors to challenge the judgment and decide on further course of action.

The audit firms had been impleaded as parties by the Mumbai bench of NCLT as per a July 2019 order. Based on the submissions by the central government that the fraud in IL&FS as well as its

subsidiaries was on account of "misrepresentation and falsehoods about the financial state of affairs" and that the auditors too must be held responsible for the same, the NCLT had asked them to join the investigation.

While commenting on the development, a Deloitte India spokesperson said: "We will review the written order before determining our further course of action, which may include an appeal". Auditors cannot be treated as part of the management which is responsible for managing the affairs of the company and therefore should not be charged, the person said.

"We will continue to present and protect its position, supported by the facts, to the relevant authorities. The firm remains committed to high standards of audit quality and ethical conduct in its professional practice," he added.

There was no immediate comment from KPMG.