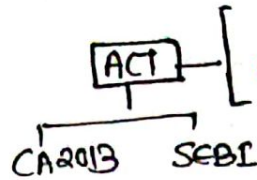


**Tribunal** → BASIC PURPOSE  
 1. Burden of court.



pass only those decision under which act is made.  
 Criminal court

# TRIBUNALS AND SPECIAL COURTS

**INTRODUCTION:** because India case resolved नहीं देत तरीक पर तरीक मिलती है।  
 ORDER में मिलती है तरीक पर तरीक

The term 'Tribunal' is derived from the word 'Tribunes', which means 'Magistrates of the Classical Roman Republic'. A Tribunal, generally, is any person or institution having an authority to judge, adjudicate on, or to determine claims or disputes – whether or not it is called a tribunal in its title.

Administrative Tribunal is neither a Court nor an executive body. It stands somewhere midway between a Court and an administrative body.

Tribunals basically deal with the cases under special laws and therefore they provide special adjudication, outside Courts. Generally, the tribunals are exempted from applicability of procedural laws and have the freedom to decide their own procedure.

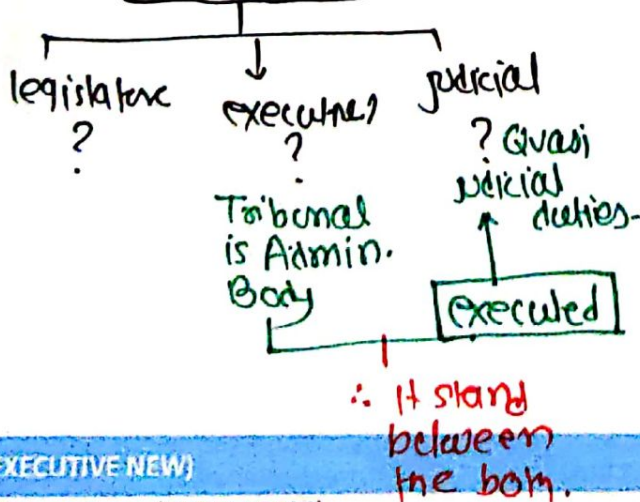


## Summary

### ① MEANING



### ② 3 Pillars TRIBUNAL



Deal with → SPEC. LAW  
 ↓  
 ∴ It provide Special Adjudication outside the COURT  
 ↓  
 exempted from procedural Law  
 ↓  
 freedom to decide own procedure



BACKGROUND OF ESTABLISHMENT OF NCLT AND NCLAT

On the recommendations of the Justice Eradi Committee on Law Relating to Insolvency and Winding up of Companies, a specialized institution for corporate justice i.e. Tribunal was to be set up. The Committee examined not only the Companies Act, 1956 but also the other relevant laws having a bearing on the subject such as Sick Industrial Companies (Special Provisions) Act, 1985 (SICA), Recovery of Debts due to Banks and Financial Institutions Act, 1993 and the recommendations of the United Nations and International Monetary Fund Report - "Orderly and Effective Insolvency Procedures- Key Issues".

Diff. b/w court & tribunal.

In L. Chandrakumar v. Union of India, a question was raised as to whether the setting up of the Tribunals and excluding the jurisdiction of the High Court was constitutional? A ruling was made by the seven-judge bench of the Supreme Court that the power of 'judicial analysis' of the High Court under Article 226 of the [Constitution cannot be eliminated by the Parliament.] The Supreme Court under Article 32 and High Court under Article 226 form the basic structure of the Constitution of India. [The jurisdiction of the High Court cannot be exiled, and on the other hand, the Tribunals may function as the supplemental part of the judiciary system.]

The Tribunals may continue to act like courts of first instance (in respect of the areas of law) for which they have been constituted. It means for CL → NCLT & NCLAT is 1<sup>st</sup> COURT.  
SEBC → SAT.

It was further recommended in L. Chandrakumar's case that the Tribunals were playing vital part of our Judiciary system, and it is necessary to ensure that a Tribunal is a setup to deal with those cases under special laws as may be applicable therein, thus providing specialized adjudications. Further, the Tribunals cannot decide those disputes which are basically criminal in nature.

