

**PREPARATION AND PRESENTATION BEFORE REGULATORS,
AUTHORITIES & COMMERCIAL TRIBUNALS**



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PREFACE

We are on the threshold of a new India. With the last few years witnessing major reforms, the demonetization of currency notes, major amendments to the now renamed Prohibition of Benami Property Transactions Act 1988; the Goods and Services Tax; Income Declaration Scheme 2016; passage of Real Estate regulation and Development act 2016; the Fugitive Economic Offenders Act 2018; setting up of the Supreme Court monitored Special Investigation Team to target Black Money etc. are all moves towards a new direction. With increased activity and reforms, comes increased workload on the executive, judiciary and legislature of the country. The tribunals perform an important role in the judicial mechanism of the country and ease pressure on overburdened courts.

The Finance Act 2017 and the Tribunal, Appellate Tribunal and other Authorities' (Qualifications, Experience and other Conditions of Service of Members) Rules 2017 had made important changes in the Tribunal framework in India. These rules which administer appointment, tenure, removal and other service conditions of chairpersons and members of the Tribunal, had been challenged by writ petition in Court. In November 2019, a Constitution Bench of the Supreme Court, declared the Tribunal, Appellate Tribunal and other Authorities (Qualification, Experience and other Conditions of Service of Members) Rules, 2017 as unconstitutional and also gave a direction to the Central government to reformulate the rules. The reframed the Tribunal, Appellate Tribunal and other Authorities (Qualifications, Experience and other Conditions of Service of Members) Rules, 2020 were notified by the Ministry of Finance on 12-02-2020.

This handbook will provide adequate insight of preparation and presentation of cases before adjudicating authorities and tribunals and procedures to be followed before them that would be helpful in understanding the nuances and methodologies to be adopted for representation before them.

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INTRODUCTION

At the time of cardiac arrest, Cardiopulmonary resuscitation, commonly known as CPR, is an emergency procedure that can help the patient until further measures are taken to restore him to health. Similarly, at the time of presentation before various Authorities, CPR - Communications is Key; Planning is Crucial; Relationship Building – is the advocacy procedure which needs to be adopted if one wants to win a case.

The number of people practicing advocacy before tribunals remains low and repetitive as many are afraid to venture into this arena. However, it is possible to outshine in a tribunal setting, regardless of the jurisdiction, provided unwavering focus is applied at the time of preparation, presentation and advocacy before Tribunals and Authorities.

Tribunals have grown in India both in number and authority and their powers, functions, practice and procedure has become a subject in itself for both applicants/appellants, respondents and interested learners. Apart from Tribunals there may be bodies performing quasi-judicial functions which have been created and are administered by the Central Government and they may be falling in categories of Commissions, Boards or other Authorities.

These Tribunals, Commissions, Boards, Authorities provide independent adjudication of disputes and function through prescribed practice and procedure which may vary as per the nature of the function they perform.

MEANING AND ROLE OF TRIBUNALS

A preliminary search on Wikipedia search engine on the internet shows that the term ‘Tribunal’ is derived from the word ‘tribunes’, which means ‘Magistrates of the Classical Roman Republic’. "Tribunal" originally referred to the office of the tribunes, and the term is still sometimes used in this sense in historical writings.

Generally, in most cases, a Tribunal is a quasi-judicial body with a lesser degree of formality than a Court. The tribunals perform an important role in the judicial mechanism of the country and ease pressure on overburdened courts.

Tribunals are not new entities in India. The Income Tax Appellate Tribunal being the foremost established Tribunal in India dates back to 25th January 1941. However, despite authorizing the establishment of Tribunals, the Constitution of India does not define a ‘tribunal’. Various Court judgments have tried demarcating the functions of both Court and Tribunal and in the process have tried to bring forth the meaning of each. The dictionary meaning as on in the internet (en.oxforddictionaries.com) of Tribunal is “*a body established to settle certain types of dispute*”.

The Law Commission of India in its Report 272 dated 27th October 2017, titled ‘Assessment of Statutory Frameworks of Tribunals in India’ has described ‘Tribunal’ as an administrative body established for the purpose of discharging quasi-judicial duties.

The definition of ‘Tribunal’ has been taken up by the courts in various judgements viz. *Harinagar Sugar Mills Ltd. vs. Shyam SundarJhunhunwala – (1962) 2 SCR 339*; *Kihoto Hollohon vs. Zachillhu – 1992 Supp (2) SCC 651* and many others.

The Supreme Court in *Union of India v. R.Gandhi, Civil Appeals No.3067 of 2004 with No.3717 of 2005, decided on 11.05.2010*, observed and held as under:

The term ‘Courts’ refers to places where justice is administered or refers to Judges who exercise judicial functions. Courts are established by the state for administration of justice that is for exercise of the judicial power of the state to maintain and uphold the rights, to punish wrongs and to adjudicate upon disputes. ‘Tribunals’ on the other hand are special alternative institutional mechanisms, usually brought into existence by or under a statute to decide disputes arising with reference to that particular statute, or to determine controversies arising out of any administrative law. Courts refer to Civil Courts, Criminal Courts and High Courts. Tribunals can be either private Tribunals (Arbitral Tribunals), or Tribunals constituted under the Constitution (Speaker or the Chairman acting under Para 6(1) of the Tenth Schedule) or Tribunals authorized by the Constitution (Administrative Tribunals under Article 323-A and Tribunals for other matters

under Article 323-B) or Statutory Tribunals which are created under a statute. [Para 12] [901-E-H; 902-A]

The landmark Madras Bar Association v/s Union of India & Anr judgment of the Supreme Court on 14 May, 2015 specifically rejected the contention that transferring judicial function, traditionally performed by the Courts, to the Tribunals offended the basic structure of the Constitution.

The judicial system in India is classified into various levels - at the top is the Supreme Court, followed by the High Courts at the State level, District courts at the District levels and Lok adalats at the village and Panchayat levels. The Tribunals play a distinct role in this system.

The Law Commission of India in its Report 272 dated 27th October 2017, titled 'Assessment of Statutory Frameworks of Tribunals in India' has recommended that there should be uniformity in the appointment, tenure and service conditions for the Chairman, Vice-Chairman and Members appointed in the Tribunals. While making the appointments to the Tribunal, independence shall be maintained.

The Tribunals, Appellate Tribunals and Other Authorities (Conditions of Service) Bill, 2014 which sought to establish uniform conditions of service for the chairpersons and members of 26 tribunals and authorities was introduced in Rajya Sabha on 19th February, 2014 and then later withdrawn on 11th April, 2017. The Finance Act 2017 came into effect on 1st April 2017. Before the Finance Act 2017, the Acts that set up a tribunal also contained provisions of qualifications for appointment, term of office, and removal of its members. The amendments in the Finance Act, 2017 have modified these conditions of service of 19 tribunals that are currently in place. The amendments permit the central government to decide the terms of service including appointments, term of office, salaries and allowances, and removal of tribunal members through rules. The Act also sought to replace certain Tribunals and transfer their functions to existing Tribunals; thereby it has merged eight tribunals on the ground of functional similarity. These are as follows:

- The Employees Provident Fund Appellate Tribunal (EPFAT) with The Industrial Tribunal.

- The Copyright Board with The Intellectual Property Appellate Board.
- The Railways Rates Tribunal with The Railways Claims Tribunal.
- The Appellate Tribunal for Foreign Exchange with The Appellate Tribunal under the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976.
- The National Highways Tribunal (NHT) with The Airport Appellate Tribunal (AAT).
- The Cyber Appellate Tribunal and The Airports Economic Regulatory Authority Appellate Tribunal with The Telecom Disputes Settlement and Appellate Tribunal (TDSAT).
- The Competition Appellate Tribunal with the National Company Law Appellate Tribunal.

In exercise of the powers conferred by section 184 of the Finance Act, 2017, the Central Government had framed ‘The Tribunal, Appellate Tribunal and other Authorities (Qualifications, Experience and other Conditions of Service of Members) Rules, 2017. These Rules were struck down by the Supreme Court in November 2019. The reframed the Tribunal, Appellate Tribunal and other Authorities (Qualifications, Experience and other Conditions of Service of Members) Rules, 2020 were notified by the Ministry of Finance on 12-02-2020. These Rules are made in exercise of powers under Section 184 of the Finance Act 2017 and are applicable to the following Tribunals:

1. Industrial Tribunal constituted by the Central Government under the Industrial Disputes Act 1947.
2. Income Tax Appellate Tribunal under the Income Tax Act 1961.
3. Customs, Excise, Service Tax Appellate Tribunal under the Customs Act 1962.
4. Appellate Tribunal under the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act 1976.
5. Central Administrative Tribunals under the Administrative Tribunals Act 1985.
6. Railway Claims Tribunal under the Railway Claims Tribunal Act 1987.
7. Securities Appellate Tribunal under the Securities and Exchange Board of India Act 1992.

8. Debts Recovery Tribunal under the Recovery of Debts Due to Banks and Financial Institutions Act 1993.
9. Debts Recovery Appellate Tribunal under the Recovery of Debts Due to Banks and Financial Institutions Act 1993.
10. Airport Appellate Tribunal under the Airport Authority of India Act 1994.
11. Telecom Disputes Settlement and Appellate Tribunal under the Telecom Regulatory Authority of India Act 1997.
12. Appellate Board under the Trade Marks Act 1999.
13. National Company Law Appellate Tribunal under the Companies Act 2013.
14. Authority for Advance Ruling under the Income Tax Act 1961.
15. Film Certification Appellate Tribunal under the Cinematograph Act 1956.
16. National Consumer Dispute Redressal Commission under the Consumer Protection Act 2019.
17. Appellate Tribunal for Electricity under the Electricity Act 2003.
18. Armed Forces Tribunal under the Armed Forces Act 2007.
19. National Green Tribunal under the National Green Tribunal Act 2000.

CONSTITUTIONAL PROVISIONS

The Constitution of India is the longest written constitution of any sovereign country in the world and currently it consists of XXII parts which are divided into Articles numbered up to 395 and 12 schedules. It is supreme law and all acts and rules derive their power from the Constitution.

The provisions relating to ‘Tribunals’ are covered in Part XIVA of the Constitution. The provisions viz. Part XIVA was not a part of the original constitution, but was inserted in the Constitution vide The Constitution (Forty-Second Amendment) Act of 1976.

The Constitution of India through Part XIVA, Articles 323A (Administrative Tribunals) and 323B (Tribunals for other matters) empower the Legislature to set up administrative and other tribunals respectively and describe the powers and functions that may be vested in such tribunals.

Under Article 323A, Parliament may, by law, provide for the adjudication or trial by administrative tribunals of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation owned or controlled by the Government. However, under Article 323A (2)(d), these tribunals exclude the jurisdiction of all courts except the special jurisdiction of the Supreme Court in Article 136 of the Constitution with respect to the disputes or complaints above.

Under Article 323 B the appropriate legislature (Parliament or State legislatures, as the case may be, competent to make laws with respect to such matter in accordance with the provisions of Part XI of the Constitution) may provide for the adjudication or trial by tribunals of any disputes, complaints, or offences with respect to all or any of the matters with respect to which such Legislature has power to make laws viz:

- Levy, assessment, collection and enforcement of any tax;
- Foreign exchange, import and export across customs frontiers;
- Industrial and labour disputes;
- Matters connected with Land reforms covered by Article 31A of the Constitution;
- Ceiling on urban property;
- Elections to either House of Parliament or the House or either House of the Legislature of a State, but excluding specified matters
- Production, procurement, supply and distribution of food-stuffs (including edible oilseeds and oils) and such other goods as the President may, by public notification, declare to be essential goods and control of prices of such goods
- Rent, its regulation and control and tenancy issues including the right, title and interest of landlords and tenants
- Offences against laws with respect of any of the specified matters and fees in respect of those matters
- Any matter incidental to any of the matters specified above

Therefore, Article 323A of the Constitution exclusively gives power to the Parliament to constitute Tribunals, whereas Article 323B gives concurrent powers to both Parliament and State Legislature to constitute Tribunals.

TYPES OF TRIBUNALS IN INDIA

Administrative Tribunals

- Administrative Tribunals was set-up by an act of Parliament, Administrative Tribunals Act, 1985. It owes its origin to Article 323 A of the Constitution.
- It adjudicates disputes and complaints with respect to recruitment and conditions of service of persons appointed to the public service and posts in connection with the affairs of the Union and the States.
- The Administrative Tribunals Act, 1985 provides for three types of tribunals:
 - A.)The Central Government establishes an administrative tribunal called the Central Administrative Tribunal (CAT).
 - B.)The Central Government may, upon receipt of a request in this behalf from any State Government, establish an administrative tribunal for such State employees.
 - C.)Two or more States might ask for a joint tribunal, which is called the Joint Administrative Tribunal (JAT), which exercises powers of the administrative tribunals for such States.
- There are tribunals for settling various administrative and tax-related disputes, including Central Administrative Tribunal (CAT), Income Tax Appellate Tribunal (ITAT), Customs, Excise and Service Tax Appellate Tribunal (CESTAT), National Green Tribunal (NGT), Competition Appellate Tribunal (COMPAT) and Securities Appellate Tribunal (SAT), among others.

Central Administrative Tribunal

- It has jurisdiction to deal with service matters pertaining to the Central Government employees or of any Union Territory, or local or other government under the control of the Government of India, or of a corporation owned or controlled by the Central Government.
- The CAT was set-up on 1 November 1985.
- It has 17 regular benches, 15 of which operate at the principal seats of High Courts and the remaining two at Jaipur and Lucknow.
- These Benches also hold circuit sittings at other seats of High Courts. The tribunal consists of a Chairman, Vice-Chairman and Members.
- The Members are drawn, both from judicial as well as administrative streams so as to give the Tribunal the benefit of expertise both in legal and administrative spheres.
- The appeals against the orders of an Administrative Tribunal shall lie before the Division Bench of the concerned High Court.

State Administrative Tribunal

Article 323 B empowers the state legislatures to set up tribunals for various matters like levy, assessment, collection and enforcement of any of the tax matters connected with land reforms covered by Article 31A.

Water Disputes Tribunal

- The Parliament has enacted Inter-State River Water Disputes (ISRWD) Act, 1956 have formed various Water Disputes Tribunal for adjudication of disputes relating to waters of inter-State rivers and river valleys thereof.
- Standalone Tribunal: The Inter-State River Water Disputes (Amendment) Bill, 2019 is passed by Parliament for amending the existing ISRWD Act, 1956 to constitute a standalone Tribunal to remove with the need to set up a separate Tribunal for each water dispute which is invariably a time-consuming process.

Armed Forces Tribunal (AFT)

- It is a military tribunal in India. It was established under the Armed Forces Tribunal Act, 2007.
- It has provided the power for the adjudication or trial by AFT of disputes and complaints with respect to commission, appointments, enrolments and conditions of service in respect of persons subject to the Army Act, 1950, The Navy Act, 1957 and the Air Force Act, 1950.
- Besides the Principal Bench in New Delhi, AFT has Regional Benches at Chandigarh, Lucknow, Kolkata, Guwahati, Chennai, Kochi, Mumbai and Jaipur.
- Each Bench comprises of a Judicial Member and an Administrative Member.
- The Judicial Members are retired High Court Judges and Administrative Members are retired Members of the Armed Forces who have held the rank of Major General/ equivalent or above for a period of three years or more, Judge Advocate General (JAG), who have held the appointment for at least one year are also entitled to be appointed as the Administrative Member.

National Green Tribunal (NGT)

- The National Environment Tribunal Act, 1995 and National Environment Appellate Authority Act, 1997 were found to be inadequate giving rise to demand for an institution to deal with environmental cases more efficiently and effectively.
- The Law Commission in its 186th Report suggested multi-faceted Courts with judicial and technical inputs referring to the practice of environmental Courts in Australia and New Zealand.
- As a result NGT was formed as a special fast-track, quasi-judicial body comprising of judges and environment experts to ensure expeditious disposal of cases.
- The National Green Tribunal was established in 2010 under the National Green Tribunal Act 2010 as a statutory body.

- It was setup for effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources.
- It also ensures enforcement of any legal right relating to environment and giving relief and compensation for damages to persons and property.
- The Tribunal is mandated to make and endeavour for disposal of applications or appeals finally within 6 months of filing of the same.
- Initially, the NGT is proposed to be set up at five places of sittings and will follow circuit procedure for making itself more accessible.
- New Delhi is the Principal Place of Sitting of the Tribunal and Bhopal, Pune, Kolkata and Chennai shall be the other four place of sitting of the Tribunal.

Income Tax Appellate Tribunal

Section 252 of the Income Tax Act, 1961 provides that the Central Government shall constitute an Appellate Tribunal consisting of many Judicial Members and Accountant members as it thinks fit to exercise the powers and functions conferred on the Tribunal by the Act.

TRIBUNALS AND PRINCIPLES OF NATURAL JUSTICE

Tribunal hearings and decisions are guided by and in accordance with the administrative law principles of natural justice. These principles apply to all tribunals and authorities regardless of any rules, policies or practices established by these individual tribunals or authorities.

Natural justice implies fairness, equity and equality. The concept of natural justice is to prevent miscarriage of justice. The principles of natural justice apply to judicial, quasi-judicial as well as administrative proceedings at any time they make a decision that seriously affects the rights of others, including interested parties, and members of the public.

The principle of natural justice encompasses following two rules: -

1. **Nemo judex in causa sua** - No one should be made a judge in his own cause or the *rule against bias*.

2. **Audi alteram partem** - Hear the other party or the rule of fair hearing or the rule that no one should be condemned unheard.

RULE AGAINST BIAS (NEMO JUDEX CAUSA SUA)

Bias means an operative discrimination, whether conscious or unconscious in relation to a person or a subject. The existence of any kind of Bias can be detrimental to the cause of justice. Therefore, to ensure non-existence of Bias the following two aspects should be taken care of: -

- a) No one should be a judge in his own cause
- b) Justice should not only be done but manifestly and undoubtedly be seen to be done.

The rule against Bias ensures that a judge is impartial and is in a position to apply his mind objectively and indiscriminately to the dispute before him. This absence of Bias can be ensured by asserting the following two main aspects: -

- The person exercising adjudicatory powers must not have any personal or proprietary interest in the subject or the outcome of the proceedings.
- There must not be real likelihood of bias.

Real likelihood of bias means either actual bias or a reasonable suspicion of bias. It is a subjective term as it is difficult to access the state of mind of an individual. Therefore, the courts depends upon the existence or non existence of reasonable ground for believing that the deciding factor was likely to have been biased.

AUDI ALTERAM PARTEM OR RULE OF FAIR HEARING

The principle of *audi alteram partem* is the one of the basic concept incorporated in the principle of natural justice. It implies that a person must be given opportunity to defend himself in any proceeding of law or administrative proceeding. This principle is sine qua non i.e. indispensable part of judiciary of every civilized society. This rule covers various stages through which judiciary proceeding passes starting from notice to final determination. Therefore, right to fair hearing includes:-

- a) Right to notice
- b) Right to present case and evidence
- c) Right to rebut adverse evidence
 - (i) Right to cross examination
 - (ii) Right to legal representation
- d) Disclosure of evidence to party
- e) Report of enquiry to be shown to the other party
- f) Reasoned decisions or speaking orders

However, sometimes pre-decisional stages of hearing may be dispensed with in an emergent situation where immediate action is required to prevent some imminent danger or injury or hazard to paramount public interest. Still, mere urgency cannot be reason for exclusion of *audi alteram partem* rule. However, the decision to exclude pre-decisional hearing would be justifiable, where there is made a provision for post-decisional remedial hearing in such emergent situations. The idea is post-decisional hearing atleast affords an opportunity to the aggrieved person and is better than no hearing at all. However, post-decisional hearing should be an exception rather than rule.

