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Powers of NCLT and NCLAT

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ABSTRACT

The NCLT has the authority to take a variety of actions, including cancelling a company's registration and dissolving it. The Tribunal may also make members' liabilities or fees unlimited. NCLT is now allowed to hear complaints about firms being denied permission to move shares and stocks under sections 58 and 59 of the Act, which was formerly under the purview of the Company Law Board. The NCLT has the authority to order an investigation and may request assistance from judges, investigation bodies, and international governments. During an audit, they will even put a company's properties on hold. Under the Companies Act, the NCLAT is an appellate body that hears appeals from the NCLT. Under the IBC, 2016, it also hears appeals from the NCLT. In addition, it hears appeals from The Insolvency and Bankruptcy Board of India and the Competition Commission of India.

Keywords: *Companies Act, 2013, The Insolvency and Bankruptcy Board of India, Competition Commission of India.*

I. INTRODUCTION

The National Company Law Tribunal ("NCLT") and the National Company Law Appellate Tribunal ("NCLAT") were formed as part of the reform of India's company law. The National Company Law Tribunal (NCLT) is defined by Section 408 of the Companies Act, 2013, which states that the Central Government shall establish a Tribunal to be known as the National Company Law Tribunal, consisting of a President and other Judicial and Technical Members, to exercise and discharge powers and functions as prescribed by the Act or any other power delegated to them by way of any other enactment or a notification by the Ministry of Corporate Affairs.

The Ministry of Corporate Affairs issued a notice on June 1, 2016, establishing the National Company Law Tribunal and National Company Law Appellate Tribunal, all of which will take effect on June 1, 2016. The Companies Act, 1956, was adopted before India opened its markets in 1991, and occasional revisions to the 1956 Act were unable to meet the existing needs of industry and business regulators. MCA was given powers to create NCLT and NCLAT under Sections 408 and 410 of the Companies Act, 2013, respectively.

The Eradi Committee recommended the establishment of a National Company Law Tribunal. NCLT was supposed to be incorporated

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into the Indian legal system in 2002 under the Companies Act, 1956, but due to a ten-year legal battle over its constitutional validity, it was informed under the Companies Act, 2013. It is a quasi-judicial body formed to deal with civil corporate disputes arising under the Companies Act. The powers and responsibilities of NCLT under the previous Companies Act and the 2013 Act, differed.

II. POWERS AND FUNCTIONS OF THE NATIONAL COMPANY LAW TRIBUNAL

(A) Class Action

Under Section 245 of Companies Act, 2013, An application may be filed to the tribunal by either the members of the company or by the depositors or on the behalf of the members stating that affairs have been conducted in a manner that is prejudicial to the interest of the company and seeking all or any of the ground, the company may be restrained from doing the following:

- Any act which is outside the scope of MOA and AOA,
- Committing any breach of the provision of MOA and AOA,
- The directors from acting on such resolutions,
- Doing any act which is either contrary to this act or any other act which is in force for time being,
- Declaring any resolution which in turn alters the MOA and AOA and it becomes void if such resolution is passed.
- For any illegal, dishonest, or wrongful act or omission performed by the company or its directors, to seek damages or reimbursement, or to warrant any other appropriate action.

The company's auditor or accounting firm for any improper or misleading claims, may ask the tribunal for some other solution. The details the company needs to adhere to, if depositors seek damages, restitution, or other relief from the audit company, the firm and every partner involved in making the false or misleading statement will be held liable. If the company has a share capital, the number of members required to apply to the tribunal is:

- Not less than one hundred members or members who possess not less than one-tenth of the total voting power in the company; or
- Not less than one-fifth of the people on the company's register of members (in case the company does not have share capital).
- The depositors must number at least one hundred or represent a certain proportion of the total depositors. The tribunal would examine whether the members and depositors behaved in good faith when the application for the order was being made.
- If the members or depositors apply, the tribunal shall issue a public notice to all members and depositors;
- If a similar application is filed from another jurisdiction, the tribunal shall consolidate and consider it as one application, and the class members or depositors shall be allowed to choose the applicant; and if two class-action applications are filed for the same thing, the tribunal shall consolidate and consider it as one application, and the class

members or depositors shall be allowed to choose the lead applicant.