Courts have power to deal with case of diff. nature → Tribunal → case of sp. law.  
Likewise, where the case involves substantial question of law, it cannot be decided by tribunals as this comes under the purview of the higher judiciary.

• It provide Specialized Adjudication  
• X can't decide dispute criminal nature.

as per. and sp. Law.

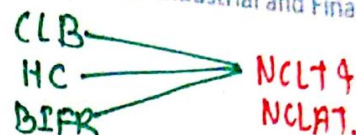
144.

After a long journey of fourteen years the controversial phase has come to an end with the constitution of the Tribunal and the Appellate Tribunal as notified by the Central Government w.e.f. 1st June, 2016. The



new judicial forum, apart from exercising the powers of the erstwhile CLB, will also carry out the work, as which was previously carried out by High Courts as well as the work of the Board for Industrial and Financial Reconstruction.

14 controversy → 1st June 16  
NCLT & NCLAT.



Tribunal is a quasi-judicial body and the primary objective of constituting the Tribunals is to provide a simpler, speedier and more accessible dispute resolution mechanism in Company Law matter specifically apart from other laws for which it is empowered.

National Company Law Tribunal (NCLT) & the Appellate Tribunal have been constituted by the Central Govt. under section 408 & 410 of the Companies Act, 2013 (the Act) to exercise and discharge the powers and functions conferred on NCLT. The Appellate Tribunal is required to hear appeals against the orders of the NCLT.

NCLAT  
for Appeal  
Against  
NCLT.

### CONSTITUTION OF NATIONAL COMPANY LAW TRIBUNAL

President + Judicial & Technical member.

As per section 8 of the Companies Act, 2013 The Central Government shall, by notification, constitute, a Tribunal to be known as the National Company Law Tribunal consisting 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.

### CONSTITUTION OF APPELLATE TRIBUNAL

Chair person + Judicial & Technical member ⇒ max. 11

The Central Government shall, by notification, constitute an Appellate Tribunal to be known as the National Company Law Appellate Tribunal consisting of a chairperson and such number of Judicial and Technical Members, not exceeding eleven, as the Central Government may deem fit, to be appointed by it by notification, for hearing appeals against the orders of the Tribunal or of the National Financial Reporting Authority.

14y controversy TRIBUNAL setup: 1.6.16



# Summary

0000  
2222  
ERADI  
Comm

① RECOMMEND  
FOR W.U.P.  
④  
Insolvency

Specialise  
Institution  
For corporate  
Justice was to  
be set up.  
(Tribunal)



② examine

- CA 1956
- SICA
- Recommendation  
UN & International  
Monetary Fund  
Report

"ORDINARY &  
EFFECTIVE Insolvency  
Procedure → key issue"

③ OBJECTION

L. Chandrakumar  
VS. Union of India.

Quasi judicial Body



Setting up tribunal & excluding jurisdiction  
of High court ⇒ UNCONSTITUTIONAL

④ SUPREME COURT

POWER OF JUDICIAL ANALYSIS  
OF HC can't be eliminate  
by parliament

① may function  
as Supplement  
Part of judicial  
System.

Act-like  
COURT at  
1<sup>st</sup> Instance  
w/ SP. LAW.

It provide  
Specialize  
Adjudication  
can't  
Decide Dispute  
criminal in  
Nature.

UKA 32 SC ④ A-226 HC → Basic Structure of Const.

## BENCHES OF TRIBUNAL

CG NOHC.

1. There shall be constituted such number of Benches of the Tribunal, as may, by notification, be specified by the Central Government.
2. The Principal Bench of the Tribunal shall be at New Delhi which shall be presided over by the President of the Tribunal.

3. The powers of the Tribunal shall be exercisable by Benches consisting of two Members out of whom one shall be a Judicial Member and the other shall be a Technical Member. Provided that the powers of Tribunal may be exercised by a single judge as well.

4. Provided further that if at any stage of the hearing of any such case or matter, it appears to the Member that the case or matter is of such a nature that it ought to be heard by a Bench consisting of two Members, the case may be transferred by the President.

If single  
member  
believe

→ case should be decided

by bench, [case] → transfer YouTube Knowledge Hub By Satish Baheti  
(president himself ④) at req. of single bench member trans. m & L h. of 2 member



CG can notify more bench.

