

ISSN: 2582-6433



INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed 6th Edition

VOLUME 2 ISSUE 7

www.ijlra.com

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume 2 Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis



IJLRA

EDITORIAL TEAM

EDITORS

Megha Middha



Megha Middha, Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar

Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can

bring a change to the society

Dr. Samrat Datta

Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board



Dr. Namita Jain



14th, 2019

Head & Associate Professor

School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC - NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.

Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March

Mrs.S.Kalpana

Assistant professor of Law

Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8Articles in various reputed Law Journals. Conducted 1Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration.10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.



Avinash Kumar



methodology and teaching and learning.

Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research

ABOUT US

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS
ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

THE NATIONAL COMPANY LAW TRIBUNAL: AN ANALYSIS OF ITS ROLE IN RESOLVING CORPORATE DISPUTES IN INDIA

Authored by - Princi Agrawal, Priya Soni
Student of Law, Student of Law
Amity University Lucknow Campus

Abstract

The National Company Law Tribunal is a quasi-judicial body set up to look after a bunch of corporate cases which earlier took ages to get liquidated. The tribunal was set up under section 408 of The Companies Act, 2013 and became operational by 2016. It was a fast resolution for corporate affairs and brought transparent awards to company. Before the setting up of NCLT cases were looked after by High Court or Company Law Academy but it meant most cases remained unresolved thus the need for setting up The National Company Law Tribunal was deemed necessary. This article covers the important aspect of the Tribunal and grants an easy dive though its various usage, nature and success rate. The National Company Law Tribunal in itself is a remarkable thought of government for easy disposition of cases. It does cover jurisdiction from mismanagement to insolvency and bankruptcy. This article is an insight to this tribunal of corporate affairs.

Keywords – liquidate, disposition, jurisdiction, resolution

Introduction

Under the 2013 Companies Act, a specialised tribunal was formed known as the National Company Law Tribunal (NCLT). The NCLT was made in charge of hearing, and deciding cases which involved corporate law and insolvency issue and queries, such as those which involved mergers and acquisition, discrimination and poor management as well as the company's winding up.

All Indian businesses. Including those which were registered under the 2013 Companies Act, as well as limited liability partnerships are subjects to the NCLT's jurisdiction (LLPs). Now talking about decisions of the NCLT then it may be appealed to the National Company Law Appellate Tribunal. Which has benches throughout India (NCLAT).

The NCLT has created a single forum for addressing issues regarding corporate law and insolvency proceedings, greatly streamlining the resolution of corporate disputes in India. Also, it has been essential in advancing corporate governance and defending stakeholders' and investors' interests.

As part of a larger initiative to update and simplify the nation's corporate law structure, India established the National Company Law Tribunal (NCLT). Corporate disputes in India were previously resolved by a number of various forums, such as the High Courts and the Company Law Board. Due to this, corporate conflicts were not handled consistently, and there was a backlog of cases that frequently took years to be resolved.

Establishment of NCLT

The Indian government approved the Companies Act, 2013, which established the NCLT as a specialised tribunal to resolve corporate disputes, in order to address these problems. The NCLT became operational in June 2016 after being created in accordance with Section 408 of the Companies Act.

The NCLT which was established as a specialist tribunal to resolve the corporate disputes after the Indian government made implementation in the Companies Act, 2013, in order to address these problems of several company. The NCLT came into execution and became operational in June 2016 after being created in accordance with Section 408 of the Companies Act, 2013.

Ever since inception, the NCLT has marked a crucial turning point in India's corporate legal framework. It has decreased the backlog of cases, established a single platform for resolving business disputes, and has increased the effectiveness and transparency of the corporate resolution process and technique.

Jurisdiction of NCLT

In India, the country has a quasi-judicial organisation called the National Company Law Tribunal (NCLT) that has authority over a variety of business law issues. It was created under the 2013 Companies Act and serves as a highly specialized venue for addressing these issues concerning corporations.

The NCLT has jurisdiction over the following matters:

- 1- Concerns arising with the formation, operation, and dissolution of businesses or entities.
2. Disputes that involved corporate mergers as well as amalgamations.
3. Concerns with the corporate injustice and poor handling or management.
- 4= Situations regarding the issuing of shares, the reduction of share capital, and the buyback of shares.
- 5- Issues pertaining to the hiring and firing of directors, auditors, and other important managerial people.
- 6 cases which involved corporate insolvency and bankruptcy.
- 7- Any other business-related issue that the federal government may from time to time announce.
- 8- Investigations into the management, ownership, and financial affairs of businesses are only a few of the topics that fall within this category.