The tribunal's decisions are binding on the company's members, depositors, auditors (including accounting firms), advisors, experts, and consultants, as well as everyone else affiliated with the company. If the company fails to comply with the tribunal's order, the company will be fined INR 5 lakhs, with a maximum fine of INR 25 lakhs, and each defaulting officer will be fined INR 25 thousand, with a maximum fine of INR 1 lakh, and will be sentenced to three years in jail. If the tribunal finds the application to be frivolous or vexatious, the tribunal shall refuse the application and record the reasons in writing, as well as order the other party to pay the bill, which shall not exceed INR 1 lakh.

In the case of Shanta Prasad Chakravarty & Ors. v. M/s. Bochapathar Tea Estate Private Limited & Ors.[2], held that while a petition under sections 241, 242, and 244 of the Act can only be filed against the corporation, board of directors, shareholders, or representatives, a petition under section 245 can be filed against the statutory auditors and/or advisors as well. Since the idea of a "class action" originated in American law, it might be useful to look at the process outlined in their rules, that is, Rule 23 of the Federal Rules of Civil Procedure ("FRCP"), which governs class actions, outlines a process that includes:

(a) A plaintiff filing a complaint on behalf of a putative (or proposed) class,

(b) The court certifying the class,

(c) The appointment of class representatives and class counsel to represent the class, and

(d) Public notice to all members of the class, with an option to opt-out.

In the case of Systems v. ANZ Securities, Inc[3], it was stated that such class action suits should be handled on an individual basis rather than using standard evidence for all class members.

(B) Deregistration

Under Section 7(7) of the Companies Act, 2013, if the tribunal learns that the company provided false or incorrect information at the time of incorporation, or that the company suppressed any relevant evidence, information, or declarations, the tribunal may issue one of the following orders:

- Pass certain orders as it sees fit
- Pass orders for the company's winding up
- Direct that members' liability be unlimited.

say that a company's name can't be restored after it has been struck off on an application submitted under the Simplified Exit Scheme." The Madhya Pradesh High Court's decision in Vi Brij Fiscal Services (P) Ltd. v. Registrar of Companies[4], which restored a company that had been struck off under the Simplified Exit Scheme, was also listed.

[2] Shanta Prasad Chakravarty & Ors. v. M/s. Bochapathar Tea Estate Private Limited & Ors., 2017 SCC OnLine 335.

[3] Systems v. ANZ Securities, inc, [137 S Ct 2042 (2017)].

[4] Vi Brij Fiscal Services (P) Ltd. v. Registrar of Companies, (2010) 155 Comp. Cas. 157 (MP).

In Microtech Infoserve (P) Ltd. v. Registrar of Co.[5], the NCLT in New Delhi provides much-needed clarity on what constitutes carrying on business or operations in the context of deregistration or restoration. The petitioner argued that t received services and purchased equipment that s needed to operate their company. Next-Gen Networks provided services such as cable laying on telephone clips, and an invoice was levied against the company. According to the bank statement, t also paid MTNL expenses. To operate its activities, the company had leased office space. The business was formed on 3-2-2004 under the 1956 Act's provisions.

The company had acknowledged receipt of a notice to show cause sent by RoC to the company and its Directors, along with copies of documents, and the company had said that it was carrying on business and operations at the time its name was struck off. For May 2017, the company reported to have 84 workers on its payroll and paid a salary of Rs 6.86 lakhs to its employees. Hitachi Systems Micro Clinic (P) Ltd was another client of the firm. As a result, the NCLT determined that the company meets the requirements of Sections 252(1) and (3) of the Companies Act, which strongly support its restoration. The arguments for the restoration were compelling, demonstrating that t was both proper.

After observing a land development agreement that suggested significant business operation, the NCLT, Ahmedabad allowed the application for name restoration n Vasudev Hembhai Dabhi v. Registrar of Co.[6]. The Company was registered to conduct real estate business, according to NCLT, and it had agreed to purchase some lands for land construction. The NCLT examined Section 252(3) of the Act and determined that it involves carrying on a business activity on the date of strike-off to be restored. As a result, the NCLT granted the name restoration request.

(C) Oppression and Mismanagement

Section 241 of the Companies Act, 2013 states that any member of the company who has the right to file a complaint with the tribunal under section 244 of the Act, 2013 must file a complaint with the tribunal alleging that:

The company's affairs are being conducted in a manner that is prejudicial to the public interest, oppressive to him or any other member of the company, or prejudicial to the company.