Decision by majority

→ If member equally divided → case shall refer to president.

5. The Central Government shall, by notification, establish such number of benches of the Tribunal, as it may consider necessary, to exercise the jurisdiction, powers and authority of the Adjudicating Authority conferred on such Tribunal by or under Part II of the Insolvency and Bankruptcy Code, 2016.

6. If the Members of a Bench differ in opinion on any point or points, it shall be decided according to the majority, if there is a majority. But if the Members are equally divided, they shall state the point of points on which they differ, and the case shall be referred to the President.

### ORDERS OF THE TRIBUNAL

(4) The Tribunal may, after giving the parties to any proceeding before it, a reasonable opportunity of being heard, pass such orders thereon as it thinks fit.

OBH

Rectify mistake / Amend if mistake brought to notice by parties.

(5) The Tribunal may, at any time within two years from the date of the order, with a view to rectifying any mistake apparent from the record, amend any order passed by it, and shall make such amendment, if the mistake is brought to its notice by the parties:

Provided that no such amendment shall be made in respect of any order against which an appeal has been preferred under this Act.

(6) The Tribunal shall send a copy of every order passed under this section to all the parties concerned.

No such amendment if appeal is preferred.  
copy of order to all parties

### APPEAL FROM ORDERS OF THE TRIBUNAL

(1) Any person aggrieved by an order of the Tribunal may prefer an appeal to the Appellate Tribunal.

(2) No appeal shall lie to the Appellate Tribunal from an order made by the Tribunal with the consent of parties.

(3) Every appeal shall be filed 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:

Provided that the Appellate Tribunal 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

1 Aggrieved  
2 X No Appeal  
3 45 day + 45 day ext.



is satisfied that the appellant was prevented by sufficient cause from filing the appeal within that period.

(4) On the receipt of an appeal, the Appellate Tribunal 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.

(5) The Appellate Tribunal shall send a copy of every order made by it to the Tribunal and the parties to appeal.

inform  
modify  
set aside  
copy.



## Summary



① After 14 years  
on 01.06.2016  
CG Notify NCLT & NCLAT

② New judicial form

③ OBJECT

- Simpler
- Speedy
- more accessible

Dispute Resolution mechanisms.

~~CLB~~ ~~HC~~ ~~BIFR~~

### BENCHES OF NCLT

- SUCH NO. OF BENCH. as require → CG notify
- Principal Bench NEW DELHI - Rest other place.
- power of Tribunal exercise by

2 member bench      single bench

1 judicial @ 1 legal

Teamwork

matter is such nature can't exercise by single bench

Shift

### Decision

- opinion of majority
- ④ if opinion equal  
then points on which opinion differ  
↓  
transfer to president.

### ORDER

- 1) OBH to all parties then pass ORDER
- 2) Rectify mistake & Amend → If brought to notice by parties  
No such amendment If Appeal is preferred
- 3) copy of ORDER to each party.



NCLT & NCLAT → object → Disposed expeditiously.