Another essential element of fair judicial proceeding is the requirement of passing a speaking / reasoned order because reasons reveal the rational nexus between the facts considered and the conclusions reached.

In *Kesar Enterprises Ltd. v. State of U.P. & ors.* (Civil Appeal No. 6896 of 2002) July 06, 2011, it was held:

“Rules of ‘natural justice’ are not embodied rules. The phrase ‘natural justice’ is also not capable of a precise definition. The underlying principle of natural justice, evolved under the common law, is to check arbitrary exercise of power by the State or its functionaries. Therefore, the principle implies a duty to act fairly i.e. fair play in action.” [Para 17] [34-E-F]

A.K. Kraipak and Ors. vs. Union of India and Ors. (1969) 2 SCC 262:1970 (1) SCR 457; *Income Tax Officer and Ors. vs. M/s Madnani Engineering Works Ltd. Calcutta* (1979) 2 SCC 455: 1979 (2) SCR 905; *Swadeshi Cotton Mills vs. Union of India* (1981) 1 SCC 664: 1981 (2) SCR 533; *Canara Bank vs. V.K. Awasthy*

(2005) 6 SCC 321: 2005 (3) SCR 81; Sahara India (Firm), Lucknow vs. Commissioner of IncomeTax, Central-I and Anr. (2008) 14 SCC 151: 2008 (6) SCR427 – were the case laws which were referred to.

EFFECTIVE PRESENTATION BEFORE AUTHORITIES

Tribunals/quasi-judicial authorities have a decorum and in most cases they are the first adjudicating authority or appellate authority, where appeal against their order lies to Supreme Court; therefore, it is of utmost importance that presentation before them are done according to acceptable and adequate standards.

Tribunals and other Authorities, most of them being quasi-judicial institutions, have a diverse mandate that include investigations and related appeals, complaints etc. Each of these mandates involves different procedures. Some of the cases are conducted with court-like proceedings while others are conducted entirely through the exchange of written documents. Regardless of the nature of the case, the representations of counsel on behalf of parties – whether it is by way of written submissions, oral submissions or both – play an important role in the Tribunal's decision-making process. Poor representation means the client's case is not put forward in its best light. Conversely, cases which are well prepared and effectively presented have a positive effect on the Tribunal members and their thinking.

Conciseness and careful attention to efficiency and the preservation of time are fundamental aspects of effective advocacy before the Tribunals. To make an effective representation before Authorities and Tribunals, excellent preparation must be done with respect to familiarity with the tribunal's practice or procedure rules.

TIPS FOR EFFECTIVE REPRESENTATION:

In general, your first task is to present the relevant facts — that is, the evidence that supports your case. The second task is to make submissions about the evidence — that is, tell the adjudicator what conclusions you want them to draw from the

evidence that you presented. The third task is to describe how the law supports your case. The final task is to explain how all of this should result in the adjudicator making a decision in your favour.

The usual steps in a tribunal hearing are:

- Preliminary matters
- Opening statements
- Submission of evidence
- Closing arguments

The following are general guidelines for preparing and delivering effective advocacy before the Tribunal:

- Understand the Tribunal's jurisdiction, rules and procedures
- Prepare thoroughly for the hearing
- Submissions should be well organized and convincing.
- Use clear and concise language so that the facts are presented logically
- Be to the point while filing written submissions
- Use expert evidence when necessary
- The closing argument should be well drafted as it will be a preview of the case for the Tribunal.

Other points to be kept in mind:

- When approached by a potential client is to decide whether to agree to represent the client in the particular matter after carefully analyzing all information at hand. It is important to ascertain whether the client engaged or attempted to engage other professionals for this case, if so, reasons for the case being rejected needs to be ascertained.
- Not only the client, but the case too needs to be thoroughly scrutinized before being taken up. Consider your expertise and experience with similar cases and time availability to handle the case

- Paint a clear picture to yourself and to the client regarding the favorable and unfavorable aspects of the case
- Do not misrepresent facts but present all facts which are material and have a bearing on the issue under consideration

PROPRIETY AND DECORUM IN CONDUCT OF AFFAIRS:

There should be propriety and decorum in the manner of conduct of affairs towards the Authorities, the clients and even to the opponents.

It is desirable to be in proper dress in court or before a presiding officer, say a full suit or a black coat with black tie worn over any suitable dress. The color or the shirt should always be white and tie to match the suit.

Under Rule 17 of the Securities Appellate Tribunal (Procedure) Rules 2000, the dress regulations for the Presiding Officer and for the representatives of the parties have been specified. The dress for the Presiding Officer shall be white or striped or black pant with black coat over white shirt and black tie or a buttoned-up black coat. In the case of female Presiding Officer, the dress shall be black coat over white saree. Every authorized representative, other than a relative or regular employee of the party shall appear before the Appellate Tribunal in his professional dress if any, and if there is no such dress, a male, in a suit or buttoned-up coat over a pant or national dress that is a long buttoned up coat on dhoti or churidar pyjama, and a female, in a coat over white or any other sober coloured saree or in any other sober dress. All other persons appearing before the Appellate Tribunal shall be properly dressed.

Rule 17A of the Income Tax (Appellate Tribunal) Rules 1963 prescribes the dress regulation for the members and for the representatives of the parties. According to the Rule Summer dress for the Members shall be white shirt, white pant with black coat, a black tie or a buttoned-up black coat. In winter, striped or black trousers may be worn in place of white trousers. In the case of female Members, however, the dress shall be black coat over white saree or any other sober saree. Dress for the authorized representatives of the parties (other than a relative or regular

employee of the assessee) appearing before the Tribunal shall be the following:

(a) In the case of male, a suit with a tie or buttoned-up coat over a pant or national dress, i.e., a long buttoned-up coat on dhoti or churidar pyjama. The color of the coat shall, preferably, be black.

(b) In the case of female, black coat over white or any other sober coloured saree. Where, however, the authorized representatives belong to a profession like that of lawyers or Chartered Accountants and they have been prescribed a dress for appearing in their professional capacity before any Court, Tribunal or other such authority, they may, at their option, appear in that dress, in lieu of the dress mentioned above.

All other persons appearing before the Tribunal shall be properly dressed

At the CESTAT (Customs, Excise and Service Tax Appellate Tribunal), the assessee or his authorized representative has to appear before the Tribunal in his professional dress, if any. However, where no professional dress is specified, the following dress code should be adhered to for appearing before the CESTAT: Males Close-collared black coat, or in an open collared black coat, with white shirt and black tie; Females - Black coat over a white sari or nay other white dress.

Under Rule 69 of Appellate Tribunal for Electricity (Procedure, Form, Fee and Record of Proceedings) Rules, 2007 a professional dress for the advocate has been prescribed. While appearing before the Tribunal, the Advocate shall wear the same professional dress as prescribed for appearance before the Court or wear a coat with a tie or a close coat.

SKILLS REQUIRED FOR REPRESENTATION:

Court craft is a popular word which means the art or craft of conducting the affairs of a court. Craft would imply the skill, dexterity, technique or ability of performing a task. Tribunal Craft would be an appropriate term to describe the art of understanding the functioning of Tribunals and the objectives for which they have been established and thereby effectively representing clients and Tribunals and winning cases.

The following skills are important for representation before Tribunals and other Authorities:

- Knowledge of substantive and procedural law relating to the legislation concerned.
- Knowledge of Constitutional law, particularly when a case is to be represented before Tax Tribunals
- In depth understanding of court procedure and appellate mechanism and regulations and rules governing the above.
- Practical / hands-on experience in appearance before the forums concerned and putting forth arguments and advancing contentions.
- Skill of advocacy, examination of witnesses, cross-examination and re-examination of witnesses.
- Ability to summarize arguments after conducting examination of witnesses.
- Skill in Presentation of the case effectively before the presiding officer/judicial officer
- Knowledge of compilation procedure in relation to
 - appeal petitions,
 - paper books,
 - annexure,
 - case law citations,
 - Material documents relating to evidence to be appreciated by the concerned forum.
- Advancing counter arguments, improvising of arguments impromptu etc.
- Coordinating with lead counsel
- Upholding the interest of the profession concerned, by conducting himself as a member of an honorable profession in a dignified manner

If petitioner dutifully complies with all rules of procedure, he/she will produce a brief that is acceptable in Tribunals, however, that does not guarantee that the brief will be clear, appropriate, and persuasive enough to win the case.

PROCEDURAL ASPECTS OF PRESENTATION BEFORE TRIBUNALS AND RELATED LEGISLATIONS

Commercial Tribunals are the vehicles which aid and expedite the resolution of commercial disputes both in and out of the court room.

A commercial dispute may be filed in the court having territorial jurisdiction and depending upon level of crime or pecuniary jurisdiction. The place of cause of action and the place of residence of the defendant are the necessary determinants of territorial jurisdiction.

However, a number of special courts, tribunals, commissions, authorities and boards have been constituted in India to deal with specific disputes which have been enumerated herein below.

Every Tribunal functions as per the procedures laid down in the rules made for this purpose in accordance with which it hears appeals; conducts proceedings and passes orders. The procedural rules related to Tribunals are listed below:

TRIBUNAL/ OTHER AUTHORITY	PROCEDURAL LEGISLATIONS
Appellate Tribunal for Electricity	The Electricity Act 2003 Appellate Tribunal for Electricity (Procedure, Form, Fee & Record of Proceedings) Rules 2007
The Appellate Tribunal Appellate Tribunal For Forfeited Property & Money Laundering, Department of Revenue, Ministry of Finance (for Benami Transactions)	Prohibition of Benami Property Transactions Act 1988 Prohibition of Benami Property Transactions Rules 2016
The Appellate Tribunal	Prevention of Money-laundering Act,

Appellate Tribunal For Forfeited Property & Money Laundering, Department of Revenue, Ministry of Finance (for Money Laundering)	2002 Prevention of Money Laundering (Appeal) Rules 2005
Arbitral Tribunal	Arbitration & Conciliation Act 1996 The Rules and Procedure used in an arbitral proceeding are part of the arbitral agreement
Customs, Excise & Service Tax Appellate Tribunal	Customs Act 1962 Central Excise Act 1944 Finance Act 1994 Customs Tariff Act 1975 Customs, Excise & Service Tax Appellate Tribunal (Procedure) Rules 1982 Central Excise (Appeals) Rules 2001 Customs (Appeals) Rules 1982 Rule 9 of Service Tax Rules 1994
Debt Recovery Appellate Tribunal	Recovery of Debts due to Banks and Financial Institutions Act 1993 Debt Recovery Appellate Tribunal (Procedure) Rules 1994

Debt Recovery Tribunal	Recovery of Debts due to Banks and Financial Institutions Act 1993 Debt Recovery Tribunal (Procedure) Rules 1993
Film Certification Appellate Tribunal	Cinematograph Act 1952
Income Tax Appellate Tribunal	Income Tax Act 1961 Income Tax (Appellate Tribunal) Rules 1963
Insolvency and Bankruptcy Board of India	Insolvency and Bankruptcy Code 2016 Rules and Regulations under the Code
Intellectual Property Appellate Board	The Trademarks Act 1999 The Geographical Indications of Goods (Registration & Protection) Act 1999 The Patents Act 1970 The Copyright Act 1957 The Intellectual Property Appellate Board (Patents Procedure) Rules 2010 The Trademarks (Application & Appeals to the Intellectual Property Appellate Board) Rules 2003 The Patents (Application & Appeals to the Intellectual Property Appellate

	Board) Rules 2011 The Geographical Indications of Goods (Registration & Protection) Rules 2002
National Company Law Appellate Tribunal	Companies Act 2013 National Company Law Appellate Tribunal Rules 2016
National Company Law Tribunal	Companies Act 2013 National Company Law Tribunal Rules 2016
National Consumer Dispute Redressal Commission	Consumer Protection Act 2019
National Green Tribunal	The National Green Tribunal Act 2010 The National Green Tribunal (Practices & Procedure) Rules 2011
Real Estate Appellate Tribunal	The Real Estate (Regulation & Development) Act 2016 States Rules
Securities Appellate Tribunal	Securities & Exchange Board of India Act, 1992 The Depositories Act, 1996 Securities Contracts (Regulation) Act,

	<p>1956</p> <p>The Insurance Act 1938</p> <p>The Pension Fund Regulatory and Development Authority Act, 2013</p> <p>Securities Appellate Tribunal (Procedure) Rules, 2000</p> <p>Depositories (Appeal to Securities Appellate Tribunal) Rules 2000</p> <p>Securities Contract (Regulation) (Appeal to Securities Appellate Tribunal) Rules 2000</p> <p>Pension Fund Regulatory and Development Authority (Appeal to Securities Appellate Tribunal) Rules, 2014</p> <p>Insurance (Appeal to Securities Appellate Tribunal) Rules, 2016</p>
Telecom Disputes Settlement & Appellate Tribunal	<p>Telecom Regulatory Authority of India Act 1997</p> <p>Telecom Disputes Settlement & Appellate Tribunal Procedures 2005</p> <p>Telecom Disputes Settlement & Appellate Tribunal (Form, Verification and the Fee for Filing an Appeal) Rules 2003</p>

APPELLATE TRIBUNAL FOR BENAMI TRANSACTIONS

Benami Property Transactions Act, 1988 was amended by the Benami Transactions (Prohibition) Amendment Act, 2016 (BTP Amendment Act). The rules and all the provisions of the BTP Amendment Act came into force on 1st November, 2016 vide Notification No. SO 3289(E) [No.98/2016 (F.No.149/144/2015-TPL (Part-II, dated 25-10-2016. After coming into effect of the BTP Amendment Act, the Benami Transactions (Prohibition) Act, 1988 was renamed as Prohibition of Benami Property Transactions Act, 1988 (PBPT Act).

The Act lays down a hierarchical structure for administration of the Act viz. Initiating Officer, Approving Authority, Adjudicating Authority, Administrator and Appellate Tribunal. An appellate mechanism has been provided under the PBPT Act in the form of Adjudicating Authority and Appellate Tribunal. Section 30 of the Prohibition of Benami Property Transactions Act, 1988 specifies that the Government by notification shall establish an Appellate Tribunal to hear appeals against the order of the Adjudicating Authority under this Act. The Adjudicating Authority referred to in section 6(1) of the Prevention of Money Laundering Act, 2002 (PMLA) and the Appellate Tribunal referred to in section 25 of the PMLA have been notified as the Adjudicating Authority and Appellate Tribunal, respectively, for the purposes of the PBPT Act.

The Act defines benami transactions and also provides imprisonment upto seven years and fine for violation of the Act. The official notification says, ‘The PBPT Act prohibits recovery of the property held benami from benamidar by the real owner. Properties held benami are liable for confiscation by the government without payment of compensation.’

PMLA PROVISIONS APPELLATE TRIBUNAL

The Central Government Vide Notification No. G.S.R.No.438 (E) dated 1st July 2005, in exercise of the powers conferred by section 25 of the Prevention of Money-laundering Act, 2002 (15 of 2003) (PMLA 2002) constituted an Appellate

Tribunal at New Delhi under the Department of Revenue, Ministry of Finance to hear appeals against the orders of the Adjudicating Authority and the authorities under the said Act.

Appellate Tribunal is National Tribunal having its Headquarters at New Delhi. The Tribunal Adjudicates Appeals and allied petitions filed against the attachments/forfeitures order passed by the Competent Authorities under Smugglers and Foreign Exchange Manipulators (forfeited of property) Act, 1976 (SAFEMA) and Narcotic Drugs & Psychotropic Substances Act, 1985 (NDPSA) and orders of attachments/forfeitures of properties involved in Money Laundering by Adjudicating Authority under PMLA. It also Adjudicates appeals filed against the orders imposing fine passed by the Director-Financial Intelligence Unit India (FIU-India). The Benches of the Appellate Tribunal sit at New Delhi without any benches elsewhere in the country.

Procedural Aspects of Appeal under PMLA provisions

The Prevention of Money-laundering (Appeal) Rules, 2005 (PML Appeal Rules 2005) notified on 1st July, 2005 lay down the procedural aspects for application and proceedings at the Appellate Tribunal under the Act.

1. Every appeal shall be filed within a period of forty-five days from the date on which a copy of the order made by the Adjudicating Authority or Director is received and it shall be in such form and be accompanied by such fee as may be prescribed. The Appellate Tribunal may after giving an opportunity of being heard entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.
2. Where the appeal is preferred after the expiry of the period of forty-five days as mentioned above, it shall be accompanied by a petition, in quadruplicate, duly verified and supported by the documents, if any, relied upon by the appellant, showing cause as to how the appellant had been prevented from preferring the appeal within the period of forty-five days.
3. Every appeal preferred before the Appellate Tribunal against the order of the Adjudicating Authority or the Director, as the case may be, under the PMLA 2002

shall be in the Form as appended to the Rules and the appeal shall be in quadruplicate and accompanied by four copies of the order appealed against.

4. At the time of filing, every appeal shall be accompanied with an amount of prescribed fee, in the form of demand draft payable in favor of the Registrar, Appellate Tribunal, New Delhi.

5. The appeal shall set forth concisely and under distinct head the grounds of objection to the order appealed against and such grounds shall be numbered consecutively; and shall specify the address of service at which notice or other processes of the Appellate Tribunal may be served on the appellant and the date on which the order appealed against was served on the appellant.

NATIONAL COMPANY LAW TRIBUNAL

The Central Government vide notification of the Ministry of Corporate Affairs (MCA) constituted the National Company Law Tribunal (NCLT) and National Company Law Appellate Tribunal (NCLAT) with effect from the June 01, 2016. The constitution of the aforesaid Tribunals is in exercise of the powers conferred by Sections 408 and 410 respectively of the Companies Act, 2013.

The National Company Law Tribunal (NCLT) has been established for adjudication of disputes with respect to corporate civil disputes arising under the Companies Act 2013 and Insolvency and Bankruptcy Code, 2016.

The genesis of the NCLT and NCLAT began with the Companies (Second Amendment) Act, 2002 which provided for the setting up of a National Company

Law Tribunal and Appellate Tribunal to replace the existing Company Law Board (CLB) and Board for Industrial and Financial Reconstruction (BIFR).

NCLT was constituted vide Ministry of Corporate Affairs (MCA) Notification S.O. 1932(E) dated 1.6.2016 and as per Notification S.O. 1936(E) dated 1.6.2016 all matters or proceedings or cases pending before the Board of Company Law Administration (Company Law Board) shall stand transferred to the National Company Law Tribunal on 01st day of June, 2016 and it shall dispose of such matters or proceedings or cases in accordance with the provisions of the Companies Act, 2013 or the Companies Act, 1956. The MCA issued the National Company Law Tribunal Rules, 2016 vide notification dated 21st July, 2016.

The NCLT shall consist of a President and such number of Judicial and Technical members, as the Central Government may deem necessary, to be appointed by it by notification, to exercise and discharge such powers and functions as are, or may be, conferred on it by or under this Act or any other law for the time being in force. Further, the government also notified the recruitment rules for NCLT benches viz. the National Company Law Tribunal (Recruitment, Salary and other Terms and Conditions of Service of Officers and other Employees) Rules, 2020.