A substantial adjustment made by the company that is detrimental to the company's creditors, debenture holders, and shareholders, and that has resulted in a major change in the company's management or control, such as:

1. A change in the board of directors,

2. A change in the managers,

3. A change in the member, or

4. Any other purpose.

As a result, the company's representatives believe that the company's affairs have been

[5] Microtech Infoserve (P) Ltd. v. Registrar of Co., 2017 SCC ONLINE NCLT 9514.

[6] Vasudev Hembhai Dabhi v. Registrar of Co., (2017) 205 Comp Cas 435, decided on 10-11-2017 (NCLT Ahmedabad).

handled in a way that is detrimental to the company's interests.

When the Central Government believes that the company's affairs have been conducted in either of the following ways, and the tribunal finds that it has been prejudicial to the public interest or oppressive:

- A company member is either guilty of fraud, misfeasance, persistent negligence, breach of confidence, or is in default in carrying out the company's duties and functions as required by law.
- Management of the company is not carried out in accordance with sound principles or prudent commercial practices.
- When a company is operated in a way that causes serious injury to trade, business, or industry
- When a company is operated solely to defraud creditors or members, or when a company is managed solely for dishonest or unlawful reasons that are contrary to the public interest

Case study on the Tata v. Mistry case vis-à-vis mismanagement

- Cyrus Mistry was elected group chairman in November 2011 and took over in December 2012 after Ratan Tata retired. His family is the single largest shareholder in the Tata group. Ratan Tata was named interim chairman on October 24, 2016, and Mistry was fired by Tata Sons board of directors. Mistry argued that Tata Sons articles of association were biased towards minority shareholders' interests, while Tata Sons dismissed Mistry's argument as a victimisation stunt.
- This was revealed after a major conflict of interest arose when Mistry decided to collect funds for Orissa elections, but the board only allowed for parliamentary elections.
- Mistry also objected to the fact that directors of loss-making firms were paying crores of rupees, but minority shareholders were not paid dividends in the name of loss.
- When Mistry took over the Tata company, he promised that Tata & Sons would no longer work with Shapoorji Pallonji for engineering contracts (which is owned by the Cyrus family), to prevent conflicts of interest.
- Mistry sought to consolidate power in some instances and made decisions without first receiving board approval. To put an end to the rivalry between Tata and Mistry, he was fired. On December 20, 2016, Mistry's investment firms, Cyrus Investments Pvt Ltd and Sterling Investment Corp. Pvt Ltd filed a petition with the NCLT alleging unfairness and mismanagement under Sections 241 and 242 of the Companies Act. The Mistry camp argued that his removal as chairman of Tata Sons, and then as a director, was the product of Tata Trusts' 66 percent stake in the company.
- The second part of the argument focused on the Tata Sons board of directors and Ratan Tata's alleged mismanagement, which caused the company to lose sales. Even though the Mistry family owned 18.4% of Tata Sons, it only had voting rights over less

than 4% of the firm. According to Mistry's petition, Tata Sons allegedly violated the articles of association and governance framework for Ratan Tata to gain control of the company.

- The petition filed by the Mistry family's investment companies was rejected on the merits by a Mumbai division bench of the NCLT presided over by B.S.V. Prakash Kumar and V. Nallasenapathy. It was determined that he lost his status as chairman of India's largest conglomerate as a result of the company's shareholders losing faith in him. All of Mistry's claims were flatly denied by the tribunal, which was used to justify his removal.
- The questions posed about minority shareholders under Sections 241 and 242 of the Companies Act were found to be without substance. The NCLT bench ruled, "We have not found any purported validity of issues posed by the minority shareholder in his petition under Sections 241 and 242 of The Companies Act, 2013," Mistry's argument that Ratan Tata and Tata Sons trustee N.A. Soonawala interfered in Tata Sons' governance was also dismissed.
- The tribunal reaffirmed that corporate governance is a shared obligation, and Mistry's argument that there are flaws in it is without merit. The Tata party applauded the decision, saying it vindicates Tata Trusts and Tata Sons' positions.
- The Tata group has always been committed to transparency and corporate governance, according to Chandrashekharan, and will continue to be so. Ratan Tata claimed that the ruling vindicated Tata Sons' conduct in October 2016.
- Mistry called the decision "disappointing" and promised that a merits appeal would be filed. He also stated that he would continue to work to defend minority shareholders from the majority's brutal oppression. Mistry's investment firms have the option of appealing the ruling to the National Company Law Appellate Tribunal (NCLA), where he had questioned the rationale behind the sale of Tata Communications to Bharti Airtel Ltd, debt-driven acquisitions by Tata Steel Ltd, and its European merger with ThyssenKrupp AG, among other things.
- According to Sanjay Asher, a senior partner at law firm Crawford Bayley & Co, the board of directors has the right to substitute its non-executive chairman, and the shareholders have the power to nominate or dismiss a director, which no court can take away.
- According to Asher, this decision would allow the company to focus more on its core business without fear of more negative consequences from the lawsuit.
- To assess what went wrong, inside sources say that the feud was centred on three major issues. The first was Mistry's Irish citizenship, which he refused to give up despite the Tatas' repeated demands. Mr John Thain of the United States was not given this role in the business despite his humongous credentials because Tata still wanted a full

