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CONCEPTUAL STUDY OF NATIONAL COMPANY LAW TRIBUNAL & NATIONAL COMPANY LAW APPELLATE TRIBUNAL

AUTHORED BY - AMAN KHAN & GEETIKA RATHORE

"Efficient dispute resolution is the cornerstone of corporate stability and growth."

-Warren Buffett

Introduction

In India the National Company Law Tribunal (NCLT) formed out of the Eradi Committee plays a fundamental role in facilitating the aforesaid matters to be resolved. With the increase of financial frauds occurring around the globe, and also securing the interests of the public, originally the Company Law Board, which was subsequently preceded over by the NCLT and NCLAT¹. The primary intention to establish NCLT and NCLAT was to quicker the process of company related insolvency or bankruptcy disputes leading to the desired administration² of the bankruptcy code, reduce burden on courts, etc. NCLT may be referred to as the culmination or as the resultant single product of the earlier tribunals or board later dissolved for adjudicating corporate justice or matters³.

Significance of NCLT and NCLAT

The NCLT is a semi-legal specialist joined by the goodness of the Companies Act 2013 to manage corporate question of common nature⁴ emerging under the Act NCLT has forces and methodology like an official courtroom. NCLT works on the lines of any ordinary Court of law in India and is obliged to fairly decide actualities of the case and choose matters in concordance with the⁵ standards of common equity and in promotion of such choices, make determinations

¹ Ashutosh Anand & Shalini Puri, *NCLAT's Inherent Powers: Understanding Recall and Review of Judgments*, CENTRE FOR BUSINESS AND COMMERCIAL LAW, (accessed on Dec 22nd,2023) <https://cbcl.nliu.ac.in/insolvency-law/nclats-inherent-powers-understanding-recall-and-review-of-judgments/>

² Saarang Kaushik, *National Company Law Tribunal (NCLT) under the Indian Company Law Regime*, 22 SUPREMO AMICUS (2020), <https://articles.manupatra.com/pdf/5572f4e9-61f1-4dab-9c18-96ecc83f86d7.pdf>

³ *Ibid.*

⁴ S. Deepika Devi and M. Kannappan, *A Study on National Company Law Tribunal*, 119 INTERNATIONAL JOURNAL OF PURE AND APPLIED MATHEMATICS (2018) <https://acadpubl.eu/hub/2018-119-17/1/66.pdf>

⁵International Journal of Legal Developments and Allied Issues, *Role of National Company Law Tribunal & Its Formation*, THE LAW BRIGADE PUBLISHERS (accessed on Dec. 22nd 2023) <https://thelawbrigade.com/company-law/role-of-national-company-law-tribunal-its-formation/>

from the choices so came to buy it as requests. The requests so shaped can help in curing a circumstance, rectifying a wrong by corporate or forcing punishments/ costs and may adjust or better the rights, obligations, commitments or benefits of the gatherings concerned. The Tribunal require not follow with the strict principles as to procedural law and valuation for any confirmation⁶.

NCLAT is an Appellate Tribunal and a re-appraising expert which manages the interests emerging out of the choices of the NCLT. It is shaped for keeping up the check and adjust component and to redress the blunders made by the Tribunal assuming any. It is a transitional investigative discussion like a High Court where the interests follow request or choice of the NCLT. The choices of NCLAT are further subject to challenge in the Supreme Court of India. The NCLAT surveys the choices and requests of NCLT and has expert to maintained⁷.

Powers Vested in NCLT

A portion of the huge powers that are right now vested with NCLT are:

- **Protects the interest of members**

The NCLT not only protects the interest of the stakeholders, shareholders, promoters but also the non-promoters as they were the backbone of the company. And as it is mandatory for corporate world to protect its own people from harm the NCLT has been established in a way where it could completely give protection and faith to the corporate members

- **Relief to investors**

The NCLT provides relief to its investors for the fraud committed by the management. In case of fraud arising in the management then the investors won't be made liable if they are not a part in that fraud. Thus, in this way the NCLT focuses on the investors and also it provides compensation to them.

- **De registration of the company**

Another power of NCLT is to take way the registration of a company in case if the company is found to be having more members than required or if the company is said to be bound by any illegal activities or any illegal association. Thus, NCLT protects the inner peace of the corporate world.

⁶ *Supra* note 4.

⁷ *Ibid.*

- **Other powers**

Under NCLT the process of winding up of a company has been made more easier instead of prolongation of time. The conversion of the company from public limited to private limited is also made easier.

Importance of NCLT

The constitution of NCLT and NCLAT was a step towards to improving the ease of doing business by bringing all aspects of Company law matters⁸ under one roof. Some of most important advantages are as under:

- **Single Window:** The most important benefit that the tribunals will act as a single window for settlement of all Company law related disputes effectively. It shall avoid unnecessary multiplicity of proceedings before various authorities or courts⁹.
- **Speedy Process:** The NCLT and the NCLAT are under a mandate to dispose of cases before them as expeditiously as possible. In this context, a time limit of three (3) months has been provided to dispose of cases, with an extension of ninety (90) days for sufficient reasons to be recorded by the President or the Chairperson, as the case maybe. The speedy disposal of cases will save time, energy and money of the parties¹⁰.
- **Reduction of work of High Court:** The number of pending cases with High Court is too high and now the matters in respect to compromise, arrangement, amalgamations and winding-up transferred to NCLT. Accordingly, NCLT and the NCLAT will reduce the work of overburdened High Courts¹¹.