The NCLT has now got sixteen Benches, one Principal Bench at New Delhi and Regional Benches at New Delhi, Ahmedabad, Allahabad, Bengaluru, Chandigarh, Chennai, Cuttack, Guwahati, Hyderabad Bench at Hyderabad, Amaravati Bench at Hyderabad, Jaipur, Kochi, Kolkata and Mumbai. The Location and Jurisdiction of NCLT Benches are:

S.NO.	Name Of Bench	Location	Territorial Jurisdiction of the Bench
1	(a) National Company Law Tribunal, Principal Bench. (b) National Company Law Tribunal, New Delhi Bench.	New Delhi	(1) Union territory of Delhi.
2	(a) National Company Law Tribunal, Ahmedabad Bench.	Ahmedabad	(1) State of Gujarat (2) Union Territory of Dadra and Nagar Haveli (3) Union Territory of Daman and

S.NO.	Name Of Bench	Location	Territorial Jurisdiction of the Bench
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3	National Company Law Tribunal, Allahabad Bench.	Allahabad	(1) State of Uttar Pradesh. (2) State of Uttarakhand.
4	National Company Law Tribunal, Amaravati Bench.	Hyderabad	(1) State of Andhra Pradesh
5	National Company Law Tribunal, Bengaluru Bench.	Bengaluru	(1) State of Karnataka.
6	National Company Law Tribunal, Chandigarh Bench.	Chandigarh	(1) State of Himachal Pradesh. (2) State of Jammu and Kashmir. (3) State of Punjab. (4) Union territory of Chandigarh. (5) State of Haryana.
7	National Company Law Tribunal, Chennai Bench.	Chennai	(1) State of Tamil Nadu. (2) Union territory of Puducherry.
8	National Company Law Tribunal, Cuttack Bench.	Cuttack	(1) State of Chhattisgarh. (2) State of Odisha.
9	National Company Law Tribunal, Guwahati Bench.	Guwahati	(1) State of Arunachal Pradesh. (2) State of Assam. (3) State of Manipur. (4) State of Mizoram. (5) State of Meghalaya. (6) State of Nagaland. (7) State of Sikkim. (8) State of Tripura.
10	National Company Law Tribunal, Hyderabad Bench.	Hyderabad	(1) State of Telangana.
11	National Company Law Tribunal, Indore Bench.	Ahmedabad	(1) State of Madhya Pradesh
12	National Company Law Tribunal, Jaipur Bench.	Jaipur	(1) State of Rajasthan.
13	National Company Law Tribunal, Kochi Bench.	Kochi	(1) State of Kerala (2) Union Territory of Laksha
14	National Company Law Tribunal, Kolkata Bench.	Kolkata Bench	(1) State of Bihar. (2) State of Jharkhand. (3) State of West Bengal. (4) Union territory of Andaman and Nicobar Islands.
15	National Company Law Tribunal, Mumbai Bench.	Mumbai Bench	(1) State of Goa. (2) State of Maharashtra.

Procedural Aspects of Representation at National Company Law Tribunal (NCLT)

The National Company Law Tribunal Rules, 2016 notified on 21st July, 2016 lay down the procedural aspects for application and proceedings at NCLT.

An applicant meaning a petitioner or an appellant or any other person or entity capable of making an application including an interlocutory application or a petition or an appeal under the Companies Act 2013, is eligible to apply to NCLT. Under section 432 of the Companies Act 2013, a party to any proceeding or appeal before the Tribunal or the Appellate Tribunal, as the case may be, may either appear in person or authorize one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any other person to present his case before the Tribunal or the Appellate Tribunal, as the case may be. The authorization must be in writing.

A legal practitioner or authorized representative shall be entitled to appear and act, in any proceeding before the Tribunal only if he files into Tribunal vakalatnama or Memorandum of Appearance as the case may, duly executed by or on behalf of the party for whom he appears. While appearing before the Tribunal, the authorized representatives shall wear the same professional dress as prescribed in their Code of Conduct.

An applicant can file application including interlocutory application to the NCLT. Every petition or application or reference shall be filed in form as provided in Form No. NCLT-1 with attachments thereto accompanied by Form No. NCLT-2. In case of an interlocutory application, the petition or application shall be filed in Form No. NCLT-1 accompanied by such attachments thereto along with Form No. NCLT-3.

The appellant or petitioner or applicant or respondent shall file three authenticated copies of appeal or petition or application or counter or objections, as the case may be, and shall deliver one copy to each of the opposite party. Applicants have to file the petitions/applications/documents in triplicate before all benches of the NCLT.

The Tribunal shall issue notice to the respondent to show cause against the application or petition on a date of hearing to be specified in the Notice.

The following points with respect to institution of proceedings, petitions, appeals etc. are laid down in Rule 20 of the National Company Law Tribunal Rules, 2016 (NCLT Rules 2016).

- (1) Every appeal or petition or application or caveat petition or objection or counter presented to the Tribunal shall be in English and in case it is in some other Indian language, it shall be accompanied by a copy translated in English and shall be fairly and legibly type written, lithographed or printed in double spacing on one side of standard petition paper with an inner margin of about four centimeter width on top and with a right margin of 2.5. cm, and left margin of 5 cm, duly paginated, indexed and stitched together in paper book form;
- (2) The cause title shall state “Before the National Company Law Tribunal” and shall specify the Bench to which it is presented and also set out the proceedings or order of the authority against which it is preferred.
- (3) Appeal or petition or application or counter or objections shall be divided into paragraphs and shall be numbered consecutively and each paragraph shall contain as nearly as may be, a separate fact or allegation or point.
- (4) Where Saka or other dates are used, corresponding dates of Gregorian Calendar shall also be given. (‘Saka’ is a term used to imply the Indian national calendar)
- (5) Full name, parentage, age, description of each party and address and in case a party sues or being sued in a representative character, shall also be set out at the beginning of the appeal or petition or application and need not be repeated in the subsequent proceedings in the same appeal or petition or application.
- (6) The names of parties shall be numbered consecutively and a separate line should be allotted to the name and description of each party.
- (7) These numbers shall not be changed and in the event of the death of a party during the pendency of the appeal or petition or matter, his legal heirs or

representative, as the case may be, if more than one shall be shown by sub-numbers.

(8) Where fresh parties are brought in, they may be numbered consecutively in the particular category, in which they are brought in.

(9) Every proceeding shall state immediately after the cause title the provision of law under which it is preferred.

The procedural aspects for presentation of petition or appeal as laid down in Rule 23 of the NCLT Rules 2016 are as follows:

(1) Every petition, application, caveat, interlocutory application, documents and appeal shall be presented in triplicate by the appellant or applicant or petitioner or respondent, as the case may be, in person or by his duly authorized representative or by an advocate duly appointed in this behalf in the prescribed form with stipulated fee at the filing counter and non-compliance of this may constitute a valid ground to refuse to entertain the same.

(2) Every petition or application or appeal may be accompanied by documents duly certified by the authorized representative or advocate filing the petition or application or appeal duly verified from the originals.

(3) All the documents filed in the Tribunal shall be accompanied by an index in triplicate containing their details and the amount of fee paid thereon.

(4) Sufficient number of copies of the appeal or petition or application shall also be filed for service on the opposite party as prescribed under these rules.

(5) In the pending matters, all applications shall be presented after serving copies thereof in advance on the opposite side or his authorized representative.

(6) The processing fee prescribed by these rules, with required number of envelopes of sufficient size and notice forms shall be filled along with memorandum of appeal.

For the purpose of endorsement and verification of the petition, appeal, pleading, the following points need to be ensured:

- (1) At the foot of every petition or appeal or pleading there shall appear the name and signature of the authorized representative.
- (2) Every petition or appeal shall be signed and verified by the party concerned in the manner provided by the NCLT Rules 2016.

Rule 35 of the NCLT Rules 2016 lays down the procedure to be followed when the application or petition is required to be advertised, which is as follows:

(1) Where any application, petition or reference is required to be advertised, it shall, unless otherwise provided, be advertised in Form NCLT-3A, not less than fourteen days before the date fixed for hearing, at least once in a vernacular newspaper in the principal vernacular language of the district in which the registered office of the company is situate, and at least once in English language in an English newspaper circulating in that district.

(2) Every such advertisement shall state;-

- (a) the date on which the application, petition or reference was presented;
- (b) the name and address of the applicant, petitioner and his authorised representative, if any;
- (c) the nature and substance of application, petition or reference;
- (d) the date fixed for hearing;
- (e) a statement to the effect that any person whose interest is likely to be affected by the proposed petition or who intends either to oppose or support the petition or reference at the hearing shall send a notice of his intention to the concerned Bench and the petitioner or his authorised representative, if any, indicating the nature of interest and grounds of opposition so as to reach him not later than two days previous to the day fixed for hearing.

(3) Where the advertisement is being given by the company, then the same may also be placed on the website of the company, if any.

(4) An affidavit shall be filed to the Tribunal, not less than three days before the date fixed for hearing, stating whether the petition has been advertised in accordance with this rule and whether the notices, if any, have been duly served upon the persons required to be served: Provided that the affidavit shall be

accompanied with such proof of advertisement or of the service, as may be available.

(5) Where the requirements of the NCLT Rules 2016 or the direction of the Tribunal, as regards the advertisement and service of petition, are not complied with, the Tribunal may either dismiss the petition or give such further directions as it thinks fit.

NATIONAL COMPANY LAW APPELLATE TRIBUNAL

National Company Law Appellate Tribunal (NCLAT) was constituted with effect June 01, 2016 vide Notification S.O. 1933(E) dated 1.6.2016 in exercise of the powers conferred by Sections 410 of the Companies Act, 2013. The National Company Law Appellate Tribunal Rules, 2016 (NCLAT Rules 2016) were notified on 21st July, 2016.

National Company Law Appellate Tribunal (NCLAT) is the Appellate Tribunal for hearing appeals against the orders of National Company Law Tribunal(s) (NCLT), with effect from 1st June, 2016. NCLAT is also the Appellate Tribunal for hearing appeals against the orders passed by NCLT(s) under Section 61 of the Insolvency and Bankruptcy Code, 2016 (IBC), with effect from 1st December, 2016. NCLAT is also the Appellate Tribunal for hearing appeals against the orders passed by Insolvency and Bankruptcy Board of India under Section 202 and Section 211 of IBC.

NCLAT is also the Appellate Tribunal to hear and dispose of appeals against any direction issued or decision made or order passed by the Competition Commission of India (CCI) – as per the amendment brought to Section 410 of the Companies Act, 2013 by Section 172 of the Finance Act, 2017, with effect from 26th May, 2017.

The NCLAT is set up with a maximum number of 11 members including Chairperson, Judicial & Technical Members. The chairperson of NCLAT shall be a person who is or has been a Judge of the Supreme Court or the Chief Justice of a High Court. A Judicial Member shall be a person who is or has been a Judge of a High Court or is a Judicial Member of the Tribunal for five years. A Technical

Member shall be a person of proven ability, integrity and standing having special knowledge and experience, of not less than twenty-five years, in law, industrial finance, industrial management or administration, industrial reconstruction, investment, accountancy, labour matters, or such other disciplines related to management, conduct of affairs, revival, rehabilitation and winding up of companies.

Under section 421 of the Companies Act 2013, any person aggrieved by an order of the Tribunal may prefer an appeal to the Appellate Tribunal within a period of forty-five days from the date on which a copy of the order of the Tribunal is made available to the person aggrieved and shall be in such form, and accompanied by such fees, as may be prescribed. NCLAT may entertain an appeal after the expiry of the said period of forty-five days from the date aforesaid, but within a further period not exceeding forty-five days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within that period.

However, no appeal shall lie to the Appellate Tribunal from an order made by the Tribunal with the consent of parties.

The NCLAT shall, after giving the parties to the appeal a reasonable opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against and shall send a copy of every order made by it to the Tribunal and the parties to appeal.

Procedural Aspects of Representation at National Company Law Appellate Tribunal (NCLAT)

Under section 432 of the Companies Act 2013, a party to any proceeding or appeal before the Tribunal or the Appellate Tribunal, as the case may be, may either appear in person or authorize one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any other person to present his case before the Tribunal or the Appellate Tribunal, as the case may be. The authorization must be in writing.

Where an advocate is engaged to appear for and on behalf of the parties, he shall submit Vakalatnama. The professionals like chartered accountants or company secretaries or cost accountants shall submit Memorandum of Appearance.

While appearing before the Appellate Tribunal, the authorized representative shall wear the same professional dress as prescribed in their Code of Conduct.

Procedural aspects of appeals to NCLAT as specified in the NCLAT Rules 2016 are as follows:

(1) Every appeal to the Appellate Tribunal shall be in English and in case it is in some other Indian language, it shall be accompanied by a copy translated in English and shall be fairly and legibly type-written or printed in double spacing on one side of standard paper with an inner margin of about four centimeters width on top and with a right margin of 2.5 cm, and left margin of 5 cm, duly paginated, indexed and stitched together in paper book form.

(2) The cause title shall state “In the National Company Law Appellate Tribunal” and also set out the proceedings or order of the authority against which it is preferred.

(3) Appeal shall be divided into paragraphs and shall be numbered consecutively and each paragraph shall contain as nearly as may be, a separate fact or allegation or point.

(4) Where Saka or other dates are used, corresponding dates of Gregorian calendar shall also be given.

(5) Full name, parentage, description of each party and address and in case a party sue or being sued in a representative character, shall also be set out at the beginning of the appeal and need not be repeated in the subsequent proceedings in the same appeal.

(6) The names of parties shall be numbered consecutively and a separate line should be allotted to the name and description of each party and these numbers shall not be changed and in the event of the death of a party during the pendency of

the appeal, his legal heirs or representative, as the case may be, if more than one shall be shown by sub-numbers.

(7) Where fresh parties are brought in, they may be numbered consecutively in the particular category, in which they are brought in.

(8) Every proceeding shall state immediately after the cause title and the provision of law under which it is preferred.

(9) Every interlineation, eraser or correction or deletion in any appeal shall be initialled by the party or his authorized representative.

(10) Every appeal shall be presented in Form NCLAT-1 in triplicate by the appellant or petitioner or applicant or respondent, as the case may be, in person or by his duly authorized representative duly appointed in this behalf in the prescribed form with stipulated fee at the filing counter and non-compliance of this may constitute a valid ground to refuse to entertain the same.

(11) Every appeal shall be accompanied by a certified copy of the impugned order.

(12) All documents filed in the Appellate Tribunal shall be accompanied by an index in triplicate containing their details and the amount of fee paid thereon.

(13) Sufficient number of copies of the appeal or petition or application shall also be filed for service on the opposite party as prescribed.

(14) In the pending matters, all other applications shall be presented after serving copies thereof in advance on the opposite side or his advocate or authorized representative.

(15) The processing fee prescribed by the rules, with required number of envelopes of sufficient size and notice forms as prescribed shall be filled along with memorandum of appeal.

(16) The appellant or petitioner or applicant or respondent shall file three authenticated copies of appeal or counter or objections, as the case may be, and shall deliver one copy to each of the opposite party.

(17) At the foot of every appeal or pleading there shall appear the name and signature of the authorized representative and every appeal or pleadings shall be signed and verified by the party concerned in the manner provided by these rules.

(18) Where an appeal purported to be instituted by or on behalf of an association, the person who signs or verifies the same shall produce along with such appeal, for verification by the Registrar of the Appellate Tribunal, a true copy of the resolution of the association empowering such person to do so. The Registrar may at any time call upon the party to produce such further materials as he deems fit for satisfying himself about due authorization. The appeal shall set out the list of members for whose benefit the proceedings are instituted.

Procedure for Interlocutory Application

Every interlocutory application for stay, direction, condonation of delay, exemption from production of copy of order appealed against or extension of time prayed for in pending matters shall be in Form NCLAT-2 and the requirements prescribed in that behalf shall be complied with by the applicant, besides filing an affidavit supporting the application.

As per Directions issued by NCLAT dated 14th December 2017 in this regard, the interlocutory application for stay, directions etc. if filed along with the appeal even if separately, the same will be accepted. In a pending appeal or application or contempt petition, if any interlocutory application for stay, directions, impleadment, substitution, transpositions and restoration is filed, the same will be accepted and will be listed along with the appeal on the next date fixed. In case any person requests for early hearing of such interlocutory application, before the next date fixed, such person can mention the matter in the Court of Hon'ble Chairperson and in his absence to the next senior most Hon'ble Member (Judicial) and he may allow the request for early listing.

Procedure for lodging of Caveat

In exercise of powers under Rule 104 of the NCLAT Rules, 2016 the NCLAT has issued Directions dated 6th February 2018 to remove difficulties faced by litigants in the absence of specific provision in the Rules for lodging of caveat.

As per these directions any person may lodge a caveat in the form given in the Directions in triplicate in any appeal/ application that may be instituted before the NCLAT by paying a fee of Rs. 1000/- after forwarding a copy by registered post or serving the same on the expected appellant/ applicant. The caveat shall remain valid for a period of 90 days from the date of its filing.

Checklist for Appeals to NCLAT under Companies Act, 2013 & Insolvency and Bankruptcy Code, 2016 (As given by NCLAT on 20.09.2017):

- Appeals to be in Form NCLAT-1 (in triplicate) along with an affidavit in Form NCLAT-4 of the National Company Law Appellate Tribunal Rules, 2016 (Rules)
- Language & Format
 - Appeal stitched together in paper book form
 - Language of appeal – English
 - If in some other language - should be accompanied by a copy of translated version in English
 - Fairly and legible type-written or printed
 - Double spacing
 - On one side of legal size paper with inner margin of about 4 cm - Width on top & right margin 2.5 cm.
 - Left margin 5 cm.
 - Duly paginated
- Cause Title
 - Cause Title to state “In the National Company Law Appellate Tribunal”
 - Company Appeal (AT) No.____/2017 or Company Appeal (AT)

(Insolvency)

No.____/2017.

- State the provision(s) of law/ rule(s) under which appeal preferred.
- State Case No., date, Bench which passed the impugned order.

- Memo of Parties and address for service of summons

- State full name, parentage and following details as prescribed under Rule 20: - (a) The name of the road, street, lane and Municipal Division or ward, Municipal Door and other number of the house; (b) The name of the town or village; (c) The post office, postal district and PIN Code; and (d) Any other particular necessary to identify the addressee such as fax number, mobile number and e-mail address.
- In case party sues or is being sued in a representative character, state the fact at the beginning of the appeal and need not be repeated in the remaining part of the appeal.
- If a company or companies are party to the appeal, the name and details of the person authorised to represent the company.
- The parties shall be numbered consecutively and a separate line should be allotted to the name and description of each party. This number shall not be changed and in the event of death of a party during the pendency of the appeal, his legal heirs or representative(s) should be given sub-numbers. e.g. if Respondent No.3 dies & there are 4 legal heirs, they will be substituted as Respondent No.3(a), 3(b), 3(c) & 3(d).
- When fresh parties are brought in, they may be numbered consecutively.

- Synopsis-cum-chronological list of events: -

- Appeal memo to contain synopsis and list of dates.

- Pleadings: -

- To be divided into paragraphs and numbered consecutively.