Indian identity to take over this work. Second, large contracts from Tata &sons were awarded to Mistry's own business company, Shapoorji Paloonji.

- It became a significant source of Mistry's conflicts of interest and weak governance. Third, Mistry attempted to undermine Tata sons' long-held dominance by appointing five members to the GEC (group executive council), which he formed to supervise the CEOs of the individual group companies. The most important lesson learned from this dispute was the importance of TRUST.
- Mistry had doubts about Tata's decision, and he had doubts about his own decision as well. He didn't measure up to Tata's expectations. His work entailed not only following the vision but also gaining the trust and confidence of the shareholders.
- If the situation requires it, a leader must also stand up and resign. Perhaps Tata might have found a better way out for their chairman if the internal feuds had not spilt over into the public eye. The Supreme Court ruled in favour of the Tata Party, overturning an appellate court decision that had allowed Cyrus Mistry to be reinstated as Chairman of the company.

(D) Investigative powers

Section 213 of the companies act, 2013 illustrates that applications made to the tribunal of the nature:

- **Company with a share capital:** Not less than one hundred shareholders, or members who possess at least one-tenth of the company's overall voting power; or
- **A company without a share capital:** At least one-fifth of the individuals on the company's membership list.
- Where an individual other than a director of the corporation makes an application to the tribunal citing one of the following circumstances:

1. The company's affairs have been conducted solely to defraud creditors, members, or all other third parties.
2. The company is being done for dishonest or illegal reasons.
3. Business is conducted oppressively against its members.
4. The main object of forming a company s to engage in illegal or fraudulent activity. Persons involved in the establishment or management of the company's affairs were either guilty of fraud, misfeasance, or wrongdoing against the company or any of its members.
5. Where members of the company have failed to provide the company with all information relating to the company's affairs that they are required to provide, including information relating to the calculation of commission payable to the managing director, director, or any other manager of the company, and the tribunal believes that the parties have been given a reasonable opportunity to do so, the tribunal may find that the

parties have been given a reasonable opportunity to do so.

If it is shown after an investigation that:

- The company's affairs have been conducted solely to defraud creditors, members, or any other individual, or
- Business is being conducted for fraudulent or unlawful purposes, or
- Business is being conducted in a way that is oppressive to its members, or
- Business is being formed solely to defraud creditors, members, or any other person, or
- Business is being formed solely to defraud creditors, members, or
- Then every officer of the company who is in default and a person who is engaged either in the formation of the company or managing the affairs of the company shall be punished for fraud.

(E) Reopening accounts

Except on the order of the central government, the income tax authorities, SEBI, a regulatory body, or an order made by a court of competent jurisdiction or tribunal, Section 130 of the Companies Act, 2013 states that a company shall not open its accounts or recast its financial statements and shall only be permitted to do so when[7]:

- Previous accounts were prepared fraudulently.
- The company's affairs were mismanaged, throwing doubt on the financial statements credibility.
- Before issuing certain orders, the tribunal must notify the relevant authorities.

