Budget may not trim red carpet for Mauritius-based FIIs

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Mumbai: For all those who will root for Mauritius-based investors losing a major tax incentive if the Budget proposes to scrap long-term capital gains tax on equities, a note of caution. Foreign institutional investors (FIIs) may still find it more lucrative to stick to Mauritius for investing in the Indian markets, as a large chunk of their investments are short-term, say tax experts.

"Everybody is talking about the government killing two birds with one stone—reviving the markets and putting an end to the Mauritius controversy. Currently, FIIs/OCBs based in Mauritius do not have to pay tax on capital gains. So even though they will lose some advantage if the long-term capital gains tax is scrapped, the 30 per cent tax on short-term gains will still not apply to them. And the bulk of FII investments are short-term," says Shefali Goradia of legal and tax consulting firm Nishith Desai Associates.

Further, even if the Budget does scrap the long-term capital gains tax in a bid to boost the ailing bourses, it may reverse its decision next year. A clear decision under the Indo-Mauritius Double Tax Avoidance Convention (DTAC) offers more certainty and comfort to investors.

There gave been rumblings within and outside the government on Mauritius-based entities enjoying a preferential tax treatment. In fact, a Delhi High Court judgment last year left FIIs open to probes on tax benefits claimed under the DTAC.

The court quashed a Central Board of Direct Taxes (CBDT) circular clarifying that a certificate of residence issued by the Mauritian authorities was ample proof of the residential status of an FII.

Subsequently, the Supreme Court granted a stay on the Delhi High Court's order. The apex court's final judgment is still awaited.