3mth

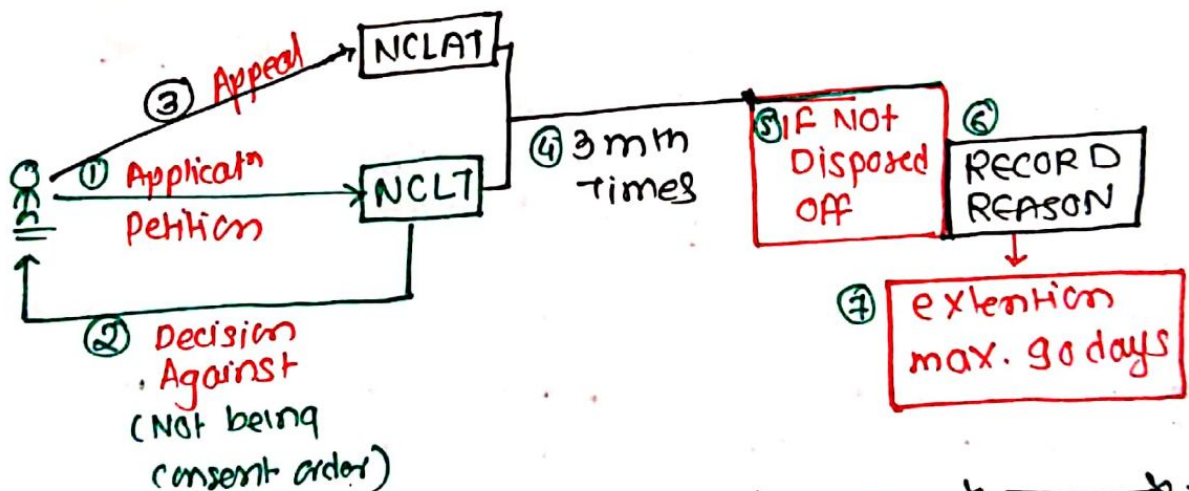
## EXPEDITIOUS DISPOSAL BY TRIBUNAL AND APPELLATE TRIBUNAL

App/petition  
 file  
 Disposed  
 expeditiously  
 as possible  
 3mth.

Every application or petition presented before the Tribunal and every appeal filed before the Appellate Tribunal shall be dealt with and disposed of by it as expeditiously as possible and every endeavour shall be made by the Tribunal or the Appellate Tribunal, as the case may be, for the disposal of such application or petition or appeal within three months from the date of its presentation before the Tribunal or the filing of the appeal before the Appellate Tribunal.

If not in time  
 NCLAT  
 Chair Person  
 Record Reason  
 extension  
 max. 90 days.

Where any application or petition or appeal is not disposed of within the period specified in sub-section (1) the Tribunal or, as the case may be, the Appellate Tribunal, shall record the reasons for not disposing of the application or petition or the appeal, as the case may be, within the period so specified; and the President or the Chairperson, as the case may be, may, after taking into account the reasons so recorded, extend the period referred to in sub-section (1) by such period not exceeding ninety days as he may consider necessary.



Proposed Someone

### ADVANTAGE

Faster Resolution

Corporate Dispute.

Faster Implementation

Bankruptcy Code

Reduce Burden

Court

Avoid multiplicity of litigation





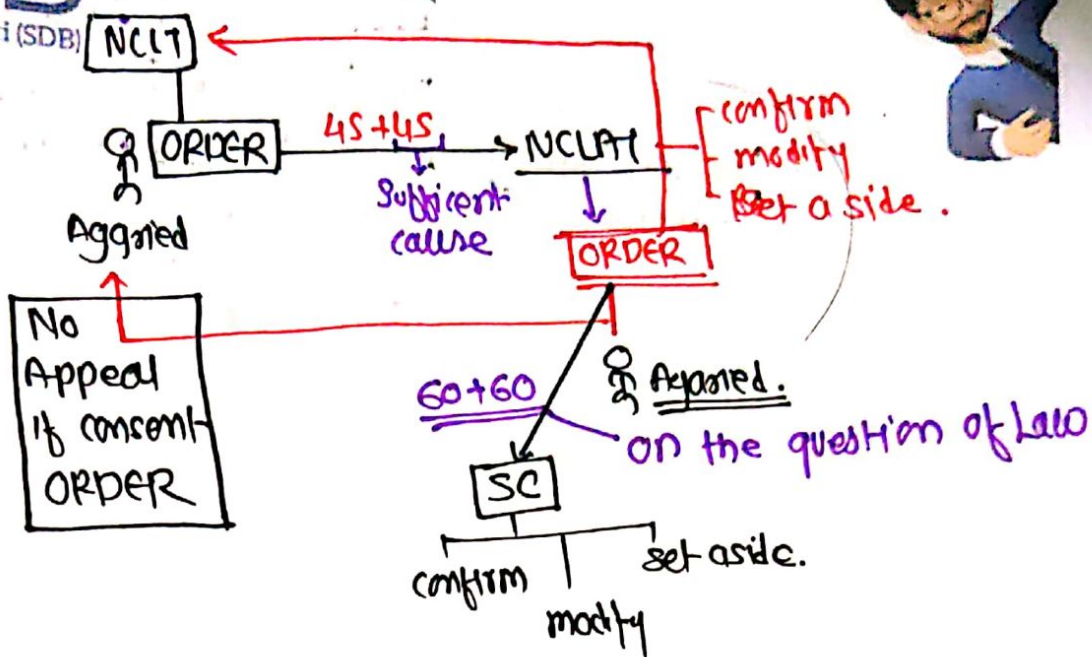
## Summary



Appeal  
A) NCLAT.