Role of NCLT in dispute resolution

The significant benefits of NCLT are accelerated dispute resolution process and uniformity of decision. NCLT was established to adjudicate and/or regulate the following types of disputes

⁸ PCS Pawan Barodiya, *NATIONAL COMPANY LAW TRIBUNAL (NCLT) – A step towards ease of doing business in India*, CONSULTEASE (accessed on Dec. 23rd 2023) <https://www.consultease.com/companies-act-compliance/national-company-law-tribunal-nclt-a-step-towards-ease-of-doing-business-in-india/>

⁹ Parinitha PM, Suman Jain, Tanisha Jain, Tanuja J, *NCLT & NCLAT Opportunities & Challenges; Provisions Under NCLT For Oppression & Mismanagement*, 38th Batch of MSOP - ICSI, Bengaluru Chapter, <https://www.icsi.edu/media/portals/22/Team-1%20Project%20on%20NCLT%20&%20NCLAT%20Opportunities,%20Challenges.%20Oppression%20&%20Mismanagement.pdf>

¹⁰ *Ibid.*

¹¹ *Ibid.*

and/or activities¹²:

- The Tribunal decides on all proceedings under the Companies Act 2013, including arbitration, compromise, reconstruction, and winding up¹³.
- It is in charge of matters involving corporate mismanagement and oppression¹⁴. A case can also be filed by a former employee of a company.
- Dispute of conversion of a public company to a private company must be done only when the NCLT has given its approval¹⁵.
- It also deals with companies that commit frauds and malfeasance with their depositors and stockholders by drying away their wages¹⁶. These investors/depositors are compensated by the tribunal.
- It has the authority to investigate and deregister a business that has been registered unlawfully or fraudulently.
- A transferee can file a complaint with the NCLT if dispute arises and the firm refuses to register a transfer of its securities¹⁷.
- NCLT resolves disputes relating to request that the company's auditors be replaced if that auditor has been involved in any fraudulent activity - the NCLT can even¹⁸ order such a change *Suo moto*.
- The NCLT resolves disputes by approving a scheme for the resurrection and rehabilitation of a company based on an application made by any shareholder or the firm¹⁹ itself.
- For a corporation to reduce its share capital, NCLT permission is required.

Apart from abovementioned points, there are multiple other disputes that are resolved by NCLT²⁰. Had it not been the case, burden on Indian Courts would have been immense. It helps in speedy process in dispute resolution, provides a simple window, avoiding unnecessary multiplicity of proceedings before various fora and reduces work²¹ load of High Court/District

¹² Satakchhi Verma, Constitutional Validity of Establishment of NCLT And Its Role in Dispute Resolution, LEGAL SERVICE INDIA, (accessed on Dec. 23rd 2023) <https://www.legalserviceindia.com/legal/article-7657-constitutional-validity-of-establishment-of-nclt-and-its-role-in-dispute-resolution.html>

¹³ *Ibid.*

¹⁴ *Ibid.*

¹⁵ Aakanksha Singhal & Khushboo Sharma, *Companies Act, 2003- Procedure for Conversion of Public Company into Private Company*, LAWBRIT (accessed on Dec. 23rd, 2023)

<https://www.lawrbit.com/companies-act-procedures/conversion-of-public-company-into-private-company/>

¹⁶ *Supra* note 12.

¹⁷ *Ibid.*

¹⁸ *Ibid.*

¹⁹ *Ibid.*

²⁰ *Ibid.*

²¹ *Ibid.*

Court. Setting up of NCLT is directed towards faster resolution of corporate disputes, thus improving the ease of conducting business related activities²².

Conclusion

The establishment of the National Company Law Tribunal and the National Company Law Appeal Tribunal have played an important role in resolving corporate disputes. As the financial growth of each country depends on the growth of the company, it was designated as a beneficiary from a legal perspective to provide special protection and consideration to the company. NCLT was established to achieve healthier corporate governance.

The establishment and effective functioning of NCLT and NCLAT brought about major changes in the corporate sector. The constitutional legitimacy in this case was given to the NCLT to maintain peace within and outside the corporate sector. The establishment of the NCLT has been effectively implemented and properly managed. It plays an important role in resolving corporate disputes. The main problem faced by the NCLT is its inability to resolve corporate disputes within the stipulated deadlines. In order to quickly process cases, the central government needs to carry out appropriate enforcement.

²² Advocate Kunal Ahuja, *Jurisdiction and Powers of NCLT*, CENTRIK (accessed on Dec. 23rd 2023) <https://www.centrik.in/blogs/jurisdiction-and-powers-of-nclt/>