Case study on Satyam scandal[8]

- Mr Ramalinga Raju, the CEO of Satyam Computers, announced a $1.6 billion bid for two Maytas companies, Maytas Infrastructure Ltd and Maytas Properties Ltd, in an unexpected leap, claiming that he wanted to give the money to support financial experts. Raju's family has both aided and hindered the two organisations. The business and financial experts all gave him the thumbs down, forcing him to withdraw within 12 hours.
- Due to concerns about Satyam's corporate management, offer prices plummet by 55 per cent. On December 23, 2008, the World Bank announced that Satyam had been barred from doing business with the Bank for a long time for providing "improper compensation" to Bank employees and being guilty of identity theft and manipulating the workers. Offer prices fell another 14% to the lowest level in more than four years.
- B. Ramalinga Raju surrendered as an administrator of Satyam on January 7, 2009, after admitting to over Rs. 7800 crores in budgetary extortion. In his message, he revealed that his attempt to buy Maytas

[7] Hari Sankaran v. Union of India, 2019 SCC 6 584.
[8] M/S. Satyam Computer v. Directorate Of Enforcement, 2018 APHC 773.

organizations was his last attempt to "fill imagined capital with real ones." In his note, he admitted that it was like riding a tiger without knowing how to get off without getting bitten. Satyam's advertisers, two brothers B Ramalinga Raju and B Rama Raju, were apprehended by the State of Andhra Pradesh police, and the Focal government took over responsibility for the tainted business.

- Satyam's board was reconstituted by the Central Government, and three people were appointed to it: HDFC Executive, Deepak Parekh, Ex Nasscom director and IT master, Kiran Karnik, and previous SEBI part C Achuthan. The Central Government named three additional executives to the reconstituted Board: CII CEO Tarun Das, TN Manoharan, former president of the Institute of Chartered Bookkeepers (ICAI), and S Balakrishnan, former CEO of the Life Insurance Corporation of India. Satyam's evaluators met seven days after Satyam organizer B Ramalinga Raju's humiliating entry.
- Value Waterhouse finally admitted that its analysis report was incorrect because it was based on incorrect budget information provided by Satyam's administration. Satyam's CFO Srinivas Vadlamani confessed to raising the number of delegates by 10,000 on January 22, 2009. He told CID investigators that this helped him withdraw about Rs 20 crore per month from the linked but fictitious pay accounts.
- This Section was created in response to the Satyam case in India, which required the recasting of accounts. The court found that "The amendment proposes to include procedural requirements in support of account revision in some cases," according to the committee paper. The current legislation makes no provision for reopening or recasting of accounts. In certain cases, particularly those involving theft, it might be necessary to reopen accounts to represent accurate and honest accounts. In the Satyam case, the court ordered such recasting. The Bill's rules require such reopening on the order of a court or tribunal. In such cases, the reopening is allowed by Tribunal order, subject to sufficient safeguards."

(F) Refusal to transfer shares

According to Section 58 of the Companies Act of 2013, if a private company limited by shares or a public company refuses to record the transfer of the transferor's shares, the company must notify the transferor and transferee within thirty days of the transfer. In response, the transferee must file an appeal with the tribunal within thirty days of receiving the notice, or within sixty days of receiving the instrument of transfer if no notice is sent by the corporation to the transferee. The tribunal will hear the orders and will either dismiss the appeal or order the corporation to:

- Move the shares within ten days of receiving the order.
- Direct rectification of the registry, as well as payment of any losses suffered by the aggrieved party.

If someone violates the order, they will be sentenced to a term of imprisonment of not less than one year but not more than three years, as well as a fine of not less than INR 1 lakh but not more than INR 5 lakh.

(G) Conversion of Public Company into Private Company

When a company converts from a public to a private company, Section 13 to 18 of the Companies Act, 2013, read with Rule 41 of the Companies(Incorporation) rule 2014, the NCLT tribunal must approve the conversion. Section 459 of the Companies Act of 2013 allows the tribunal to enforce terms and conditions. The tribunal can carry out the following activities:

- To give any matter approval, sanction, consent, affirmation, or recognition
- To give any direction about any matter
- To grant any exemption about any matter
- In relation to any approval, permission, consent, confirmation, or acknowledgement that that Government or the Tribunal will accord to, or in relation to, any matter
- In relation to any direction or exemption that that Government or the Tribunal may give or grant in relation to any matter.