- Each paragraph to contain as nearly as may be, a separate fact or allegation or point.
- Where saka or other dates are used, state also the corresponding dates of Gregorian calendar.
- Every interlineation, eraser or correction or deletion should be initialled by the party or his authorized representative.
- Fees for Appeals: -
 - For every order challenged - ₹ 5,000/- to be paid by way of Demand Draft or Pay Order in favour of “Pay and Accounts Officer, Ministry of Corporate Affairs” payable at New Delhi.
- Fees for Interlocutory Application: - - ₹ 1,000/- per application.
- Documents: -
 - When Appeal instituted by or on behalf of an association, the person signing or verifying the same to produce a true copy of the Resolution of the association empowering him to do so (Rule 30).
 - Every Appeal to be accompanied by a certified copy of the impugned order(s) (not photocopy copy or typed copy). The order to be incorporated in the paper book immediately after the Appeal memo.
 - All documents filed in the Appellate Tribunal to be accompanied by index in triplicate containing their details.
 - Sufficient number of copies of Appeal or petition or application should be filed for service on the opposite parties (if not filed, it is required to be filed within a period as directed by the Hon’ble Appellate Tribunal).
- In pending matters, all applications to be filed after serving copies in advance on the opposite side/ his advocate/ authorised representative.
- Process Fees: -

- The required processing fee with required number of envelopes of sufficient size containing the address of the parties to be filed within a period as directed by the Hon'ble Appellate Tribunal.
- Endorsement and Verification: -
 - At the foot of every Appeal or pleading, there shall be the name and signature of the authorised representative (Rule 24).
 - Every Appeal or pleadings to be signed and verified by the party concerned.
 - Declaration & verification in Appeal to be as contained in Form NCLAT-1
- Proof of Engagement: -
 - Vakalatnama to be filed by Lawyer (Rule 64) with Court fee of ₹ .3/- and Advocate Welfare stamp of ₹ .10/- each.
 - Chartered Accountants or Company Secretaries or Cost Accountants to submit memorandum of appearance {Rule 64(2)}.
- Copy of petition(s), counter affidavit(s) etc. filed before the NCLT to be produced, if intended to be relied on.
- Format of Interlocutory Application: -
 - To be in Form NCLAT-2 along with affidavit (Rule 31).
 - In cause title state I.A. No.____/2017 in Company Appeal (AT) ____/2017 or Company Appeal (AT) (Insolvency)____/2017.
 - State the provision of law under which I.A. is filed.
- Affidavit: -
 - Title of affidavit to be – “Before the National Law Appellate Tribunal” followed by cause title of the application or the proceedings in which the affidavit is to be used (Rule 67).

- Affidavit to be in Form NCLAT-4 and to conform to Order XIX Rule 3 CPC (Rules 68).
- Affidavits of illiterate and visually challenged person to comply with Rule 70.
- Identification of deponent and Annexures to affidavit to be in accordance with Rules 71 and 72.
- Miscellaneous Application
 - (e.g. Extension of time for compliance under sub-rule (3) to rule 26) - Format same as in Interlocutory Application - No fee required.

Checklist for Appeals to NCLAT under Competition Act 2002 (As given by NCLAT on 20.09.2017):

- Appeals to be in the Form appended to ‘The Competition Appellate Tribunal (Form and Fee for Filing an Appeal and Fee for Filing Compensation Applications) Rules, 2009 (Rules 2009) along with an affidavit’
- Language & Format
 - Appeal stitched together in paper book form
 - Language of appeal – English
 - If in some other language - should be accompanied by a copy of translated version in English
 - Fairly and legible type-written or printed
 - Double spacing
 - On one side of legal size paper with inner margin of about 4 cm - Width on top & right margin 2.5 cm.
 - Left margin 5 cm.

- Duly paginated
- Cause Title
 - Cause Title to state “In the National Company Law Appellate Tribunal”
 - Competition Appeal (AT) No.____/2017.
 - State the provision(s) of law/ rule(s) under which appeal preferred.
 - State Case No. and date of impugned order.
- Memo of Parties and address for service of summons
 - State full name, parentage and following details: - (a) The name of the road, street, lane and Municipal Division or ward, Municipal Door and other number of the house; (b) The name of the town or village; (c) The post office, postal district and PIN Code; and (d) Any other particular necessary to identify the addressee such as fax number, mobile number and e-mail address.
 - In case party sues or is being sued in a representative character, state the fact at the beginning of the appeal and need not be repeated in the remaining part of the appeal.
 - If a company or companies are party to the appeal, the name and details of the person authorised to represent the company.
 - The parties shall be numbered consecutively and a separate line should be allotted to the name and description of each party. This number shall not be changed and in the event of death of a party during the pendency of the appeal, his legal heirs or representative(s) should be given sub-numbers. e.g. if Respondent No.3 dies & there are 4 legal heirs, they will be substituted as Respondent No.3(a), 3(b), 3(c) & 3(d).
 - When fresh parties are brought in, they may be numbered consecutively.

- Synopsis-cum-chronological list of events.
 - Appeal memo to contain synopsis and list of dates.
- Pleadings: -
 - To be divided into paragraphs and numbered consecutively.
 - Each paragraph to contain as nearly as may be, a separate fact or allegation or point.
 - Where saka or other dates are used, state also the corresponding dates of Gregorian calendar.
 - Every interlineation, eraser or correction or deletion should be initialled by the party or his authorized representative.
- Fee for Appeals: -
 - See Rule 4 of Rules 2009
- Documents: -
 - Every appeal to be accompanied by a certified copy of the impugned order(s) (not photocopy copy or typed copy). The order to be incorporated in the paper book immediately after the Appeal memo.
 - All documents filed in the Appellate Tribunal to be accompanied by index in triplicate containing their details.
 - Sufficient number of copies of appeal or petition or application should be filed for service on the opposite parties (if not filed, it is required to be filed within a period as directed by the Hon'ble Appellate Tribunal).
- In pending matters, all applications to be filed after serving copies in advance on the opposite side/ his advocate/ authorised representative.
- Process Fees: -

- The required processing fee with required number of envelopes of sufficient size containing the address of the parties to be filed within a period as directed by the Hon'ble Appellate Tribunal.

- Vakalatnama to be filed by Lawyer with Court fee of ₹ 3/- and Advocate Welfare stamp of ₹ 10/- each.
- Copy of Information filed before the CCI to be produced.

ARBITRAL TRIBUNAL

The Indian law of arbitration is contained in the Arbitration and Conciliation Act 1996 (Act). As per section 2(d) of the Act, an arbitral tribunal means a sole arbitrator or a panel of arbitrators. An arbitral tribunal (or arbitration tribunal) is a panel of one or more adjudicators which is convened and sits to resolve a dispute by way of arbitration. The tribunal may consist of a sole arbitrator, or there may be more arbitrators but the number of arbitrators can never be even number under the Arbitration & Conciliation Act, 1996.

Section 10(1) says that the parties are free to determine the number of arbitrators. This is, however, subject to the condition that such number shall not be an even number. In case there is no provision as to number of arbitrators in the arbitration agreement, the reference will be to a sole arbitrator as per Section 10(2).

If the parties fail to agree upon the name of a sole arbitrator, the appointment shall be made by the Supreme Court or the High Court or any person or institution designated by such Court. (Section 11)

In case of three arbitrators, each party shall appoint one arbitrator. These two appointed arbitrators shall then, appoint a third arbitrator who shall act as the presiding arbitrator.

If a party fails appointment shall be made by the chief justice. (Section 11)

Two appointed arbitrators fail to appoint the third arbitrator, the appointment shall be made by the Supreme/High Court or any person or institution designated by

such Court. The designating authority will take into account the followings before appointing an arbitrator : - (section 11(8))

- 1) An qualification required of the arbitrator by the agreement of the parties ; and
- 2) Other consideration as are likely to secure the appointment of an independent and impartial arbitrator.
- 3) In case of International Commercial Arbitration, Supreme/ High Court or any person or institution designated by such court may appoint an arbitrator of a nationality other than nationalities of the parties where the parties belong to different nationalities. (Section 11(9))

Procedural Aspects at Arbitration Proceedings

A contract that includes an agreement to arbitrate disputes typically outlines some key aspects relating to any potential future arbitration. The rules and procedures that will be used in an arbitration proceeding are typically part of this agreement. If an outside service will be used to handle an arbitration proceeding, as in the case of institutional arbitration, the contract may specify whether that service's already-established rules and procedures will be used. Because of the variety of arbitration services, as well as the flexibility provided to parties to draw up their own rules, there is no single set of rules or procedures that apply to all arbitrations. However, regardless of the rules used, the following are some of the key issues that are typically addressed under the Act:

(1) Equal Treatment of Parties -- {Section 18}

“The parties shall be treated with equality and each party shall be given a full opportunity to present his case.” [Section 18]. This section imposes two-fold duty on the arbitral tribunal.

- i. The arbitral tribunal shall give equal treatment to the parties to the reference.
- ii. The arbitral tribunal shall give to each party to the reference full opportunity to present its case.

The section lays down the basic principles of natural justice.

- a) An Arbitrator must not receive information from one party, which is not disclosed to the other party.
- b) The refusal by Arbitrator to give adjournment for one day as the counsel was busy in another case was held violative of principles of natural justice.
- c) When a matter is remanded to the arbitrators for reconsideration, the parties are entitled to “personal hearing”
- d) Examination of one party or witness in the absence of the opposite party is often fatal to the award.
- e) Unless expressly authorised by the parties, an arbitrator cannot decide on the basis of private or secret enquires.
- f) A point blank refusal by the arbitrator to record an oral evidence was held against the Law of natural justice.

(2) Rules of Procedure {Section 19}

There is no uniform or notified rules which can be followed in arbitration proceeding. Even the Code of Civil Procedure, 1908 or the Indian Evidence Act, 1872 is not applicable in arbitration proceedings. Normally, parties under dispute may mutually agree to conduct the proceedings in the manner they consider appropriate. In case of institutional arbitration, generally, the rules of an institution, which are based on the provisions of Act, apply.

- (3) Venue {Section 20}- The parties are free to agree on the place of arbitration.
- (4) Language -{Section 22}The parties have freedom to decide the language of proceedings. In absence of any such agreement, the arbitral tribunal shall determine the language or languages to be used in the arbitral proceedings.
- (5) Statement Of Claims & Defense {Section 23}

Party who makes the claim is called claimant; party against whom the claim is made is called a Respondent. Claimant has to file a statement of claims within the

period agreed. Claimant shall also state the facts and enclose the relevant documents. The copy of statement of claim is given to each member of arbitral tribunal as to the respondent.

Respondent on receiving the statement of claim shall file his defence in response the particulars submitted by the Claimant. Further newly inserted section 23(2A), allows the respondent, to also submit a counter claim or plead a set-off, which shall be adjudicated upon by the arbitral tribunal, if such counterclaim or set-off falls within the scope of the arbitration agreement.

Upon receiving the reply, the claimant may add something further called Rejoinder. Parties may amend and supplement their claim or defence during the course of proceeding. However, to ensure that this process does not go on and on, tribunal may refuse to give permission to file such a submission or to amend supplement claim or defence in Arbitration proceedings. Finally the respondent gives a closing address and then the claimant gives a closing address.

(6) Failure To Submit Claims{Section 25(a)}

If the claimant fails to submit the statement of his claims, the arbitral tribunal shall terminate the proceedings.

(7) Failure To Submit Defense{Section 25(b)}

If the respondent fails to submit his statement of defense, the following situation will emerge: -

a) The arbitral tribunal shall continue the proceedings and the award will be made on the material and the evidence available before the tribunal, and

The tribunal will not treat the failure itself as an admission of the allegation made by the claimants. However, the amended Act provides arbitrators the discretion to treat the failure of the respondent to file such statement of defence as forfeiture of right to file the same.

(8) Failure To Appear {Section 25(c)}

If a party fails to appear at an oral hearing or to produce documentary evidence, the arbitral tribunal may continue the proceedings and make the arbitral award on the evidence before it.

(9) Hearing By The Tribunal {Section 24}

Unless otherwise agreed by the parties, the arbitral tribunal shall decide whether to hold oral hearings for the presentation of evidence or an argument, or whether the proceedings shall be conducted on the basis of documents and other materials. However, the amended Act recommends that the tribunal should hold oral hearings for presentation of evidence or for oral arguments on day to day basis. Adjournments should be discouraged and should not be granted unless sufficient cause is given. Moreover, the amended Act also empowers the tribunal impose costs including exemplary costs on the party seeking adjournment without any sufficient cause.

(10) Who Shall Represent?

Parties to the dispute can appear or they may engage an advocate or counsel.

(11) Appointment Of Experts {Section 26}

Tribunal may appoint expert(s) on specific issues. Experts may be required to appear before the tribunal to explain their finding and answer question of the parties.

(12) Waiver Of Right To Object-{Section 4}

If a party knows that any provision of Act or arbitration agreement has not been complied with and yet participates in the arbitration proceedings without stating his objections, he shall be deemed to have waived his right to so object.

SECURITIES APPELLATE TRIBUNAL

Securities Appellate Tribunal (SAT) is a statutory body established under the provisions of Section 15K of the Securities and Exchange Board of India (SEBI) Act, 1992 to hear and dispose of appeals against orders passed by the Securities and Exchange Board of India or by an adjudicating officer under the Act and to

exercise jurisdiction, powers and authority conferred on the Tribunal by or under this Act or any other law for the time being in force.

The Securities Appellate Tribunal has only one bench that sits at Mumbai and has jurisdiction over all of India, which is as follows:
Securities Appellate Tribunal,
Earnest House, 14th Floor, NCPA Marg,
Nariman Point,
Mumbai – 400021

The Tribunal is a three-member body composed of a Presiding Officer and two other members who are to be nominated via a notification by the Central Government. The Union Government also reserves the right to notify as many SAT's as is needed.

The Securities Appellate Tribunal is not be bound by the procedure laid down by the Code of Civil Procedure, 1908, but has powers to regulate its own procedure including the places at which it shall have its sittings. Every proceeding before the Securities Appellate Tribunal is deemed to be a judicial proceeding and the tribunal has all the powers of a Civil Court. An appeal from the order of this Tribunal lies directly to the Supreme Court.

SAT has jurisdiction which extends to the whole of India. The objective of SAT is to hear appeals against the orders passed by SEBI & Stock Exchanges under SEBI Act, 1992, The Depositories Act, 1996 & Securities Contracts (Regulation) Act, 1956, The Insurance Act 1938 and The Pension Fund Regulatory and Development Authority Act, 2013.

Under section 110 of the Insurance Act 1938 which was changed via the Insurance Laws (Amendment) Ordinance 2014 (No.8 of 2014) promulgated on 26th December, 2014, and then later inserted by The Insurance Laws (Amendment) Act 2015, any person aggrieved by an order of the Insurance Regulatory and Development Authority of India (IRDA) may prefer an appeal to the SAT having jurisdiction in the matter within 45 days from the date on which a copy of the order made by the Authority is received by him and it shall be in such form and accompanied by such fees as may be prescribed. SAT may entertain an appeal after expiry of the said 45 day period if it is satisfied that there is sufficient cause for not

filing within that period. SAT shall endeavour to dispose of the appeal finally within 6 months from the date of the receipt of appeal.

The Pension Fund Regulatory and Development Authority Act, 2013 (No. 23 OF 2013) which came into force on 1st February 2014, vide section 36 lays down that any person aggrieved by an order made by the Pension Fund Regulatory and Development Authority or by an adjudicating officer under this Act may prefer an appeal before the Securities Appellate Tribunal which shall have jurisdiction over the matter within a period of forty-five days from the date of receipt of the order appealed against and it shall be in such form and manner and shall be accompanied by such fee as may be prescribed. SAT may entertain an appeal after the expiry of the said period, if it is satisfied that there was sufficient cause for not preferring the appeal within that period. SAT shall endeavour to dispose of the appeal finally within six months from the date on which the appeal is presented to it.

The procedural aspects of appeals to SAT are contained in

- Securities Appellate Tribunal (Procedure) Rules, 2000
- Depositories (Appeal to Securities Appellate Tribunal) Rules 2000
- Securities Contract (Regulation) (Appeal to Securities Appellate Tribunal) Rules 2000
- Pension Fund Regulatory and Development Authority (Appeal to Securities Appellate Tribunal) Rules, 2014
- Insurance (Appeal to Securities Appellate Tribunal) Rules, 2016

Procedural Aspects at Securities Appellate Tribunal

Every appeal to SAT shall be filed within a period of forty five days from the date on which a copy of the order against which the appeal is filed, is received by the appellant. The Appellate Tribunal may entertain an appeal after the expiry of the said period of forty five days if it is satisfied that there was sufficient cause for not filing it within that period.

A memorandum of appeal shall be presented in the Form by any aggrieved person in the registry of the Appellate Tribunal within whose jurisdiction his case falls or shall be sent by registered post addressed to the Registrar.

The Appellate Tribunal shall hold its sitting either at a place where its office is situated or at such other place falling within its jurisdiction, as it may deem fit by the Appellate Tribunal.

Points to be noted with respect to appeal at SAT are as follows:

1. The proceedings of the Appellate Tribunal shall be conducted in English or Hindi.
2. Every appeal, application, reply, representation or any document filed before the Appellate Tribunal shall be typewritten, cyclostyled or printed neatly and legibly on one side of the good quality paper of foolscap size in double space and separate sheets shall be stitched together and every page shall be consecutively numbered and filed in the prescribed manner.
3. The appeal shall be presented in 3 sets in a paper book along with an empty file size envelope bearing full address of the respondent and in case the respondents are more than one, then sufficient number of extra paper books together with empty file size envelope bearing full addresses of each respondent shall be furnished by the appellant.
4. The Registrar shall endorse on every appeal the date on which it is presented under or deemed to have been presented and shall sign endorsement. If, on scrutiny, the appeal is found to be in order, it shall be duly registered and given a serial number.
5. If an appeal on scrutiny is found to be defective and the defect noticed is formal in nature, the Registrar may allow the appellant to rectify the same in his presence and if the said defect is not formal in nature, the Registrar may allow the appellant such time to rectify the defect as he may deem fit. If the appeal has been sent by post and found to be defective, the Registrar may communicate the defects to the appellant and allow the appellant such time to rectify the defect as he may deem fit.
6. Every memorandum of appeal shall be accompanied with a prescribed fee

7. Every memorandum of appeal shall set forth concisely under distinct heads, the grounds of such appeal without any argument or narrative, and such ground shall be numbered consecutively and shall be in the prescribed manner
8. Every memorandum of appeal shall be in triplicate and shall be accompanied with copies of the order, at least one of which shall be certified copy, against which the appeal is filed.
9. Where a party is represented by authorised representative, a copy of the authorisation to act as the authorised representative and the written consent thereto by such authorised representative, shall be appended to the appeal.
9. A memorandum of appeal shall not seek relief or reliefs therein against more than one order unless the reliefs prayed for are consequential.
10. The Appellate Tribunal shall notify the parties the date of hearing of the appeal in such manner as the Presiding Officer may by general or special order direct.
11. On the day fixed or on any other day to which the hearing may be adjourned, the appellant shall be heard in support of the appeal. The Securities Appellate Tribunal shall, then, if necessary, hear the Board or its authorised representative against the appeal, and in such case the appellant shall be entitled to reply. During the course of the hearing of appeal the written arguments could be supplemented by time-bound oral arguments.

In case the appellant does not appear in person or through an authorised representative when the appeal is called for hearing, the Securities Appellate Tribunal may dispose of the appeal on merits.

Provided that where an appeal has been disposed of as provided above and the appellant appears afterwards and satisfies the Securities Appellate Tribunal that there was sufficient cause for his not appearance, when the appeal was called for hearing, the Securities Appellate Tribunal shall make an order setting aside the ex-parte order and restore the appeal.

12. Dress regulations for the Presiding Officer and for the representatives of the parties.- The dress for the Presiding Officer shall be white or striped or black pant with black coat over white shirt and black tie or a buttoned-up black coat. In the case of female Presiding Officer, the dress shall be black coat over white saree.

Every authorised representative, other than a relative or regular employee of the party shall appear before the Appellate Tribunal in his professional dress if any, and if there is no such dress, a male, in a suit or buttoned-up coat over a pant or national dress that is a long buttoned up coat on dhoti or churridar pyjama, and a female, in a coat over white or any other sober coloured saree or in any other sober dress. All other persons appearing before the Appellate Tribunal shall be properly dressed.