Note:

B) SC

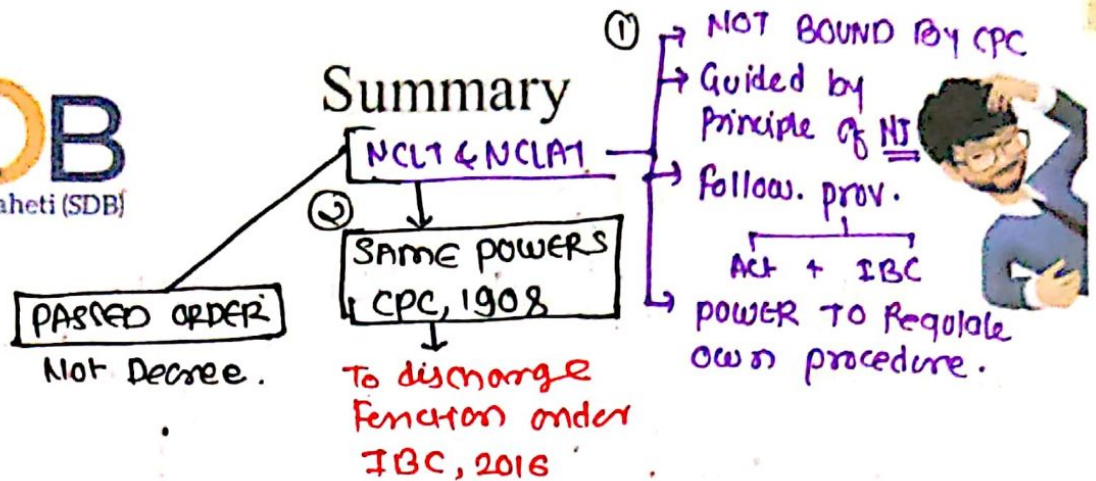


### APPEAL TO SUPREME COURT

Any person aggrieved by any order of the Appellate Tribunal may file an appeal to the Supreme Court within sixty days from the date of receipt of the order of the Appellate Tribunal to him on any question of law arising out of such order:

Provided that the Supreme Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.





NCLT Civil court नहीं था Civil court से कम भी नहीं

NCLT ≠ Court But Not even less than Court i.e. NCLT & COURT

### PROCEDURE BEFORE TRIBUNAL AND APPELLATE TRIBUNAL

The Tribunal and the Appellate Tribunal shall not be bound by the procedure laid down in 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 or of the Insolvency and Bankruptcy Code, 2016 and of any rules made thereunder, the Tribunal and the Appellate Tribunal shall have power to regulate their own procedure.

• It has power to regulated own practice.

The Tribunal and the Appellate Tribunal shall have, for the purposes of discharging their functions under this Act ["or under the Insolvency and Bankruptcy Code, 2016], 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:—

1. summoning and enforcing the attendance of any person and examining him on oath;
2. requiring the discovery and production of documents;

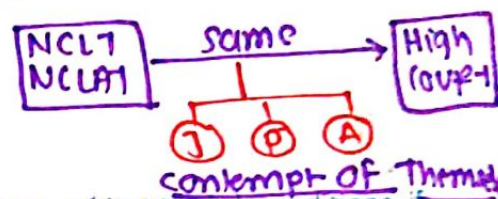
example  
If you issue  
summon-min.  
min. 3 days



3. receiving evidence on affidavits;
4. subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, requisitioning any public record or document or a copy of such record or document from any office;
5. issuing commissions for the examination of witnesses or documents;
6. dismissing a representation for default or deciding it ex parte;
7. setting aside any order of dismissal of any representation for default or any order passed by it ex parte; and
8. any other matter which may be prescribed.

### POWER TO PUNISH FOR CONTEMPT

The Tribunal and the Appellate Tribunal has the same jurisdiction, power and authority to punish for contempt as the High Court has under the Contempt of Courts Act, 1971.