(H) Annual General Meeting

According to section 96 of the Companies Act, 2013, if the members of the company fail to convene a meeting within a certain period, a member of the company may apply to the tribunal to convene the meeting, and the tribunal has the authority to do so. They are required to adhere to the following rules with reference to Annual General Meetings:

Any corporation other than a One Person Company shall hold an annual general meeting each year, in addition to any other meetings, and shall designate the meeting as such in the notices calling it, and no more than fifteen months shall elapse between the dates of one annual general meeting and the next

Provided, however, that in the case of the company's first annual general meeting, it must be held within nine months of the company's first financial year's end, and in all other cases, within six months of the company's financial year's end, Furthermore, if a company holds its first annual general meeting as aforesaid, the company would not be required to hold another annual general meeting in the year of its incorporation Provided, further, that the Registrar can, for any reason, extend the time for any annual general meeting, other than the first annual general meeting, by a duration of not more than three months.

When a company fails to act in accordance with Section 96 mandate, namely, to hold its AGM within the prescribed period, or when a tribunal issues an order for the holding of an AGM under Section 97 and the company fails to comply with the tribunal's order, the company and any other officer of the company acting on its behalf will be fined.

(I) Winding up of the company

A business can be wound up by a tribunal under Section 242 of the Companies Act, 2013 if the company's affairs have been conducted in any of the following ways, as specified in Section 242

of the Companies Act, 2013, and the tribunal determines that the company has been prejudicial to the public interest or oppressive.

Apart from winding up the firm, the Tribunal can issue the following orders:

- Potential regulation of the company's conduct of business.
- Purchase of stock or interests of the company by other members.
- If any shares are bought, the equity value will be reduced.
- Share conversion and allocation restrictions.
- Any agreement between the corporation and its Managing Director, any other director or manager is terminated, put aside, or modified.
- Any relationship between the organization and any other entity is terminated, Any sale, distribution of goods, payment, execution, or other act relating to property made/done by/against the corporation in 3 months before the actual time of applying that would be considered a dishonest choice if made/done by/against a person in his insolvency.
- Termination of employment of the company's managing director, manager, or any director.
- The recovery of any unjust benefit made by any executive director, manager, or director, as well as how the recovery is used.
- After an order dismissing the managing director or manager of the company, the manner of appointment of the managing director or manager of the company can be changed.
- Appointment of the appropriate number of directors.
- The tribunal can impose costs if it deems it necessary.
- All other matters on which the Tribunal believes it is just and reasonable to rule.

(J) Additional Powers

1. Section 221, Companies Act of 2013 states that Company Assets are frozen until an audits conducted.

- The following parties will be able to appeal to the National Company Law Tribunal (NCLT) under Section 221, in the case of any inquiry or investigation; a referral by the Central Government; a complaint signed by a certain number of members as defined in Section 224 (1) of the Act; creditors owing one lakh rupees; The NCLT may order that any transfers, removals, or disposals of company money, assets, or properties do not take place for not more than three years as stated in the order, or that they take place subject to conditions and restrictions as the Tribunal deems appropriate.

III. Powers of National Company Law Appellate Tribunal

The NCLAT's function is to hear cases n appeals from established lower tribunals under a set of parameters and issue orders upholding, changing, or overturning the lower tribunal's decision as it sees fit. It now hears appeals from three bodies:

(A) Appeals from the NCLT under Companies Act

The Appellate Tribunal has the authority to accept an appeal in lieu of a hearing f an adequate cause s provided. However, this extension cannot extend another 45 days, the Appellate Tribunal cannot hear an appeal filed until ninety days have passed since the lower Tribunal's order was communicated. Section 421(2) further specifies that an order entered with the approval of disputing parties s not subject to appeal.

The Supreme Court has now held n Bengal Chemists & Druggists Association v. Kalyan Chowdhury[9], that a cursory reading of Section 421(3) and its proviso makes it clear that the Act provides a period of limitation different from that provided by the Limitation Act, and also provides a further grace period of 45 days only if the NCLAT s satisfied that an appellant was prevented by sufficient cause from feigning bankruptcy. The NCLAT sits on appeal to NCLT orders of the appeals filed within forty-five days of the order's communication, according to Section 421 of the Act.

Due to the terms "as far as can be" found n Section 433 of the Act, t was held that t should not be used to evoke the provisions of the Limitation Act as they apply to a limited degree necessary. Section 5 of the Limitation Act cannot extend because of the proviso to Section 421(3) of the Act as a separate clause.