The NCLT has the authority to render judgement in these cases and to issue instructions and directives to settle legal issues involving corporations. Its verdicts seem to be subject to appeal to the Supreme Court of India, which is followed by the National Company Law Appellate Tribunal (NCLAT).

Composition of Tribunal

The National Company Law Tribunal (NCLT) is a specialized court in India that handles cases related to corporate law, insolvency, and bankruptcy. The structure of the NCLT is as follows:

- 1 - President: The Central Government appoints the president of both the NCLT. The President needs to have at least 15 years of experience as an Indian Corporate Law Service member or be a retired High Court judge.

2- Membership: The NCLT can also have up to 62 members at a time, not counting the President. On the proposal of a selection committee, the Central Government appoints the members. The members typically have backgrounds in law, finance, or technology.

3- Benches: The NCLT has 15 benches spread around the different parts of India. A judicial and a technical person sit on each bench with a experience of 15 years in field of finance, accounting or management. The judicial member is a High Court judge who has retired or a former judge of District court who has served for atleast 10 years

The NCLT is organised generally in a hierarchical manner, with the President at the top and the members and benches below. The NCLT has the authority to decide for itself and conducts business independently of the government.

With the 2013 Companies Act, a quasi-judicial entity known as the National Company Law Tribunal (NCLT) was created in India. Its main responsibility is to settle business disputes and bankruptcy cases involving corporations and limited liability partnerships.

The NCLT is tasked with making decisions regarding cases involving mergers and acquisitions, harassment and poor management, company dissolution, and insolvency and bankruptcy processes. It also has the authority to sanction restructuring proposals and oversee their execution.

The NCLT is also qualified to hear and decide appeals against judgements rendered by the Insolvency and Bankruptcy Board of India and the Registrar of Companies. The NCLT also has jurisdiction over disputes involving share capital reductions, public company conversions to private corporations, and scheme of arrangement approvals.

In conclusion, the NCLT is critical to the corporate ecosystem because it offers a platform for the quick and efficient resolution of company disputes and insolvency issues, fostering investor trust and safeguarding stakeholder interests

Is setting up such tribunal turned to be successful?

Now the success rate of The National Company Law Tribunal can be measured in two ways- First way to find the rate is by checking the number of resolved cases and another by measuring

the recovering rate-

- 1- Resolved Cases-The NCLT is in charge of settling disagreements concerning corporate insolvency, mergers and acquisitions, and other issues. based on the most recent information provided on the Ministry of Business Affairs' website. As per the info in total 5,894 cases were admitted out of which 1807 cases ended up in Liquidation while left are still out for resolution.

- 2- Recovery Rate- The goal of the NCLT is to maximise asset value for all stakeholders while facilitating the resolution of stressed assets. Insolvency and Bankruptcy Board of India study claims that (IBBI) According to the data, the recovery was at its lowest point in the December 2022 quarter, at 23.45%. The number of insolvency cases climbed by about 25% in the third quarter of 2022, yet the percentage of debt recovered through the legal system was still the lowest at just 23.45% during that time.

Overall the tribunal is still doing a lot in taking care of bunch of cases related to corporate affairs preventing hurdling of cases for various judicial bodies. It also makes sure that people carrying out the jurisdiction belong the field of company or corporate affairs itself.

Conclusion

Thus to conclude the article we may say that setting up of the National Company Law Tribunal turns out to be in favour of speedy case resolution. It has helped in reducing delays and ensuring that maintains consistency in the application of law that are related to corporate issues. There has been marked changes in the companies sector due to the formation and operations of NCLT. It has been provided constitutional validity to maintain peace at corporate level. Overall it was a great initiative by central government for speedy and thoughtful dispute recovery.

References

<https://cleartax.in/s/national-company-law-tribunal>

<https://www.legalserviceindia.com/legal/article-10602-the-national-company-law-tribunal-an-analysis-of-its-role-in-resolving-corporate-disputes-in-india.html>

<https://economictimes.indiatimes.com/topic/nclt>

https://en.wikipedia.org/wiki/National_Company_Law_Tribunal#:~:text=The%20National%20Company%20Law%20Tribunal,the%20recommendation%20of%20the%20V.