APPELLATE TRIBUNAL FOR ELECTRICITY

The Appellate Tribunal for Electricity (APTEL) has been set up in exercise of powers conferred under section 110 of the Electricity Act 2003 w.e.f.7th April, 2004 notified vide S.O. 478 (E) and falls under the Ministry of Power, Government of India. APTEL shall ordinarily sit at Delhi. The Appellate Tribunal commenced functioning and hearing of appeals, petitions etc. from 21st July'2005 as per notification issued by the Ministry of Power on 19/7/2005.

APTEL has jurisdiction throughout India and has been set up to hear appeals or original petitions against the orders of the Adjudicating officer or The Central Regulatory Commission or State Regulatory Commission or Joint Commission constituted under Section 76 (i) or 82 or 83 of the Act. The Tribunal is conferred with original jurisdiction to hear petitions under Section 121 of the Act and issue directions to any Appropriate Commission for the performance of its statutory functions.

APTEL is also the appellate tribunal under the Petroleum and Natural Gas Regulatory Board Act, 2006 and hears appeals against the orders passed by the Petroleum and Natural Gas Regulatory Board.

APTEL is headed by the Chairperson, who has been given the terms of a sitting judge of the Supreme Court. There are three other Members of the Tribunal, one Judicial and two Technical Members, who have been given terms of a sitting judge of the Delhi High Court. Every Bench constituted by the Chairperson shall include at least one Judicial Member and one Technical Member. The Headquarters of APTEL is New Delhi.

Procedural Aspects at Appellate Tribunal for Electricity

Appellate Tribunal for Electricity (Procedure, Form, Fee and Record of Proceedings) Rules, 2007 contains the procedural aspects of filing applications at the APTEL:

1. Every appeal or petition or application or caveat petition or objection or counter presented to the Tribunal shall be in English and in case it is in some other Indian language, it shall be accompanied by a copy translated in English and shall be fairly and legibly type written, lithographed or printed in double spacing on one side of standard petition paper with an inner margin of about four centimeters width on top and with a right margin of 2.5 cm, and left margin of 5 cm, duly paginated, indexed and stitched together in paper book form
2. The cause title shall state “In the Appellate Tribunal For Electricity” and shall specify the jurisdiction Appellate, Original or Special Original respectively under section 111(1) and section 121 of the Act in which it is presented and also set out the proceedings or order of the authority against which it is preferred.
3. Appeal or petition or application or counter or objections shall be divided into paragraphs and shall be numbered consecutively and each paragraph shall contain as nearly as may be, a separate fact or allegation or point.
4. Where Saka or other dates are used, corresponding dates of Gregorian Calendar shall also be given.
5. Full name, parentage, description of each party and address and in case a party sues or being sued in a representative character, shall also be set out at the beginning of the appeal or petition or application and need not be repeated in the subsequent proceedings in the same appeal or petition or application.
6. The names of parties shall be numbered consecutively and a separate line should be allotted to the name and description of each party. These numbers shall not be changed and in the event of the death of a party during the pendency of the appeal or petition or matter, his legal heirs or representative, as the case may be, if more than one shall be shown by sub-numbers. Where fresh parties are brought in, they may be numbered consecutively in the particular category, in which they are brought in.

7. Every proceeding shall state immediately after the cause title the provision of law under which it is preferred.
8. Every interlineation, eraser or correction or deletion in any appeal or petition or application or document shall be initialed by the party or his recognized agent or advocate presenting it.
9. Every appeal, petition, caveat, interlocutory application and documents shall be presented in triplicate by the appellant or petitioner or applicant or respondent, as the case may be, in person or by his duly authorized agent or by an advocate duly appointed in this behalf in the prescribed form with stipulated fee at the filing counter and non compliance of this may constitute a valid ground to refuse to entertain the same.
10. Every appeal or petition shall be accompanied by a certified copy of the impugned order.
11. All such documents filed in the Tribunal shall be accompanied by an index in triplicate containing their details and the amount of fee paid thereon.
12. Sufficient number of copies of the appeal or petition or application shall also be filed for service on the opposite party as prescribed.
13. In the pending matters, all applications shall be presented after serving copies thereof in advance on the opposite side or his/her advocate on record.
14. The processing fee prescribed by the rules, with required number of envelopes of sufficient size and notice forms as prescribed shall be filled along with memorandum of appeal.
15. The appellant or petitioner or applicant or respondent shall file three authenticated copies of appeal or petition or application or counter or objections, as the case may be, and shall deliver one copy to each of the opposite party.
16. The respondent may lodge a caveat in triplicate in any appeal or petition or application that may be instituted before this Tribunal by paying the prescribed fee after forwarding a copy by registered post or serving the same on the expected petitioner or appellant and the caveat shall be in form prescribed and contain such details and particulars or orders or directions, details of authority against whose

orders or directions the appeal or petition is being instituted by the expected appellant or petitioner with full address for service on other side, so that the appeal or petition could be served before the appeal or petition or interim application is taken up.

17. The caveat shall remain valid for a period of ninety days from the date of its filling.

18. At the foot of every petition or appeal or pleading there shall appear the name and signature of the advocate on record, if any, who has drawn the same and also the name of the senior advocate, who may have settled it. Every appeal or petition shall be signed and verified by the party concerned in the manner provided by these rules.

19. A document other than English language intended to be used in any proceeding before the Appellate Tribunal shall be received by the Registry accompanied by a copy in English, which is agreed to by both the parties or certified to be a true translated copy by an advocate engaged on behalf of parties in the case or by any other counsel whether engaged in the case or not or if the counsel engaged in the case authenticates such certificate or prepared by a translator approved for the purpose by the Registrar on payment of such charges as he may order.

20. Appeal or petition or other proceeding will not be set down for hearing until and unless all parties confirm that all the documents filed on which they intend to rely are in English or have been translated into English and required number of copies are filed into Tribunal .

FILM CERTIFICATION APPELLATE TRIBUNAL

The Film Certification Appellate Tribunal (FCAT) is a statutory body, constituted vide Section 5D of the Cinematograph Act, 1952 (37 of 1952), under the Ministry of Information and Broadcasting, Government of India.

The Tribunal hears the appeals filed under Section 5C of the Act under which any applicant for a Certificate in respect of a film who is aggrieved by an order of the

Central Board of Film Certification (CBFC), can file an Appeal before the Tribunal. The Tribunal has its headquarters in New Delhi.

Film Certification Appellate Tribunal
Ministry of Information & Broadcasting
Room No. 719, 'A' Wing Shastri Bhavan, , New Delhi – 110 001

Procedure Aspects for filing Appeal

An appeal can be made before the Film Certification Appellate Tribunal (FCAT) under Section 5C of the Cinematograph Act, 1952 by an applicant for a certificate in respect of a film in case he is aggrieved by an order of the Central Board of Film Certification (CBFC) –

- (a) refusing to grant a certificate; or
- (b) granting only an 'A' certificate; or
- (c) granting only a 'S' certificate; or
- (d) granting only a 'UA' certificate; or
- (e) directing the applicant to carry out any excisions or modifications.

The appeal can be filed within 30 days from the date of the order of the CBFC, or within a further period of 30 days in case he has been prevented by sufficient cause from filing the Appeal within the initial period of 30 days.

Every appeal shall be made by a petition in writing and shall be accompanied by a brief statement of the reasons for the order appealed against where such statement has been furnished to the appellant and by the prescribed fees. An appeal can be made before the Tribunal by an applicant in the prescribed form as given in the Cinematograph Rules 1983.

The following documents are to be furnished along with the application:

1. Six copies of the Appeal
2. Six copies of the synopsis of the film

3. One copy of the authenticated script of the film (i.e. appellant will sign on each page of the script)
4. Six copies of Script translated into English
5. Six clearly typed and authenticated copies of the original and English translation of the songs, if any.
6. Six copies of CBFC's Order appealed against.
7. An affidavit declaring that the print of the film being presented to the Tribunal is the same as was presented to the CBFC; and the authenticated script and the translation thereof, presented to the Tribunal is the same as that submitted to the CBFC.
8. A demand draft for Rs.100/- (for films with length up to 2000 ft. – short film) or Rs.750/- (for films with length more than 2000 ft – long film), drawn in favour of the Drawing and Disbursing Officer, Ministry of I&B, payable at New Delhi.

Note:- The appellant will be required to arrange screening of film in Digital Cinema Package format (Digital Cinema Initiative compliant) for the purpose of hearing of the appeal by the Tribunal.

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL (CESTAT)

Customs, Excise & Gold (Control) Appellate Tribunal (CEGAT) renamed as the Customs, Excise and Service Tax Appellate Tribunal (CESTAT) vide the Finance Act 2003, was constituted on 11th October 1982. CESTAT hears the appeals against orders and decisions passed under the Customs Act, 1962, Central Excise Act, 1944, Finance Act, 1994 relating to Service Tax and Anti Dumping Duties under the Customs Tariff Act, 1975.

Customs, Excise And Service Tax Appellate Tribunal
West Block No.2, R.K.Puram,
New Delhi-110066

The sanctioned strength of the Members of CESTAT including President and two Vice Presidents is 21. At present, CESTAT has 9 Zonal / Regional Benches located at New Delhi, Mumbai, Chennai, Kolkata, Bangalore, Ahmedabad, Allahabad, Chandigarh & Hyderabad. Each Bench has a judicial and a technical member with each bench of a single member having the jurisdiction to try cases up to the value of ten lakh rupees.

Procedural Aspects of Appeal

The procedure adopted by this tribunal is covered in the following legislations: Customs, Excise and Service Tax Appellate Tribunal (Procedure) Rules, 1982; Central Excise (Appeals) Rules, 2001; Customs (Appeals) Rules, 1982 and Rule 9 of Service Tax Rules, 1994. Appeals and Cross-objections to the Tribunal shall be in the prescribed forms under the relevant sections of the Acts dealt with by the Tribunal.

1. The language of the Tribunal shall be English. The parties to a proceeding before the Tribunal may file documents drawn up in Hindi, if they so desire and a Bench may in its discretion, permit the use of Hindi in its proceedings. However, the final order shall be in English. The Tribunal may pass such orders in Hindi, as and when it deems fit provided every such order is accompanied by a translation in English of the same, duly attested by the Bench concerned.

2. A memorandum of appeal to the Tribunal shall be in the relevant form and shall be presented by the appellant in person or by an agent to the concerned officer, or sent by registered post addressed to the concerned officer. The appellant may, in case of urgency or for other sufficient reason, present or send the appeal to the concerned officer of the Bench nearest to him, even though the matter relates to a different Bench.

3. Memorandum of appeal in the relevant form means the following under the various Acts:

a. In Central Excise matters – The Form prescribed for filing appeal before Tribunal is EA-3, whereas the Memorandum of cross-objections is required to be filed in Form No. E.A.-4. Each of these Form has to be filed in quadruplicate and

is required to be an equal number of copies of the order appealed against (one of which at least shall be a certified copy). [Rule 6 of the Central Excise (Appeals) Rules, 2001]

b. In matter of Customs - Relevant forms for appeal and memorandum of cross objections prescribed are C.A.-3 & C.A.-4 respectively. [Rule 6 of the Customs (Appeals) Rules, 1982]

c. In service tax matters - Relevant forms for appeal and memorandum of cross objections prescribed are Form ST-5 & ST-6 respectively. [Rule 9 of the Service Tax Rules, 1994]

4. The number of appeals to be filed: Notwithstanding the number of show cause notices, price lists, classification lists, bills of entry, shipping bills, refund claims / demands, letters or declarations dealt with in the decision or order appealed against, it shall suffice that the appellant files one Memorandum of Appeal against the order or decision of the authority, along with such number of copies thereof as prescribed.

5. In a case where the impugned order-in appeal has been passed with reference to more than one orders-in-original, the Memoranda of Appeal filed as per Rule 6 shall be as many as the number of the orders-in-original to which the case related in so far as the appellant is concerned.

6. In case an impugned order is in respect of more than one persons, each aggrieved person will be required to file a separate appeal (and common appeals or joint appeals shall not be entertained).]

7. Contents of a memorandum of appeal:
(i) Every Memorandum of Appeal shall set forth concisely and under distinct heads, the grounds of appeals and such grounds shall be numbered consecutively and shall be typed in double space of the paper.

(ii) Every memorandum of appeal, cross-objection, reference applications, stay application or any other miscellaneous application shall be typed neatly in double spacing on the fool-scape paper and the same shall be duly paged, indexed and tagged firmly with each paper book put in a separate folder.

(iii) Every memorandum of appeal / application / Cross-objection shall be signed and verified by the appellant / applicant / respondent or the Principal Officer duly authorized to sign Memorandum of appeal / application / Cross-objection.

8. Every Memorandum of appeal required to heard by a two-Member Bench shall be filed in quadruplicate and shall be accompanied by four copies, one of which shall be a certified copy of the order appealed against in the case of an appeal against the original order passed by the additional Commissioner or Commissioner of Excise or Customs and where such an order has been passed it appeal or revision, four copies (one of which shall be a certified copy) of the order passed in appeal or in revision and four copies of the order of the original authority.

9. In an appeal filed under the direction of the Collector or the Administrator or the Central Board of Excise and Customs, one of the copies of the order appealed against shall be an attested copy instead of a certified copy.

10. In the case of an appeal which can be heard by a single Member, Memorandum of appeal shall be filed in triplicate and number of copies of the order shall be three instead of four.

DEBT RECOVERY TRIBUNAL (DRT) AND DEBT RECOVERY APPELLATE TRIBUNAL (DRAT)

The Debts Recovery Tribunals (DRTs) and Debts Recovery Appellate Tribunal (DRATs) were established under the Recovery of Debts Due to Banks and Financial Institutions Act (RDDBFI Act), 1993 with the specific objective of providing expeditious adjudication and recovery of debts due to Banks and Financial Institution.

The provisions of the RDDBFI Act 1993 shall not apply where the amount of debt due to any bank or financial institution or to a consortium of banks or financial institutions is less than ten lakh rupees or such other amount, being not less than one lakh rupees, as the Central Government may, by notification, specify.

A District Judge is appointed as Presiding Officer of the Tribunal and he is assisted by with one or more Recovery Officers and such other officers and employees as

the Government may think fit. The Central Government may authorize the Presiding Officer of one Tribunal to discharge also the functions of the Presiding Officer of another Tribunal. Presently 34 DRT's and 5 DRAT's are functioning in India.

The Tribunal and the Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice and, subject to the other provisions of this Act and of any rules, the Tribunal and the Appellate Tribunal shall have powers to regulate their own procedure including the places at which they shall have their sittings.

DRT and DRAT shall have, for the purposes of discharging their functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavits;
- (d) issuing commissions for the examination of witnesses or documents;
- (e) reviewing its decisions;
- (f) dismissing an application for default or deciding it ex parte;
- (g) setting aside any order of dismissal of any application for default or any order passed by it ex parte;
- (h) any other matter which may be prescribed.

Procedural Aspects at DRT

The Tribunals function under the provisions of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 and as per the Debts Recovery Tribunal (Procedure) Rules, 1993 and Debts Recovery Appellate Tribunal (Procedure) Rules, 1994.

1. Where a bank or a financial institution has to recover any debt from any person, it may make an application to the Tribunal within the local limits of whose jurisdiction—

- (a) the defendant, or each of the defendants where there are more than one, at the time of making the application, actually and voluntarily resides, or carries on business, or personally works for gain; or
- (b) any of the defendants, where there are more than one, at the time of making the application, actually and voluntarily resides, or carries on business, or personally works for gain; or
- (c) the cause of action, wholly or in part, arises:

2. The application shall be presented in two sets in a paper book along with an empty file size envelope bearing full address of the defendants and where the number of defendant is more than one, then sufficient number of extra paper-books together with empty file size envelopes bearing full address of each of the respondents shall be furnished by the applicant.

3. The proceedings of the Tribunal shall be conducted in English or Hindi. No reference, application, representation, documents or other matter contained in any language other than English or Hindi shall be accepted by the Tribunal unless the same is accompanied by the true translation thereof in English or Hindi.

4. The bank or financial institution may, with the permission of the Debts Recovery Tribunal, on an application made by it, withdraw the application, whether made before or after the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Act, 2004 for the purpose of taking action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, if no such action had been taken earlier under that Act:

5. Where a bank or a financial institution, which has to recover its debt from any person, has filed an application to the Tribunal and against the same person another bank or financial institution also has claim to recover its debt, then, the later bank or financial institution may join the applicant bank or financial institution at any stage of the proceedings, before the final order is passed, by making an application to that Tribunal.

6. Every application shall be in such form and accompanied by such documents or other evidence and by such fee as may be prescribed. Every application shall be accompanied by a paper book containing,-

- statement showing details of the debt due from a defendant and the circumstances under which such a debt has become due;
- all documents relied upon by the applicant and those mentioned in the application;
- details of the crossed demand draft or crossed Indian Postal Order representing the application fee;

The documents shall be neatly typed in double space on one side of the paper, duly attested by a senior officer of the bank, or financial institution, as the case may be, and numbered accordingly. Where the parties to the suit or proceedings are being represented by an agent, documents authorising him to act as such agent shall also be appended to the application. Where an application is filed by legal practitioner, it shall be accompanied by a duly executed vakalatnama.

7. On receipt of the application, the Tribunal shall issue summons requiring the defendant to show cause within thirty days of the service of summons as to why the relief prayed for should not be granted. The defendant shall, within a period of thirty days from the date of service of summons, present a written statement of this defense. Where the defendant fails to file the written statement within the said period of thirty days, the Presiding Officer may, in exceptional cases and in special circumstances to be recorded in writing, allow not more than two extensions to the defendant to file the written statement

8. The Tribunal may grant adjournments if sufficient cause is shown, but no such adjournment shall be granted more than three times to a party and where there are three or more parties, the total number of such adjournments shall not exceed six.

Procedural Aspects at DRAT

Any person aggrieved by an order made, or deemed to have been made, by a Tribunal under this Act, may prefer an appeal to an Appellate Tribunal having jurisdiction in the matter. No appeal shall lie to the Appellate Tribunal from an order made by a Tribunal with the consent of the parties.

Every appeal shall be filed within a period of forty-five days from the date on which a copy of the order made, or deemed to have been made, by the Tribunal is

received by him and it shall be in such form and be accompanied by such fee as may be prescribed. The Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

Every memorandum of appeal shall be in triplicate and shall be accompanied with two copies (at least one of which shall be a certified copy) of the order of the Presiding Officer of Debts Recovery Tribunal or order made by the Recovery Officer under the RDDBFI Act, 1993 as the case may be, against which the appeal is filed.

Where the parties to the appeal are being represented by an agent, documents authorising him to act as such agent shall also be appended to the appeal. Where an appeal is filed by a legal practitioner, it shall be accompanied by a duly executed Vakalatnama. Where a bank or financial institution is being represented by any of its officers to act as presenting officer before the Appellate Tribunal, the documents authorising him to act as the presenting officer shall be appended to the memorandum of appeal.

On receipt of an appeal, the Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against. The Appellate Tribunal shall send a copy of every order made by it to the parties to the appeal and to the concerned Tribunal.

INCOME TAX APPELLATE TRIBUNAL

Section 252 of the Income-tax Act, 1961 provides that the Central Government shall constitute an Appellate Tribunal consisting of as many Judicial Members and Accountant Members as it thinks fit, to exercise the powers and discharge the functions conferred on the Appellate Tribunal by the said Act. The Income-tax Appellate Tribunal was established on 25th January, 1941, in pursuance of a similar provision contained in the Indian Income-tax Act, 1922 viz. section 5A.

Income Tax Appellate Tribunal (ITAT) is a quasi judicial institution set up in January, 1941 and specializes in dealing with appeals under the Direct Taxes Acts.

The orders passed by the ITAT are final and an appeal lies to the High Court only if a substantial question of law arises for determination..