### DELEGATION OF POWERS

The Tribunal or the Appellate Tribunal may, by general or special order, direct, subject to such conditions, if any, as may be specified in the order, any of its officers or employees or any other person authorized by it to inquire into any matter connected with any proceeding or, as the case may be, appeal before it and to report to it in such manner as may be specified in the order.

### RIGHT TO LEGAL REPRESENTATION

party  
PCA/PCSCMP  
legal practitioner.

- ① 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 [authorise one or more CA, CS, CMA] [legal practitioner] or any other person to present his case before the Tribunal or the Appellate Tribunal, as the case may be.

- ② IF Co. is represented by any person → Co. must pass BR (auth. to represent Co.)  
→ Adv. (vakalat nama)  
→ MoA appearance.

### LIMITATION

The provisions of the Limitation Act, 1963 shall, as far as may be, apply to proceedings or appeals before the Tribunal or the Appellate Tribunal, as the case may be.

Q. what does it mean. → Appeal within time limit.  
If extended time → sufficient clause

INSTITUTION OF PROCEEDING, PETITION, APPEALS ETC. BEFORE NCLT

US 5 of Lim. Act.



Part III of the National Company Law Tribunal Rules, 2016 dealing with the Institution of proceedings, petition, appeals etc. before NCLT.

## PROCEDURE OF APPEAL

1. Every appeal or petition or application or caveat petition or objection or counter presented to the Tribunal shall be in English. 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 within 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. Lang.

### FORM NO. NCLT-1

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. Title + Bench
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. + also proceeding & order of authority against which at proper. + detail about party.
4. Dates of Gregorian calendar shall be used.
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. PARTY NUMBER consecutively



If parties desisting the proceeding

If new party joined

Specify vid within law/provi see.

Full details

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.

→ legal heirs & Representative → If more than one then Number + sub number.

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

doing pendency. ⇒ No. consecutively.

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

→ case was made.

#### Particulars to be set out in the address for service

The address for service of summons shall be filed with every appeal or petition or application or caveat on behalf of a party and shall as far as possible contain the following items namely:-

- the name of the road, street, lane and Municipal Division or Ward, Municipal Door and other number of the house;
- the name of the town or village;
- the post office, postal district and PIN Code, and
- any other particulars necessary to locate and identify the addressee such as fax number, mobile number, valid e-mail address, if any.

#### Initialing alteration

Every interlineations, eraser or correction or deletion in any appeal or petition or application or document shall be initialed by the party or his authorised representative presenting it.

#### Presentation of petition or appeal

- 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 authorised 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.

• Triplicate  
• BK  
• with fees  
• non compliance → valid ground to refuse



2. Every petition or application or appeal may be accompanied by documents duly certified by the authorised 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 authorised 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.

#### Number of copies to be filed

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.

#### Lodging of Caveat

Any person 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 the form prescribed and contain such details and particulars or orders or directions, details of authority against whose orders or directions the appeal or petition or application is being instituted by the expected appellant or petitioner or applicant which full address for service on other side, so that the appeal or petition or application could be served before the appeal or petition or interim application is taken up: Provided, that the Tribunal may pass interim orders in case of urgency.

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

#### Asking for

#### Endorsement and Verification



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

### Translation of document

A document other than English language intended to be used in any proceeding before the 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 authorised representative engaged on behalf of parties in the case or by any other advocate or authorised representative whether engaged in the case or not or if the advocate or authorised representative 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.

No proceeding with start unless all documents translate.

Appeal or petition or other proceeding shall 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.

### Production of authorisation for and on behalf of an association

Where an appeal or application or petition or other proceeding purported to be instituted by or on behalf of an association, the person or persons who sign (s) or verify (ies) the same shall produce along with such application, for verification by the Registry, a true copy of the resolution of the association empowering such person(s) to do so:

one who signed & verified (Auth. rep) ⇒ shall produce with App. for verification by Registry - CTC

Provided that 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:

Read Auth. Him.

ROC may call further material to satisfy his authorised

Provided further that it shall set out the list of members for whose benefit the proceedings are instituted.

