

Adani Ports versus Deloitte: Auditors' role comes under sharp focus

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The rift between Adani Ports & SEZ and audit firm Deloitte has brought to the fore the frosty relationships between companies and auditors in recent times.

Deloitte, which quit as Adani Ports' auditor, earlier left as auditor of Byju's after the edtech company failed to file its annual financial results in time for the financial year 2022. In June this year, the National Financial Reporting Authority has said quitting audit assignments will not absolve an auditor of its responsibility if any fraud is noticed during their tenure at a later stage.

Interestingly, statistics collated by tracker primeinfobase.com shows that Deloitte's exit from Adani Ports comes amid a decline in the number of auditors exiting before their tenure ended.

A total of 38 auditor cessations before completion of tenure were reported in 2022-23 — a decline from 46 exits seen in 2021-22. The highest exits in recent years were during the pandemic year of 2020-21, which saw 65 such exits. The auditors have become extremely cautious after a Supreme Court order on May 4 this year.

Auditors said the Supreme Court allowed the National Company Law Tribunal (NCLT) to proceed with its inquiry and any



ILLUSTRATION: AJAY MOHANTY

subsequent action against Deloitte and BSR and Co, a KPMG affiliate, auditors of the bankrupt firm IL&FS Financial Services. "No one wants to take any risk now," said a Mumbai-based auditor, asking not

to be quoted. The government had moved a petition in the NCLT in 2019 to bar IL&FS Financial Services' former auditors — Deloitte Haskin and Sells and BSR and Co for five years, citing lapses

EXIT MODE

Auditor cessations before completion of tenure



Source: primeinfobase.com

in their audit.

The order came after the government moved the top court against a lower court order in 2020 that said any action against auditors is not applicable if they

resign.

The government's aim was to disqualify erring entities from serving as auditors in any company for five years. The Supreme Court said the legislature should provide penalties for auditors' misconduct. It added, "The penalty of automatic disqualification of auditors, and their firm, including partners, for a period of five years from being the auditor of any other company, is a matter for the legislature/Parliament to decide."

The court also addressed concerns about the right to practice, affirming that fraudulent conduct by an auditor is a grave misconduct with consequential

actions. Regarding arguments of discrimination, the Supreme Court said, "Auditors' roles cannot be equated with directors and/or management." The court stressed on the crucial role of auditors in public interest and the significance of the "Audit and Auditors" chapter in the Act. Thus, Section 140(5) does not violate Article 14 of the Constitution of India." The Companies Act mandates auditors to report fraud to the central government under Section 143(12). However, in the IL&FS case, the auditors had fallen short of this duty — leading to action by the government.

With inputs from Sachin Mampatta