The Commissioner of Income-Tax (Appeals) is the first appellate authority and the Income Tax Appellate Tribunal (ITAT) is the second appellate authority. Appeal to the ITAT can be filed by any of the aggrieved party either by the taxpayer or by the Assessing Officer. The ITAT is constituted by the Central Government and functions under the Ministry of Law & Justice.

The Income Tax Appellate Tribunal is not a Court but is a Tribunal exercising the judicial powers of the State. The Tribunal, for the purposes of discharging its functions, is vested with all the powers which are vested in the Income Tax authorities referred to in section 131 of the Income Tax Act, 1961. Any proceedings before the Tribunal are also deemed to be judicial proceedings within the meaning of sections 193 and 228 and for the purpose of section 196 of the Indian Penal Code (45 of 1860). It is also deemed to be a Civil Court for all the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898 (5 of 1898) corresponding to section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

The Tribunal has power to regulate its own procedure and the procedure of its Benches in all matters arising out of the exercise of its powers or of the discharge of its functions, including the places at which the Benches shall hold their sittings. This power is subject to the provisions of Income Tax Act, 1961, and other allied Acts.

The Income Tax (Appellate Tribunal) Rules, 1963, have been made by the Tribunal. However, the ITAT has issued a notice dated 11th May 2017 stating that it intends to make important changes to the Tribunal Rules.

The headquarters of Income Tax Appellate Tribunal is located at Mumbai. At present, it is functioning with 63 Benches at 27 different places having specified jurisdiction. For the sake of administrative convenience, the Income Tax Appellate Tribunal is divided into nine zones. The President of the Tribunal is the Head of the Department and he also exercises administrative control over all the Benches of the Tribunal. Each zone is headed by a Vice-President.

Procedural Aspects at ITAT

The Appellate Tribunal has the power to regulate its own procedure and the procedure of its Benches in all matters arising out of the exercise of its powers or in the discharge of its functions, including the places at which the Benches shall hold their sittings. The Appellate Tribunal has, accordingly, framed its own rules called the Income-tax (Appellate Tribunal) Rules, 1963 (ITAT rules).

Generally, appeals are heard by a Bench consisting of one Accountant Member and one Judicial Member. However, in appropriate cases, at the discretion of the President, a Bench may consist of more than two Members.

1. Rule 8 of the Income-tax (Appellate Tribunal) Rules, 1963 (the “ITAT Rules”), requires that every memorandum of appeal to be written in English and shall set forth, concisely and under distinct heads, the grounds of appeal without any argument or narrative; and such grounds shall be numbered consecutively. If the grounds filed are not in accordance with the Rules, it is advisable that the revised grounds may be filed well in advance

2. The appeal to ITAT shall be filed in Form No. 36. In case of appeal by the taxpayer, the form of appeal, the grounds of appeal and the form of verification are to be signed and verified by the person authorized to sign the return of income

3. Person authorized to sign the appeal and the memorandum of cross objection

As per Rule 47 of the Income-tax Rules, 1962 (the “Rules”), an appeal under section 253(1), section 253(2) or cross objection under section 253(4) of the Income-tax Act, 1961 (the “Act”) to the Tribunal shall be signed by the person specified in sub-rule (2) of Rule 45 of the Rules. As per this Rule 45(2), the grounds of appeal and the form of verification shall be signed and verified by the person who is authorised to sign the return of income under section 140 of the Act, as applicable to the assessee. As per Rule 45(2) read with section 140, only the following persons are authorised to sign the appeal or cross objection: -

(a) Individual: By the Individual himself and if the individual is absent from India, by some person duly authorised by him in this behalf;

(b) Hindu Undivided Family: By the Karta and where the Karta is absent from India, by any other adult member of such family.

(c) Company: By the Managing Director or if there is no managing director, any director thereof.

(d) Firm: By the Managing Partner or if there is no managing partner, any partner thereof, not being a minor.

(e) Limited Liability Partnership: By the designated partner or where there is no designated partner as such, any partner thereof.

(f) Local Authority: By the principal officer thereof.

(g) Association of Persons: By any member of the association or the principal Officer thereof.

(h) Non-resident company: By the power of attorney holder.

(i) Government managed company: By the principal officer thereof.

(j) Political party: By the chief executive officer of such party.

4. Appeal to ITAT is to be filed within a period of 60 days from the date on which order sought to be appealed against is communicated to the taxpayer or to the Principal Commissioner of Income-Tax or Commissioner of Income-Tax (as the case may be). The ITAT may admit an appeal even after the period of 60 days if it is satisfied that there was sufficient cause for not presenting the appeal within the prescribed time.

5. Documents to be submitted with Appeal include:

- Form No. 36 - in triplicate.
- Order appealed against - 2 copies (including one certified copy).
- Order of Assessing Officer - 2 copies
- Grounds of appeal before first appellate authority [i.e., Commissioner of IncomeTax (Appeals)] - 2 copies.

- Statement of facts filed before first appellate authority [i.e., Commissioner of
- Income-Tax (Appeals)] - 2 copies.
- In case of appeal against penalty order – 2 copies of relevant assessment order.
- In case of appeal against order under section 143(3), read with section 144A of Income Tax Act 1961 – 2copies of the directions of the Joint Commissioner under section 144A.
- In case of appeal against order under section 143, read with section 147 of Income Tax Act 1961 - 2 copiesof original assessment order, if any.
- Copy of challan for payment of fee.

6. The appellant or the respondent, i.e., the opposite may submit a paper book. A paper book is to be submitted in duplicate and should contain documents or statements or other papers referred to in the assessment order or the appellate order on which appellant/respondent wants to rely.

The paper book should be duly indexed and page numbered. It should be filed at least a day before the hearing of the appeal. It should be filed along-with the proof of service of copy of the paper book to the opposite party at least a week before. Each paper in the paper book is to be certified as true copy by the party filing the same.

The ITAT can also on its own direct the preparation of paper book in triplicate by and at the cost of appellant or the respondent as it may consider necessary for disposal of appeal. Additional evidence, if any, should be filed separately and should not form part of the paper book.

Additional evidence (i.e. a document which was not filed before the lower authorities in course of the proceedings), if any, must not form part of the same paper book. If any party desires to file additional evidence, then the same must be filed by way of a separate paper book adhering to the aforementioned requirements, accompanied by an application stating the reasons for filing such additional evidence.

If paper book contains a document in any local language, the parties concerned may have to file the translated certified copy in English.

It is also important that the paper book must be serially and consecutively numbered.

The assessee must take due care while certifying the paper book. If the certificate is proved to be incorrect or wrong, the person who has given the certificate may be held responsible.

The parties shall not be entitled to submit any supplementary paper book, except with the leave of the Bench.

7. If there is delay in filing the appeal by the assessee, he may have to move a condonation application duly supported by an affidavit at the time of filing the appeal itself. The affidavit must be sworn before the competent authority and must be in the prescribed manner.

8. Change of address – Revised Form No. 36. As per Rule 9A of the ITAT Rules, in the event of change in address of the parties to the appeal, the appellant should file a duly verified revised Form No. 36.

9. As per Rule 26 of the ITAT Rules, where an assessee, whether an appellant or a respondent to an appeal, dies, the legal heirs may have to file a duly verified revised Form No. 36.

10. When there is change in name or merger (in case of non-individual assesseees), it is the responsibility of the assessee to inform the concerned authority and make an application to make necessary changes by filing a revised Form No. 36 duly verified.

11. Under Rule 17A of ITAT rules, there is a dress regulation for the members and for the representatives of the parties. Summer dress for the Members shall be white shirt, white pant with black coat, a black tie or a buttoned-up black coat. In winter, striped or black trousers may be worn in place of white trousers. In the case of female Members, however, the dress shall be black coat over white saree or any other sober saree. Dress for the authorised representatives of the parties (other than

a relative or regular employee of the assessee) appearing before the Tribunal shall be the following:

(a) In the case of male, a suit with a tie or buttoned-up coat over a pant or national dress, i.e., a long buttoned-up coat on dhoti or churidar pyjama. The colour of the coat shall, preferably, be black.

(b) In the case of female, black coat over white or any other sober coloured saree.

Where, however, the authorised representatives belong to a profession like that of lawyers or Chartered Accountants and they have been prescribed a dress for appearing in their professional capacity before any Court, Tribunal or other such authority, they may, at their option, appear in that dress, in lieu of the dress mentioned above.

All other persons appearing before the Tribunal shall be properly dressed.

INTELLECTUAL PROPERTY APPELLATE BOARD (IPAB)

The Intellectual Property Appellate Board (IPAB) was established by the Ministry of Commerce and Industry, Central Government in exercise of powers under section 83 of the Trademarks Act 1999 by notification in the Official Gazette on 15th Sept 2003. IPAB currently exercises jurisdiction over Trademarks, Patents Copyrights and Geographical Indications.

The IPAB shall consist of a Chairman, Vice-Chairman and such number of other Members, as the Central Government may deem fit and, subject to the other provisions of this Act, the jurisdiction, powers and authority of the Appellate Board may be exercised by Benches thereof (Section 84 of Trademarks Act 1999). The IPAB has three Technical Members currently apart from a Chairman and Vice-Chairman. Among the Technical Members, one is for Patent and two are for Trademarks. The IPAB has its headquarters at Chennai. The Registry is situated at Chennai, where sittings are also held. Circuit sittings are held at Ahmedabad, Chennai, Delhi, Kolkata and Mumbai.

IPAB has jurisdiction to hear appeals from the order/decision of the Registrar and all cases pertaining to rectification of registered Trademarks and all pending cases which were then pending before any High Court by virtue of section 100 of The Trademarks Act 1999.

The provision of appellate remedy before the IPAB is laid down in the Geographical Indications of Goods (Registration and Protection) Act 1999.

The IPAB was conferred by the Patents Act 1970 (as amended vide the Patents (Amendment) Act 2002) with the jurisdiction to hear all cases against any order or decision of the controller and all cases pertaining to revocation of patent other than on a counter claim in a suit for infringement and rectification of registers and all such cases which were pending before the High Court stood transferred to the IPAB.

In pursuance of the Finance Act, 2017(7 of 2017) which has come into force on the 26th of May, 2017, the Copyright Board has been merged with the Intellectual Property Appellate Board (IPAB). All pending cases which then lay before the Copyright Board are now transferred to the IPAB.

Procedural Aspects

Apart from the governing legislations the following rules are laid down under the various Acts and by the IPAB with respect to applications and appeals:

- The Intellectual Property Appellate Board (Procedure) Rules, 2003 - The Intellectual Property Appellate Board vide Notification GSR 929(E). dated 5th December 2003 to regulate its procedure, in exercise of powers conferred upon it by section 92 of the Trade Marks Act, 1999 (47 of 1999), made The Intellectual Property Appellate Board (Procedure) Rules, 2003.
- Intellectual Property Appellate Board (Patents Procedure) Rules, 2010 - IPAB made vide notification G.S.T 930(E) dated 29th November 2010, the Intellectual Property Appellate Board (Patents Procedure) Rules, 2010
- The Trade Marks (Applications and Appeals to the Intellectual Property Appellate Board) Rules, 2003

- The Patents (Applications and Appeals to the Intellectual Property Appellate Board) Rules, 2011

Procedure with respect to Trademarks:

1. Any person aggrieved by an order or decision of the Registrar, may prefer an appeal to the Appellate Board within three months from the date on which the order or decision sought to be appealed against is communicated to such person preferring the appeal. An appeal may be admitted after the expiry of the 3 month period specified if the appellant satisfies the Appellate Board that he had sufficient cause for not preferring the appeal within the specified period.
2. An appeal to the Appellate Board shall be in the prescribed form and shall be verified in the prescribed manner and shall be accompanied by a copy of the order or decision appealed against and by such fees as may be prescribed.
3. An application shall be filed in the Form 1 annexed to the Trade Marks (Applications and appeals to the Intellectual Property Appellate Board) Rules, 2003 by an aggrieved person in the Registry of the Appellate Board.
4. An appeal from any order or decision of the Registrar of Trade Marks shall be filed in the Forms 2,3 or 4 of the Trade Marks (Applications and appeals to the Intellectual Property Appellate Board) Rules, 2003.
5. An application or appeal sent by post shall be deemed to have been presented before the Registry on the day it was received in the Registry.
6. The prescribed fees shall be paid through bank draft payable at Chennai drawn in favour of the Deputy Registrar, Intellectual Property Appellate Board.
7. The proceedings of the Appellate Board shall be conducted in English or Hindi. All decisions or orders of the Appellate Board shall be either in English or Hindi.
8. Every application, appeal, counter statement, rejoinder, reply or other document filed before the Appellate Board shall be typed or printed neatly. The application or appeal shall be presented in three sets in a paper-book form along with an empty file size envelope bearing full address of the respondent and, in case the respondents are more than one, then, sufficient number of extra paper-books

together with empty file size envelopes bearing full addresses of each respondent shall be furnished by the applicant or appellant.

9. The Appellate Board shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908 (5 of 1908) but shall be guided by principles of natural justice and subject to the provisions of this Act and the rules made thereunder, the Appellate Board shall have powers to regulate its own procedure including the fixing of places and times of its hearing.

10. The Appellate Board shall have, for the purpose of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit in respect of the following matters, namely:—

- (a) receiving evidence;
- (b) issuing commissions for examination of witnesses;
- (c) requisitioning any public record; and
- (d) any other matter which may be prescribed.

Any proceeding before the Appellate Board shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code (45 of 1860), and the Appellate Board shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

NATIONAL CONSUMER DISPUTE REDRESSAL COMMISSION (NCDRC)

The consumer protection Act 2019 which replaced the Consumer protection Act 1986, came into effect from 20th July 2020. The act has brought in many changes in protecting the rights of the consumers. The act provides for establishment of Consumer Dispute Redressal Commissions to be established at the District, State and at the National level. The act also provides for establishment of Central Consumer Protection Authority. The new act makes provisions for making the e-commerce companies liable for any deficiency in goods or services which were

otherwise outside the purview of Consumer protection act citing the reasons for not having a place of business in India.

The National Consumer Disputes Redressal Commission (NCDRC), India is a quasi-judicial commission in India established under section 53 of the Consumer protection Act 2019. The commission is headed by a sitting or retired judge of the Supreme Court of India.

A written complaint, can be filed before the District Commission for pecuniary value of upto Rupees one crore, State Commission for value upto Rupees Ten crore and the National Commission for value above Rupees Ten crores, in respect of defects in goods and or deficiency in service.

As per Section 58 of Consumer Protection Act, 2019 the NCDRC shall have jurisdiction to entertain a complaint valued more than ten crore and also have Appellate and Revisional jurisdiction from the orders of State Commissions or the District commission as the case may be. Section 67 of Consumer Protection Act, 2019, provides that any person aggrieved by an order of NCDRC may prefer an Appeal against such order to Supreme Court of India within a period of 30 days.

TELECOM DISPUTES SETTLEMENT & APPELLATE TRIBUNAL (TDSAT)

Telecom Disputes Settlement & Appellate Tribunal (TDSAT) has been set up under Section 14 of the Telecom Regulatory Authority of India Act, 1997 to adjudicate disputes and dispose of appeals with a view to protect the interests of service providers and consumers of the telecom sector and to promote and ensure orderly growth of the telecom sector. The Appellate Tribunal came into existence on 29th May, 2000 and started hearing cases from January 2001.

The Telecom Dispute Settlement Appellate Tribunal (Tribunal) is established under section 14 of the Act. It is the sole dispute resolution body in the communication sector. It can adjudicate upon any dispute between: Licensor (Central Government) and a licensee; Two or more service providers; between a service provider and a group of consumers. However, the Tribunal does not have any jurisdiction to try any matter which deals with anti-competitive trade practices

or any consumer complaint.

The Tribunal exercises jurisdiction over Telecom, Broadcasting, Information Technology and Airport tariff matters under the Telecom Regulatory Authority of India (TRAI) Act, 1997 (as amended), the Information Technology Act, 2008 and the Airport Economic Regulatory Authority of India Act, 2008. The Tribunal exercises original as well as appellate jurisdiction in regard to Telecom, Broadcasting and Airport tariff matters. In regard to Cyber matters the Tribunal exercises only the appellate jurisdiction.

In respect of Telecom, Broadcasting and Airport tariff matters, the Tribunal's orders can be appealed to the Supreme Court but only on substantial questions of law. However, no appeal lies against an interlocutory order or against any decision or order made by the Tribunal with the consent of the parties. In regard to Cyber matters, the Tribunal's order can be appealed before High Court.

Procedural Aspects

In exercise of the powers conferred by Section 16(1) of the Telecom Regulatory Authority of India Act, 1997, the Telecom Disputes Settlement & Appellate Tribunal made the Telecom Disputes Settlement & Appellate Tribunal Procedures, 2005 which came into force on 12th December, 2005 to regulate its functions. In exercise of the powers conferred by sub-section (1) read with clause (da) of Sub-section (2) of Section 35 of the Telecom Regulatory Authority of India, Act 1997 (24 of 1997), the central Government framed the Telecom Disputes Settlement and Appellate Tribunal (Form, Verification and the Fee for filing an appeal) rules, 2003.

Some important procedural aspects are as follows:

1. The language of the Tribunal shall be English provided that the Bench may in its discretion permit the use of Hindi in its proceedings.
2. An advocate representing a party in a case shall file a duly executed Vakalatnama bearing court stamp of Rs.2.75;

3. Parties/Counsel will be required to file one original and four copies of the petition/ appeal/ misc. application and all other pleadings;
4. Wherever any page of a document is not legible, a typed copy shall be annexed.
5. The petition shall be in the proforma appended to these procedures. The appeal shall be in form A appended to the Telecom Disputes Settlement and Appellate Tribunal (Form, Verification and the Fee for filing an appeal) Rules, 2003 notified by the Central Government in the Gazette of India on 2nd April 2003.
6. The contents of the petition/appeal/misc. application/counter affidavit etc. shall be supported by a verification regarding their correctness by the petitioner/appellant/applicant or respondent or the person authorised to sign petition/appeal/misc. application/counter affidavit etc.
7. Before filing any petition/appeal/misc. application/other pleadings before the Tribunal, a copy of the same shall be served on opposite parties and proof of service necessarily be enclosed.
8. Pagination of the cases filed before the Tribunal shall be in continuous manner beginning from the petition/ appeal along with annexures. Counter-affidavit, rejoinder and other miscellaneous applications etc. filed from time to time shall follow ad seriatum. The petition/appeal, counter affidavit, rejoinder etc shall be retained in the same volume. However, if the number of pages of the documents on an average exceed 200, a separate volume numbered as volume II and so on shall be prepared. The index page of Volume I shall be formatted in a manner that leaves enough space for additional entries to be made in regard to the documents submitted subsequently;
9. The parties concerned shall do proper pagination while filing the petitions/appeals, counter and rejoinder etc. The concerned advocate(s) or their representatives shall obtain the last page of the Volume already on file from the Registry of the Tribunal and shall arrange to paginate their documents in continuation and in coordination with the officials of the Registry in all the copies.
10. Petition/Appeal/Misc. Application shall accompany the required fees in the form of demand draft, in favour of Drawing and Disbursing Officer, Telecom Disputes Settlement and Appellate Tribunal. The fees for filing an appeal shall be

as provided in Telecom Disputes Settlement and Appellate Tribunal (Form, Verification and the Fees for Filing an Appeal) Rules, 2003. The fees for filing a miscellaneous application shall be Rs.1, 000/-.

11. The amount of fees payable on petitions, next hereinafter mentioned, filed before Telecom Disputes Settlement and Appellate Tribunal shall be Rs.5000/-.

(i) Petition seeking declaratory relief with consequential relief.