Set out list of member ⇒ for whose benefit proceeding are instituted

Interlocutory applications



If any party want any kind of relief during time when any proceeding pending before NCLT/NCLAT. Such party may make an Interlocutory order.

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 prescribed form and the requirements prescribed in that behalf shall be complied with by the applicant, besides filing an affidavit supporting the application.

my friend contact DIRECT INDIRECT.

### Rights of a party to appear before the Tribunal

1. Every party may appear before a Tribunal in person or through an authorised representative, duly authorised in writing in this behalf. *अपन या क्वीन एपेअर भेजे.*
2. The authorised representative shall make an appearance through the filing of Vakalatnama or Memorandum of Appearance in Form No. NCLT. 12 representing the respective parties to the proceedings. *Vakalatnama / MOA.*
3. During any proceedings before the Tribunal, it may for the purpose of its knowledge, call upon the Registrar of Companies to submit information on the affairs of the company on the basis of information available in the MCA21 portal. Reasons for such directions shall be recorded in writing.
4. There shall be no audio or video recording of the Bench proceedings by the parties or their authorised Representatives. *Recording Not allow.*

### INSTITUTION OF APPEALS – PROCEDURE BEFORE NATIONAL COMPANY LAW APPELLATE TRIBUNAL

Part III of the National Company Law Appellate Tribunal Rules, 2016 dealing with the provisions relating to Institution of appeals – Procedure before NCLAT.

#### Procedure for Proceedings

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 typewritten 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 5cm, 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.

#### Presentation of appeal

- (1) 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 authorised representative duly appointed in this behalf in the prescribed form with stipulated fee at the filing counter and noncompliance of this may constitute a valid ground to refuse to entertain the same.
- (2) Every appeal shall be accompanied by a certified copy of the impugned (challenged / disputed) order.







(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973,--

b) all offences specified under sub-section (1) of section 435 shall be triable only by the Special Court established for the area in which the registered office of the company in relation to which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned;

Judicial Mag. 15 day.

Executive Mag. 7 days

c) where a person accused of, or suspected of the commission of, an offence under this Act is forwarded to a Magistrate under sub-section (2) or sub-section (2A) of section 167 of the Code of Criminal Procedure, 1973, such Magistrate may authorise the detention of such person in such custody as he thinks fit for a period not exceeding fifteen days in the whole where such Magistrate is a Judicial Magistrate and seven days in the whole where such Magistrate is an Executive Magistrate:

unnecessary Retention Forward to Special Court

d) Provided that where such Magistrate considers that the detention of such person upon or before the expiry of the period of detention is unnecessary, he shall order such person to be forwarded to the Special Court having jurisdiction;

It shall be Criminal Court & shall exercise all the power

e) the Special Court may exercise, in relation to the person forwarded to it under clause (b), the same power which a Magistrate having jurisdiction to try a case may exercise under section 167 of the Code of Criminal Procedure, 1973 in relation to an accused person who has been forwarded to him under that section; and

f) Special Court may, upon perusal of the police report of the facts constituting an offence under this Act or upon a complaint in that behalf, take cognizance of that offence without the accused being committed to it for trial.

Police Report

(2) When trying an offence under this Act, a Special Court may also try an offence other than an offence under this Act with which the accused may, under the Code of Criminal Procedure, 1973 be charged at the same trial.

When offence Fall under This Act

as well as under other law (e.g. Cr.P.C.) (IPC) ⇒ Accused may be charge under same trial.

(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the Special Court may,

if offence it thinks fit, try in a summary way any offence under this Act which is punishable with imprisonment for a term not exceeding three years:

Does not involve Punishment more than 3 years

than such offence may be tried through Summary trial.



Summary trial

Imprisonment max. 1 y.

Provided that in the case of any conviction in a summary trial, no sentence of imprisonment for a term exceeding one year shall be passed: (under summary trial max. Imprisonment can be given for 1 year)

Provided further that when at the commencement of, or in the course of, a summary trial, it appears to the Special Court that the nature of the case is such that the sentence of imprisonment for a term exceeding one year may have to be passed or that it is, for any other reason, undesirable to try the case summarily, the Special Court shall, after hearing the parties, record an order to that effect and thereafter recall any witnesses who may have been examined and proceed to hear or rehear the case in accordance with the procedure for the regular trial.