(B) Appeal under IBC

The procedure for appealing the Adjudicating Authority's (NCLT) decision to the NCLAT s set out in Section 61 of the Code. The appeal may be brought by "any party aggrieved" by the NCLT's decision. To prevent any mistakes, it's important that the appeal follows the formatting criteria outlined in the checklist. The following are the requirements for filing an appeal under Section 61 of the Code:

- Under the Insolvency and Bankruptcy Code (IBC), 2016, the NCLT is the adjudicating body for the insolvency settlement process of corporations and limited liability partnerships.
- Financial or operational creditors, as well as the corporate debtor itself, may file an insolvency petition with the NCLT.
- The full amount of time you have to consider or deny the plea is 14 days.
- If the plea is approved, the tribunal is required to select an Interim Resolution Professional (IRP) within 180 days to formulate a resolution proposal (extendable by 90 days).
- The court has now started the Corporate Insolvency Resolution Process.
- The company's Board of Directors has been suspended, and the founders have no voice in the company's management.
- The tribunal's rulings can be appealed to the NCLAT, and the NCLAT's decisions can be appealed to the Supreme Court of India on a case-by-case basis.

[9] Bengal Chemists & Druggists Association v. Kalyan Chowdhury, (2018) 3 SCC 41.

In the case of Duncans Industries Limited v. A.J. Agrochem[10] A tea garden management firm that maintains and operates 14 tea gardens. The Central Government, in the exercise of its authority under Section 16-E of the Tea Act, 1953, has taken charge of 7 of the 14 tea gardens in a notification dated 28-1-2016. The respondent s the appellant's operational creditor. It is used to supply the appellant with poisons, insecticides, herbicides, and other chemicals. The appellant corporate debtor owed the respondent operational creditor an amount of Rs 41,55,500, according to the respondent operational creditor. The NCLT held that the prosecutions under Section 9 BC could not be maintained because of the procedural limitations under Section 16-G of the Tea Act and because the Central Government's prior consent had not been received. The NCLAT holds that an insolvency petition filed under Section 9 of the insolvency and Bankruptcy Code, 2016 is not the same as "winding up litigation" since it is a "corporate insolvency settlement procedure."

(C) Appeals from the CCI

Part XIV of the Finance Act of 2017 went into effect on May 26, 2017. The Act effectively merges many tribunals into one. The Competition Commission of India was added to Section 410 of the Companies Act by Section 172 of the Finance Act. Similarly, Section 53A of the Competition Act of 2002 was amended to make NCLAT the competition appeal authority. According to Section 410, all complaints from the NCLT and the CCI's rulings, recommendations, and instructions will also be heard by the NCLAT, which will obey the protocols outlined in the Competition Act of 2002. The COMPAT has now been taken over by the NCLAT (Competition Appellate Tribunal).

In M/S. B. Himmatlal Agrawal v. Competition Commission Of India And Others[11], the Supreme Court recognized that the right to appeal is granted under Section 53 B of the Competition Act and that the said clause does not entail any pre-deposit of penalty for the appeal to be entertained. The Supreme Court ruled that a statute's right to appeal cannot be limited by requiring a pre-deposit of a penalty, which will result in the appeal being dismissed if the deposit is not made. The Supreme Court ruled that failure to comply with the NCLAT Stay Order would have no bearing on the substantive appeal.

IV. CONCLUSION

The NCLT and NCLAT were created to serve as a unified platform for adjudicating conflicts related to company operations, where the timely resolution would aid in the smooth operation of the economy. The Company Law Board's previous administration collapsed because it was incapable of adjudicating disputes in a timely and successful manner. The previous administration had several bottlenecks that did not aid in the revival of sick companies and also resulted in the prolongation of events. The NCLT hears all disputes under the Companies Act, 2013 and this tribunal ensures a more streamlined method of

[10] Duncans Industries Limited v. A.J. Agrochem, 2019 SCC ONLINE SC 1319.

[11] M/S. B. Himmatlal Agrawal v. Competition Commission Of India And Others, 2017 SCC ONLINE NCLAT 525.

resolving these disputes in a timely method. The NCLAT is responsible for hearing the appeals of these decisions under the Companies act, IBBI, CCI and IBC.

- There needs to be a robust framework to ensure the NCLT and NCLAT tribunals are not misused frivolously by companies for their ulterior motives.
- There need to be more tribunals started in order to distribute the caseload in order to better handle the cases and ensure the courts are not inundated.

Arbitration must be opted for by companies as the first step of grievance redressal and can later opt for NCLT. This ensures that the NCLT can manage the caseload as well as efficient and timely justice is awarded to the injured parties.

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