(ii) Petition seeking directions, injunction and permanent injunction.

(iii) Petition seeking enforcement of regulations framed by Telecom Regulatory Authority of India under the Telecom Regulatory Authority of India Act, 1997 (as amended).

(iv) Any other petition not covered above shall also be accompanied with fees of Rs. 5000/-

Provided that the fees for filing petitions/claims/suits in the nature of recovery of money or an outstanding amount, before Telecom Disputes Settlement and Appellate Tribunal shall be computed as follows:

(i) In petitions/claims/suits for money (including those for damages or compensation or total outstanding) due on the date of filing of petitions/claims/suits and

(ii) In petitions/claims/suits for money payable periodically under the terms of the agreement between the parties-

(a) Rs.5,000/- or an ad valorem rate of 1.5% of the total amount /sum total of all periodical amounts claimed, including interest, if any, where the sum total of all amounts claimed, including interest, is upto Rs.2 crore, whichever is more;

(b) An ad valorem rate of 1%, over and above the fees computed at (a) above, of the total amount /sum total of all periodical amounts claimed, including interest, if any, where the sum total of all amounts claimed, including interest, is more than Rs.2 crore but upto Rs. 5 crore;

(c) An ad valorem rate of 0.5%, over and above the fees computed at (b) above, of the total amount/sum total of all periodical amounts claimed, including interest, if

any, where the sum total of all amounts claimed, including interest, is more than Rs. 5 crore, subject to a maximum fees of Rs. 50 lakhs.

NATIONAL GREEN TRIBUNAL

The National Green Tribunal has been established on 18.10.2010 under the National Green Tribunal Act 2010 for effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to environment and giving relief and compensation for damages to persons and property and for matters connected therewith or incidental thereto. It is a specialized body equipped with the necessary expertise to handle environmental disputes involving multi-disciplinary issues.

As per section 19 of the National Green Tribunal (NGT) Act 2010, the Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 or by the rules of evidence contained in the Indian Evidence Act, 1872 but shall be guided by the principles of natural justice and the Tribunal shall have power to regulate its own procedure. However the Tribunal shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure 1908 while trying a suit. Further all proceedings before the Tribunal shall be deemed to be the judicial proceedings within the meaning of sections 193, 219 and 228 for the purposes of section 196 of the Indian Penal Code and the Tribunal shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

Vide Notification dated 17th August 2011, the Central Government specifies the following ordinary places of sitting of the National Green Tribunal - New Delhi was the Principal Place of Sitting of the Tribunal and Bhopal, Pune, Kolkata and Chennai were the other 4 place of sitting of the Tribunal.

The National Green Tribunal (Practices and Procedure) Rules 2011 lay down the procedural aspects with respect to filing applications and appeals at the National Green Tribunal.

Procedure for Adjudicatory Process

Vide Notification dated 4th April, 2011 (G.S.R. 296 (E)), in exercise of the powers conferred by sub-section (4) of Section 4 read with Section 35 of the National Green Tribunal Act, 2010, the Central Government (Ministry of Environment and Forests) framed rules namely, the National Green Tribunal (Practices and Procedure) Rules, 2011, prescribing for Practices and Procedure for the adjudicatory process in NGT.

An application or appeal to the Tribunal can be presented by the applicant or appellant in person or by an agent or duly authorized legal practitioner. Where an application or appeal as the case may be, is filed by an agent, the documents authorizing him to act as such agent shall also be appended to the application or appeal. Where the application or appeal is filed by a legal practitioner, it shall be accompanied by a duly executed 'Vakalatnama'.

The legal practitioner or as the case may be, the presenting officer, shall appear before the Tribunal in his professional dress as prescribed for appearance before the Courts, and if there is no such dress, then in the case of a male, in a suit with a tie or close coat or any other customary dress of sober color, and in the case of a female, in a saree or any other customary dress of sober color.

(1) An application or appeal to the Tribunal shall be presented in Form I of the National Green Tribunal (Practices and Procedure) Rules 2011, by the applicant or appellant, as the case may be, in person or by an agent or by a duly authorized legal practitioner, to the Registrar or any other officer authorized in writing by the Registrar to receive the same or be sent by registered post with acknowledgement duly addressed to the Registrar of the Tribunal or and sent to concerned place of sitting. Where the application is for relief and compensation, it shall be made in Form II of the Rules.

(2) The application or appeal, as the case may be, shall be presented in triplicate in the following two compilations –

(i) Compilation No. 1 – application or appeal, as the case may be, along with the impugned order, if any;

(ii) Compilation No. 2 – all other documents and annexures referred to in the application or appeal, in a paper book form.

(3) Where the number of respondents is more than one, as many extra copies of the application or appeal, in paper-book form as there are respondents together with unused file size envelope bearing the full address of each respondent shall be furnished by the applicant or appellant, as the case may be. Where the number of respondents is more than five, the Registrar may permit the applicant or appellant, as the case may be, to file the extra copies of the application or appeal, as the case may be, at the time of issue of notice to the respondents.

(4) The applicant or appellant, as the case may be, may attach to, and present with, his application or appeal, as the case may be, a receipt slip in Form III of the Rules which shall be signed by the Registrar or the officer receiving the application or appeal on behalf of the Registrar in acknowledgement of the receipt of the application or appeal.

(5) Notwithstanding anything contained to the contrary in the Rules, the Tribunal may permit more than one person to join together and file a single application or appeal, as the case may be, if it is satisfied, having regard to the cause and the nature of relief prayed for that they have a common interest in the matter. Such permission may also be granted to an agent representing the person desirous of joining in a single application or appeal provided, however, that the application or appeal shall disclose the class, grade, categories or persons on whose behalf it has been filed. At least one affected person should join such an application or appeal.

(6) Presentation and scrutiny of application or appeal :

1. The Registrar, or the officer authorized by him, shall endorse on every application or appeal, as the case may be, the date on which it is presented or deemed to have been presented under that rule and shall sign the endorsement.

2. If, on scrutiny, the application or appeal, as the case may be, is found to be in order, it shall be duly registered and assigned a serial number.

(7) Rectification of defects :

1. If on scrutiny, any application or pleadings filed in the Tribunal is found to be defective, the Registrar or the authorized officer of the Registry shall notify on the Notice Board of the Tribunal fixing the time for rectifying the same.
2. The papers shall be returned to the party or his legal practitioner only after obtaining acknowledgment thereof in the Inward Register.
3. The Registrar may, for good and sufficient reasons extend the time for rectifying the defects, provided the total period for rectification including the extended period does not exceed thirty days.
4. If the party or his legal practitioner contests the office objection and the Registrar is not satisfied, the matter shall be placed before the Tribunal for appropriate orders.
5. If the party or his legal practitioner rectifies the defects and represents the application or appeal or pleading within the time granted, the Registrar on being satisfied may order for its registration and acceptance and numbering.

(8) An application or appeal, as the case may be, shall ordinarily be filed by an applicant or appellant, as the case may be, with the Registrar of the Tribunal at its ordinary place of sitting falling within the jurisdiction, the cause of action, wholly or in part, has arisen.

(9) The fee on account of application or appeal shall be remitted either in form of a crossed demand draft drawn on a nationalized bank in favour of the Registrar payable at the main branch of that bank at the station where the place of sitting of the Tribunal is situated or remitted through a crossed Indian Postal Order drawn in favour of the Registrar and payable at the Post Office of the station where the sitting of the Tribunal is situated.

An application or appeal where compensation has been claimed shall be accompanied by a fee of equivalent to one per cent of the amount of compensation claimed, subject to a minimum of one thousand rupees. Where the Tribunal permits a single application or appeal to be filed either by more than one person or

by an association of persons, the fee payable shall be equivalent to one per cent of the total amount of compensation claimed. There shall be no fee for filing of application or appeal for claiming compensation by any person who is below the poverty line determined in accordance with the guidelines or instructions issued by the Central Government or the State Government from time to time in this regard or indigent person determined in accordance with the provisions of the Code of Civil Procedure, 1908.

An application or appeal where no compensation has been claimed shall be accompanied by a fee of one thousand rupees.

(10) Contents of Application or Appeal:

The Application or Appeal shall set forth concisely under distinct heads the grounds for such application/appeal and such grounds shall be numbered consecutively. It shall be typed in double space on one side on thick paper of good quality. Every application or appeal shall be accompanied by the following documents which shall be attested by a legal practitioner or by a gazette officer and each document shall be marked serially:

- a. attested true copy of the Order against which the application/ appeal as the case may be, is filed.
- b. copies of the documents relied upon by the applicant or appellant, as the case may be, and referred to in the application or appeal.
- c. an index of the documents

(11) An applicant/appellant subsequent to the filing of an application/appeal may apply for an interim order or direction by way of an application in Form I or II of the Rules as the case may be. It is not necessary to present a separate application or appeal to seek an interim order or direction if in original application/appeal the same relief is prayed for.

(12) The language of the Tribunal shall be English. However, the parties to a proceeding before the Tribunal may file documents drawn up in Hindi if they so desire. Further the Tribunal in its discretion may do the following:

- a. permit the use of Hindi in its proceedings
- b. direct the English translation of pleadings and documents to be filed
- c. make final orders either in Hindi or in English

Where a final order is made in Hindi, an authenticated English translation thereof shall simultaneously be prepared and kept on record.

INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

Insolvency and Bankruptcy Board of India (IBBI) has been established under section 188 (1) of Insolvency and Bankruptcy Code 2016.

The Insolvency and Bankruptcy Code (IBC) was passed by Lok Sabha on 5th May, 2016 and by Rajya Sabha on 11th May, 2016. The Code received the President's assent on May 28, 2016 and was notified in the Gazette of India soon after as 'The Insolvency and Bankruptcy Code 2016' (Act No. 31 of 2016). The Code comprises of 5 parts, 261 sections (255 at the onset + 6 sections added by amendments) and 12 Schedules. (12th schedule added as per the Insolvency and Bankruptcy Code (Second Amendment) Act 2018 with effect from 6th June 2018).

As per section 3(1) of the Insolvency and Bankruptcy Code 2016, "Board" means the Insolvency and Bankruptcy Board of India established under sub-section (1) of section 188 of the Code. The Code establishes the Insolvency and Bankruptcy Board of India, to oversee the insolvency proceedings in the country and regulate the entities registered under it. The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of this Code, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued. The head office of the Board shall be at such place in the National Capital Region, as the Central Government may, by notification, specify.

The Insolvency and Bankruptcy Board of India was established on October 1, 2016 by Notification S.O. 3110(E) in exercise of provisions under sub-section (1) and (3) of section 188 of The Insolvency and Bankruptcy Code, 2016, with its head office at New Delhi. The IBBI is responsible for implementation of the Code that consolidates and amends the laws relating to reorganization and insolvency

resolution of corporate persons, partnership firms and individuals in a time bound manner for maximization of the value of assets of such persons, to promote entrepreneurship, availability of credit and balance the interests of all the stakeholders. It has also been designated as the ‘Authority’ under the Companies (Registered Valuers and Valuation Rules), 2017 for regulation and development of the profession of valuers in the country.

The Insolvency and Bankruptcy Board of India (IBBI), in exercise of its powers conferred under section 240 of the Insolvency and Bankruptcy Code, 2016, has notified the following regulations:

The Insolvency and Bankruptcy Board, principle regulator of the Code has issued following 14 Regulations so far::

- Insolvency and Bankruptcy Board of India (Model Bye- Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016
- Insolvency and Bankruptcy Board of India (Insolvency Professional Agencies) Regulations, 2016
- Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016
- Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016
- Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016
- Insolvency and Bankruptcy Board of India (Engagement of Research Associates and Consultants) Regulations, 2017
- Insolvency and Bankruptcy Board of India (Procedure for Governing Board Meetings) Regulations, 2017
- Insolvency and Bankruptcy Board of India (Advisory Committee) Regulations, 2017
- Insolvency and Bankruptcy Board of India (Information Utilities) Regulations, 2017

- Insolvency and Bankruptcy Board of India (Voluntary liquidation Process) Regulations, 2017
- Insolvency and Bankruptcy Board of India (Inspection and Investigation) Regulations, 2017
- Insolvency and Bankruptcy Board of India (Fast Track Insolvency Resolution Process for Corporate Persons) Regulations, 2017
- Insolvency and Bankruptcy Board of India (Employee Services) Regulations, 2017
- Insolvency and Bankruptcy Board of India (Grievance and Complaint Handling) Regulations, 2017

REAL ESTATE APPELLATE TRIBUNAL (REAT)

The Real Estate (Regulation & Development) Act, 2016 received the assent of the President on the 25th March, 2016, and was published in the Official Gazette on 26th March, 2016.

Chapter VII of the Real Estate (Regulation and Development) Act, 2016 deals with the constitution of the Real Estate Appellate Tribunal. Section 43 of the Act which came into effect on 1st May 2016, provides that the appropriate Government within 1 year of the coming into force of this Act, shall establish an Appellate Tribunal to be known as (name of the State/Union Territory) Real Estate Appellate Tribunal, by notification. The appropriate Government may, if it deems necessary, establish one or more benches of the Tribunal, for various jurisdictions in the State or Union Territory. The appropriate Government of two or more States or Union territories may, if it deems fit, establish one single Appellate Tribunal.

Until the establishment of an Appellant Tribunal, the appropriate Government shall designate, by order, any Appellate Tribunal functioning under any law for the time being in force, to be the Appellate Tribunal to hear appeals under the Act. After the Tribunal is established, all matters pending with the Appellate Tribunal designated, shall stand transferred to the Tribunal so established and shall be heard from the stage such appeal is transferred.

As per the Ministry of Housing and Urban Affairs (MOHUA) Annual Report 2017-2018 - 26 States/UTs have notified Real Estate Rules under the Act; 24 States/UTs have notified Real Estate Agreement of Sale Rules along with General Rules and other forms required as per the Act; 8 States/UTs have established permanent Real Estate Regulatory Authority; 21 States/UTs have established interim Real Estate Regulatory Authority; 14 States/UTs have made a fully operationalized web portal for enabling online registration of Real Estate projects and agents.

The Real Estate (Regulation and Development) Act, 2016 provides for establishing Real Estate Regulatory Authority (RERA) and Appellate Tribunal for monitoring and adjudicating disputes relating to real estate projects and also to frame Rules under this Act. Real Estate Regulatory Authority (RERA) status and rules framed under the Act with respect to few states in India is as follows:

Tamil

Nadu

The Tamil Nadu Government in G.O.Ms.No.112, Housing & Urban Development Department, dated 22.06.2017 has approved the Tamil Nadu Real Estate (Regulation & Development) Rules, 2017 to carry out the provisions of Real Estate (Regulation & Development) Act, 2016. The Tamil Nadu RERA will also entertain cases related to the real estate sector of Andaman; however the RERA rules notified by the administration of Andaman & Nicobar on 31st October 2016 will be applicable for the island. The Government has constituted the Tamil Nadu Real Estate Appellate Tribunal (TNREAT) to hear the appeals from the decisions, directions or orders of the Tamil Nadu Real Estate Regulatory Authority (TNRERA) and the Adjudicating Officer and for matter connected therewith or incidental thereto. Government vide G.O.Ms.No.103, Housing and Urban Development Dept., dated 24.07.2018 has allowed TNREAT to hear appeals related to Union Territory of Puducherry.

Karnataka

The Karnataka Real Estate (Regulation and Development) Rules, 2017 were published in the Official Gazette dated 24th October, 2016 in part I of the Karnataka Gazette (Extra Ordinary Number 1193). Subsequently, Karnataka Real Estate (Regulation and Development) Rules, 2017 were approved by the State Government and notified on 10th July, 2017 effective when it came into force.

The Appellate Tribunal is a quasi-judicial body, which is empowered to hear appeals from the orders / decisions / directions of the Regulatory Authority or the Adjudicating Officer, as the case may be. The form and manner and the fees payable towards filing the appeal and the manner for hearing and disposing the appeal are to be provided under the section 33 of the Karnataka Rules. In this case every appeal filed under sub-section (1) of section 44 shall be accompanied by a fees of five thousand rupees in the form of a demand draft or a bankers cheque drawn on a scheduled bank or a co-operative bank in favour of the Appellate Tribunal and payable at the branch of that Bank at the station where the seat of the said Appellate Tribunal is situated or through online payment, as the case may be.

Andhra Pradesh

The Andhra Pradesh government notified the Andhra Pradesh Real Estate (Regulation and Development) Rules, 2017 on 28th March 2017.

Gujarat

The Government of Gujarat by notification dated 29th October 2016 has notified the Gujarat Real Estate (Regulation and Development) (Matters Relating to the Real Estate Regulatory Authority) Rules, 2016 (“Authority Rules”) and Gujarat Real Estate (Regulation and Development) (Matters Relating to the Gujarat Real Estate Appellate Tribunal) Rules, 2016 (“Appellate Rules”). The Government of Gujarat by notification date 4th May 2017 has notified Gujarat Real Estate (Regulation and Development) (General) Rules, 2017 (“General Rules”).

Maharashtra

Government of Maharashtra has implemented the Real Estate (Regulation and Development) Act on May 1, 2017 and established Maharashtra Real Estate

Regulatory Authority (MahaRERA), vide Notification No. 23 dated 8 March 2017, for regulation and promotion of real estate sector in the State of Maharashtra, with its headquarters at Mumbai.

In accordance with this, the Maharashtra Government has published the following rules

- Maharashtra Real Estate (Regulation and Development) (Registration of Real Estate Project, Registration of Real Estate Reporter, Interest Rates and Disclosure on Website) Rules, 2017
- Maharashtra Real Estate Regulatory Authority, Rights and Employees (Appointment and Conditions of Service) Rules, 2017
- Maharashtra Real Estate (Regulation and Development) (Interest Penalty, Compensation and Payment of Dues, Complaints and Appeals etc.) Rules, 2017
- Maharashtra Real Estate Appellate Tribunal Officer & Employees (Appointment and Other Terms of Service) Rules, 2017
- Maharashtra Real Estate Regulatory Authority (Annual Returns and annual report samples) Rules, 2017

The Maharashtra Real Estate Regulatory Authority has issued the following notices and orders

- Maharashtra Real Estate Regulatory Authority (General) Regulation, 2017
- Regulation of Maharashtra Real Estate Regulatory Authority (Terms of service and service conditions), 2017
- According to Section 48 of the Maharashtra RERA (General) Regulation, 2017, registration for entry into the Maharashtra cadre, for the registration of the agents, extension of the project, extension of time for the agent, information management and ordering of the website, order of tax application dated 17 April 2017

Madhya Pradesh

Government of Madhya Pradesh implemented the Real Estate (Regulation and Development) Act and established Madhya Pradesh Real Estate Regulatory Authority on May 1, 2017. The Madhya Pradesh Real Estate (Regulation and Development) Rules 2017 were notified.

Rajasthan

The Government of Rajasthan has notified the Rules namely Rajasthan Real Estate (Regulation and Development) Rules, 2017. The State Government, vide its Order dt.17.02.2017 as designated the Additional Chief Secretary, Urban Development and Housing Department as the Real State Regulatory Authority until the establishment of a Real Estate Regulatory Authority (Rajasthan RERA). Similarly the State Government vide Notification dated 15.05.2017 has designated the Food Safety Appellate Tribunal as the Real Estate Appellate Tribunal until the establishment of Real Estate Appellate Tribunal under the Act.

APPEALS FROM ORDERS OF TRIBUNAL

Annexure III, IV and V of the Law Commission of India Report No. 272 dated 27th October 2017, gives the detailing sections where appeal lies against orders of tribunals and other authorities. These are reproduced below:

Tribunals from where appeal lies to the Appellate Tribunals / Authorities			
S. No.	Name of Act	Name of Tribunal/Authority	Section under which Appeal lies
1	The Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (51 of 1993)	Debts Recovery Tribunal Established u/s 3	Appeal u/s 20 to Debts Recovery Appellate Tribunal
2	The Income Tax Act, 1961 (43 of 1961)	Income tax Settlement Commission Established u/s 245B(1)	Appeal to the Appellate Tribunal u/s 253
3	The Companies Act, 2013 (18 of 2013)	National Company Law Tribunal Established u/s 408	Appeal to the National Company Law Appellate Tribunal u/s 421
4	The Airports Economic Regulatory Authority of India Act, 2008 (27 of 2008)	The Airports Economic Regulatory Authority Established u/s 3	Appeal to TDSAT u/s 17 (AERAAT since merged with TDSAT)
5	The Telecom Regulatory Authority of India Act, 1997 (24 of 1997)	The Telecom Regulatory Authority of India Established u/s 3	Appeal to Telecom Disputes Settlement and Appellate Tribunal u/s 14
6	The Competition Act, 2002 (12 of 2003)	Competition Commission of India Established u/s 7	Appeal to National Company Law Appellate Tribunal (NCLAT) u/s 53A (Competition Appellate Tribunal since merged with NCLAT)
7	The Securities and Exchange Board of India Act, 1992 (15 of 1992)	The Securities and Exchange Board of India Established u/s 3	Appeal to the Securities Appellate Tribunal u/s 15T
8	The Insolvency and Bankruptcy Code, 2016 (31 of 2016)	Insolvency And Bankruptcy Board of India Established u/s 188(1)	Appeal to National Company Law Appellate Tribunal u/s 202

9	The Cinematograph Act, 1952 (37 of 1952)	Board of Film Certification Established u/s 3	Film Certification Appellate Tribunal u/s 5C
10	The Electricity Act, 2003 (36 of 2003)	Central Electricity Authority Established u/s 70	Appeal to Appellate Tribunal for Electricity u/s 110 & 111
11	The Prevention of Money laundering Act, 2002 (15 of 2003)	Adjudicating Authority Established u/s 6	Appeal to Appellate Tribunal u/s 26
12	The Merchant Shipping Act, 1958 (44 of 1958)	Court of Survey Established u/s 383(1 & 3)	No further appeal (but Reference to scientific persons by Central Govt. u/s 387)
13	The Cinematograph Act, 1952 (37 of 1952)	The Film Certification Appellate Tribunal Established u/s 5D	No further appeal (but Revision Power with Central Govt. u/s 6)
14	The Coastal Aquaculture Authority Act, 2005 (24 of 2005)	Coastal Aquaculture Authority Established u/s 4	No further appeal
15	The Press Council Act 1978 (37 of 1978)	Press Council of India Established u/s 4	No further appeal
16	The Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (51 of 1993)	Debts Recovery Appellate Tribunal Established u/s 8(1)	No further appeal
17	The Administrative Tribunals Act, 1985 (13 of 1985)	Central Administrative Tribunal Established u/s 4(1)	No further appeal
18	The Central Sales Tax Act, 1956 (74 of 1956)	The Central Sales Tax Appellate Authority/Tribunal Established u/s 19	No further appeal

Tribunals from where appeal lies to the High Court			
	The Income Tax Act, 1961 (43 of 1961)	Income Tax Appellate Tribunal Established u/s 252(1)	Appeal to the High Court u/s 260A(1)
	The Customs Act, 1962 (52 of 1962) Amended vide Finance Act 2003	Customs, Excise and Service Tax Appellate Tribunal Constituted u/ s 129(1)	Appeal to the High Court u/s 130(1)
	The Income Tax Act, 1961 (43 of 1961)	Income tax Settlement Commission Constituted u/s 245B	Appeal to High Court u/s 260A
	The Prevention of Money laundering Act, 2002 (15 of 2003)	Appellate Tribunal Established u/s 25	Appeal to High Court u/s 42
	The Benami Transactions (Prohibition) Amendment Act, 2016 (43 of 2016)	Appellate Tribunal Constituted u/s 30	Appeal to High Court u/s 49(1)
	The Benami Transactions (Prohibition) Amendment Act, 2016 (43 of 2016)	The Appellate Tribunal Established u/s 30	Appeal to High Court u/s 49

Tribunals from where appeal lies to the Supreme Court			
S. No.	Name of Act	Name of Tribunal/Authority	Section under which Appeal lies with the Supreme Court
1	The National Green Tribunal Act, 2010 (19 of 2010)	National Green Tribunal Established u/s 3	u/s 22
2	The Securities and Exchange Board of India Act, 1992 (15 of 1992)	Securities Appellate Tribunal Established u/s 15K(1)	u/s 15Z
3	The Consumer Protection Act, 1986 (68 of 1986)	National Consumer Dispute Redressal Commission Established u/s 9	u/s 23
4	The Armed Forces Tribunal Act, 2007 (55 of 2007)	Armed Forces Tribunal Established u/s 4	u/s 30
5	The Electricity Act, 2003 (36 of 2003)	Appellate Tribunal for Electricity Established u/s 110	u/s 125
6	The Income Tax Act, 1961 (43 of 1961)	Income Tax Settlement Commission constituted u/s 245B	u/s 261
7	The Airports Economic Regulatory Authority of India Act, 2008 (27 of 2008)	Airports Economic Regulatory Authority Appellate Tribunal (AERAAT) is now merged with Telecom Disputes Settlement Appellate Tribunal (TDSAT)	u/s 31
8	The Insolvency and Bankruptcy Code, 2016 (31 of 2016)	National Company Law Appellate Tribunal Established u/s 410	u/s 62(1)
9	The Electricity Act, 2003 (36 of 2003)	Central Electricity Authority Established u/s 70	u/s 125

NEW AUTHORITIES AND TRIBUNALS TO BE ESTABLISHED UNDER VARIOUS BILLS

The legal framework of our country has seen enactment of various new laws. The Personal Data Protection Bill, 2019 was introduced in Lok Sabha by the Minister of Electronics and Information Technology, Mr. Ravi Shankar Prasad, on December 11, 2019. The Bill seeks to provide for protection of personal data of individuals, and establishes a Data Protection Authority for the same.

The data protection Authority established under the proposed bill may:

- (i) take steps to protect interests of individuals,
- (ii) prevent misuse of personal data, and
- (iii) ensure compliance with the Bill.

It will consist of a chairperson and six members, with at least 10 years' expertise in the field of data protection and information technology. Orders of the Authority can be appealed to an Appellate Tribunal.

The bill also provides for establishment of Appellate tribunal under proposed section 67 to hear and dispose of any appeal from an order of the Adjudicating Officer under various sections of the Bill.

Appeals from the Tribunal will go to the Supreme Court.

Authority under Non-Personal Data Governance Framework

The Expert Committee was constituted by the Ministry of Electronics and Information Technology under the Chairmanship of Mr. Kris Gopalakrishnan to study various issues relating to non-personal data. The committee submitted its report in July, 2020. The Committee observed that non-personal data should be regulated to: (i) enable a data sharing framework to tap the economic, social, and

public value of such data, and (ii) address concerns of harm arising from the use of such data.

The framework provides for establishment of Non-personal data Authority. This regulatory authority will be established for putting in place the framework for governance of non-personal data. It will consist of experts in fields such as data governance and technology. The Authority will be responsible for framing guidelines with respect to data sharing and risks associated with non-personal data.

IMPORTANT WEBSITES

Appellate Tribunal for Electricity: <http://aptel.gov.in/>

Appellate Tribunal under SAFEMA Act, 1976: <http://atfp.gov.in/>

Customs, Excise and Service Tax Appellate Tribunal:
<http://www.cestatnew.gov.in/>

Debts Recovery Tribunals (DRTs) and Debts Recovery Appellate Tribunal:
<https://www.drt.gov.in/>

Film Certification Appellate Tribunal: <https://mib.gov.in/film/film-certification-appellate-tribunal>

Income Tax Appellate Tribunal: <http://itat.nic.in/>, <http://itatonline.org/>

Insolvency and Bankruptcy Board of India: <http://www.ibbi.gov.in/>

Intellectual Property Appellate Board: <http://ipabindia.org/>

National Company Law Appellate Tribunal (NCLAT): <http://www.nclat.nic.in/>

National Company Law Tribunal (NCLT): <http://nclt.gov.in/>

National Consumer Dispute Redressal Commission: <http://ncdrc.nic.in/>

National Green Tribunal: <http://www.greentribunal.gov.in/>

Securities Appellate Tribunal: <http://sat.gov.in/>

Telecom Disputes Settlement & Appellate Tribunal:
<http://www.tdsat.gov.in/Delhi/Delhi.php>

CA(Dr.) Rajkumar S Adukia



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Global Life and Business Transformation Guru

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Introduction

CA (Dr.) Adukia left no stone unturned during his career span expanding to more than 37 years. He is chairman of Meridian Business Consultants Private Limited. The company is involved in providing A to Z services required by any business. CA (Dr.) Adukia is a legendary example of seeking ways to explore new areas of business and profession. He is a pioneer of many areas of practice which were never thought before by professionals. His mantra is to provide services to clients that help them in building better and sustainable businesses. He is a knowledge seeker and believes that knowledge needs to be ingrained and used for the benefit of society at large. He strongly believes that

professionals have to go beyond the traditional areas of practice like audit and direct and indirect taxation. These are least rewarded areas in comparison to the knowledge and expertise we have as chartered accountants. He feels that one must expand himself to serve better and not settle for less whether in terms of rewards or the various kinds of assignments. Being an adherent follower of the “Science of getting Rich, he believes the pie gets bigger and bigger so that it can cater to every individual’s need. We contribute in creating abundant universe by asking for more riches. And he desires better remuneration for assignments not just for himself but for all his fellow professionals.

He achieves this by mentoring the professionals, handholding them through various workshops, webinars and lectures he conducts for professionals who wish to enter into new areas of practice. He has mentored 1000 professionals for passing the Insolvency Exam and Valuation Exam.

Professional Areas of Expertise

He has been a well know professional exhibiting expertise and providing services in the following areas:

- Taxation
- Corporate Advisory & Compliance
- Corporate Insolvency& Bankruptcy
- Civil And Commercial Litigation
- Alternative Dispute Resolution (ADR)

- Intellectual Property Rights
- Anti-trust & Competition
- Real Estate
- Family Law
- Criminal Laws
- Labour & Employment Laws
- Banking & Finance
- Charitable Organizations
- Forensic Services
- Entertainment, Media & Broadcasting
- Pharmaceuticals, Food & Drug
- Antidumping, International Trade Law & WTO
- Telecommunication
- Information Technology
- Infrastructure Projects
- Insurance Law
- Cooperative Sector
- Environment Law

He represents clients at Debt recovery tribunals and has filed applications under Insolvency and Bankruptcy Code 2016 for recovery of debts through National Company Law Tribunal (NCLT). He has also represented clients at various commercial tribunals like The Appellate tribunal under The Prevention of Money Laundering Act 2002, The National Company Law Appellate Tribunal for cases under Companies Act 2013 and the Competition Act 2002, the Telecom Disputes settlement and Appellate tribunal for cases under the Information Technology Act 2000.

Experience

His vast experience includes training and professional services to banks, financial institutions, Corporate, Government Departments, and Regulators and as:

- An eminent Speaker and Business Advisor,
- An expert on Business laws, cyber laws, cyber security, International Forensic Expert
- Faculty at Insolvency and Bankruptcy Board of India
- Author of more than 300 books on a wide variety of topics ranging from those dealing with Trade, Taxation, Finance, Real Estate, the Insolvency & Bankruptcy Code, Intellectual Property Rights, Banking laws, Emerging technologies like AI and Blockchain to topics relating to personal and professional growth. He is the winner of **National Book Honor Awards 2018**
- He has been conducting seminars and lectures across various countries.
- Authority on Banking Laws, Insolvency Laws, Insurance Laws, Intellectual property laws, Indian GAAP, IFRS and Ind-AS.
- Business advisor for various companies on varied subjects
- Travelled across the globe for his professional work and knowledge sharing. He has widely travelled three fourth of globe addressing international conferences and seminar on various international issues like Corporate Social Responsibility, Corporate Governance, Business Ethics etc.

Education

Having graduated from Sydenham College of Commerce & Economics in 1980 as 5th rank holder in Bombay University and he has also received a Gold Medal for highest marks in Accountancy & Auditing. He cleared the Chartered Accountancy Examination with 1st Rank in Intermediate and 6th Rank in Final. He also secured 3rd Rank in the Final Cost Accountancy Course. He has been awarded G.P. Kapadia prize for best student of the year 1981. He also holds a Degree in law, PhD in Corporate Governance in Mutual Funds, MBA, Diploma in IFRS (UK), and Diploma in Labour law and Labour welfare, Diploma in IPR, Diploma in Criminology.

He has done Master in Business Finance, a one-year post qualification course by ICAI. He has also done Certificate Courses conducted by ICAI on

- Arbitration
- Forensic Audit and Fraud prevention
- Concurrent Audit

Significant Professional Achievements:

He is member of International Bar Association. The International Bar Association, established in 1947, is the world's leading international organization of legal practitioners, bar associations and law societies. The IBA influences the development of international law reform and shapes the future of the legal profession throughout the world.

He served as President of GST Research foundation, a society registered under Societies Registration Act, 1860.

He is the Chairman of **Association of Indian Investors**, a Section 8 Company wherein its main thrust is to educate the layman about the principles of safe investment, the complexity of capital market, changing rules of market operations, designing and implementing effective Internal Financial Control framework, the frame work on enhancing the Cyber security of the

organizations and implementation of ISO 27000 framework and provide Corporate Governance Services.

He is also Vice President of All India Insolvency Professionals. All India Insolvency professionals is an organization providing services in the field of insolvency and bankruptcy, corporate restructuring etc. The Organization is currently having 200 professionals all over India as its members.

Current& Past Memberships:

- International Financial Reporting Standards (IFRS) Foundation SME Group
- Insol India National Committee for Regional Affairs.
- Membership of the following committees of International Bar Association
 - Asia Pacific Regional Forum
 - Forum for Barristers and Advocates
 - Arbitration Committee
 - Bar Issues Commission (BIC)
- Member of INSOL India
- CAG Advisory Committee
- Quality Review Board, Government of India

Professional Service

CA (Dr.). Adukia's service and contribution to the profession

- Chairman of WIRC of ICAI in 1997-98
- International Member of Professional Accountants in Business Committee (PAIB) of International Federation of Accountants (IFAC) from 2001 to 2004
- Member of Inspection Panel of Reserve Bank of India
- Member of J.J. Irani committee (which drafted Companies Bill 2008)
- Member of Secretarial Standards Board of ICSI
- Member of Working Group of Competition Commission of India, National Housing Bank, NABARD, RBI, CBI etc.

- Independent Director of Mutual Fund Company and Asset Management Company.
- Worked closely with the Ministry of Corporate Affairs on the drafting of various enactments.
- **Served as Independent Director** of SBI Funds Management Private limited and Bank of India asset management co. ltd
- **Served as Independent director** at ICAI accounting research foundation section 8 company
- Actively involved with ICAI as a Central Council Member during the period when the convergence to IFRS was conceptualized in India and has been instrumental in materializing the idea.
- Address to Insolvency and Bankruptcy Board of India
- Address to Institute of Chartered Accountants of India
- Address to Institute of Company Secretaries of India
- Address to Institute of Cost Accountants of India
- Address to Chamber of Indian Micro Small & Medium Enterprises
- Speaker in **IIA's 2013 International Conference in Orlando** on Green Audit.
- Faculty at Indian Institute of Corporate Affairs for courses on Insolvency Laws and Corporate laws.
- Faculty Speaker in Workshop on Commodity Risk Management for Bankers organized by **CAFRAL** (Centre for Advanced Financial Research and Learning)
- Faculty at National Institute of Securities Management (**NISM**) and Indian Institute of Corporate Affairs (**IICA**)
- Addressed the Program for Principal Inspecting Officers & Inspecting Officers by **Reserve Bank of India**- Department of Non-Banking Supervision.
- Addressed the National apex Chamber of Commerce and State apex Chamber of Commerce including his address to **ASSOCHAM**, Confederation of Indian Industry (**CII**), Federation of Indian Chamber of Commerce and Industry (**FICCI**), and All India Manufacturers Organisation (**AIMO**).
- Addressed the **CBI officers**, officers of Serious Fraud Investigation Office (**SFIO**), and various State Police Academies.

- Addressed the **SCOPE**- Standing Conference of Public Enterprises which is an apex professional organization representing the Central Government Public Enterprises. It has also some State Enterprises, Banks and other Institutions as its members.
- Addressed the National Academy of Audit and Accounts (**NAAA**)

He has been a panel member at the following Arbitral Institutions/Forums:

- International Bar Association
- Bombay High Court
- Indian Council of Arbitration
- The International Centre of Alternate Dispute Resolution
- The Institute of Chartered Accountants of India
- Bombay stock exchange
- National stock exchange
- Western Region - Ministry of corporate Affairs, Government of India
- South Eastern region - Ministry of corporate Affairs, Government of India
- North Western Region - Ministry of corporate Affairs, Government of India
- India International ADR Association
- International and Domestic Arbitration Centre India
- ASSOCHAM ICADR
- Mumbai Centre for International Arbitration
- Main Mediation Centre Maharashtra & Goa
- Airports Authority of India (AII)
- Bharat Sanchar Nigam Limited (BSNL)

Global Life and Business Transformation Guru

CA (Dr.) Adukia is a motivational speaker, Growth Coach, and Life and business coach. He has done various Self developments from India and USA. CA (Dr.) Adukia has done a graduate course from Landmark worldwide which is a personal and professional growth, training and development company focusing on people achieving success and fulfillment. His exposure to

advanced programs and introduction to leadership programs has made him the most sought-after trainer in the areas of business development and personal development. He has been a trainer at many corporates which has resulted in positive and permanent shifts in the quality and life of people.

He is adherent follower of “Think and Grow Rich” by Napoleon Hill . He is also trained by Bob Proctor series on “Thinking into results”. His experience from his international trainings has been penned down in his various books on self-development. Some of his books on Self-development are

1. Magical Formula for Success
2. Strike Gold
3. Reinvent your Mind
4. Self-Empowerment
5. Genius is Universal
6. How to be super successful professional
7. Hoe to be super super successful person
8. Zooming your business and profession
9. Time management
10. Stress management
11. Goal setting

CA (Dr.) Adukia is very passionate about learning new things and believes self-improvement is a permanent process. His zeal is infectious to any person who meets him either for professional growth advise, business growth advise or for personal growth advise. CA (Dr.) Adukia has given solutions of growth to everyone.

He has done courses on:

- Winner

- Time management
- Stress management

He has mastered programs on:

- Siddha Samadhi Yoga
- Silva mind control
- Alternative therapy
- Think and Grow Rich
- Art of living
- Reiki

Awards and Accolades

He has been felicitated with awards like

- The Jeejeebhoy Cup for proficiency and character,
- State Trainer by the Indian Junior Chamber,
- “Rajasthan Shree” by Rajasthan Udgosh, a noted Social Organization of Rajasthan and
- Several other awards as a successful leader in various fields.
- National Book Honors Award 2018

CA (Dr.) Adukia continuously endeavors to help the clients achieve the desired results through customized and innovative solutions which involve focusing on exploring opportunities and leveraging them to enhance the growth and expansion of his clients.

Sharing the knowledge is enhancing the knowledge. CA (Dr.) Adukia encourages the precise energies in research, training, seminars, and books writing in the field, the one has passion.

**You can reach me on 9820061049 or email me on
cadrrajkumaradukia@gmail.com.**