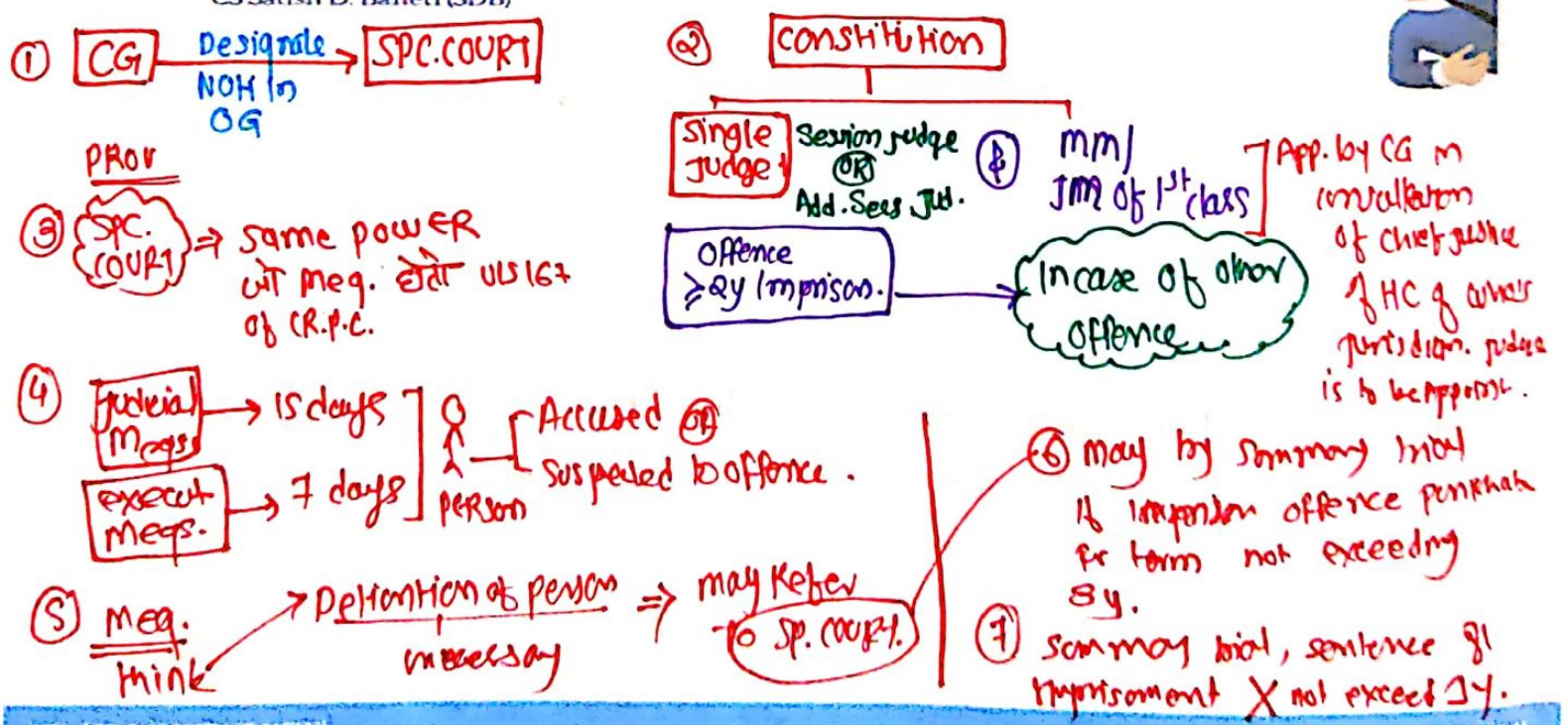
If the Special Court believes that the case can't be tried summarily, then the Special Court may Record Reason in writing & can try such case through normal procedure.

### APPLICATION OF CODE TO PROCEEDINGS BEFORE SPECIAL COURT

Section 438 states that save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the [Special Court shall be deemed to be a Court of Session or the court of Metropolitan Magistrate or a Judicial Magistrate of the First Class] as the case may be, and the person conducting a prosecution before a Special Court shall be deemed to be a Public Prosecutor.



## Summary

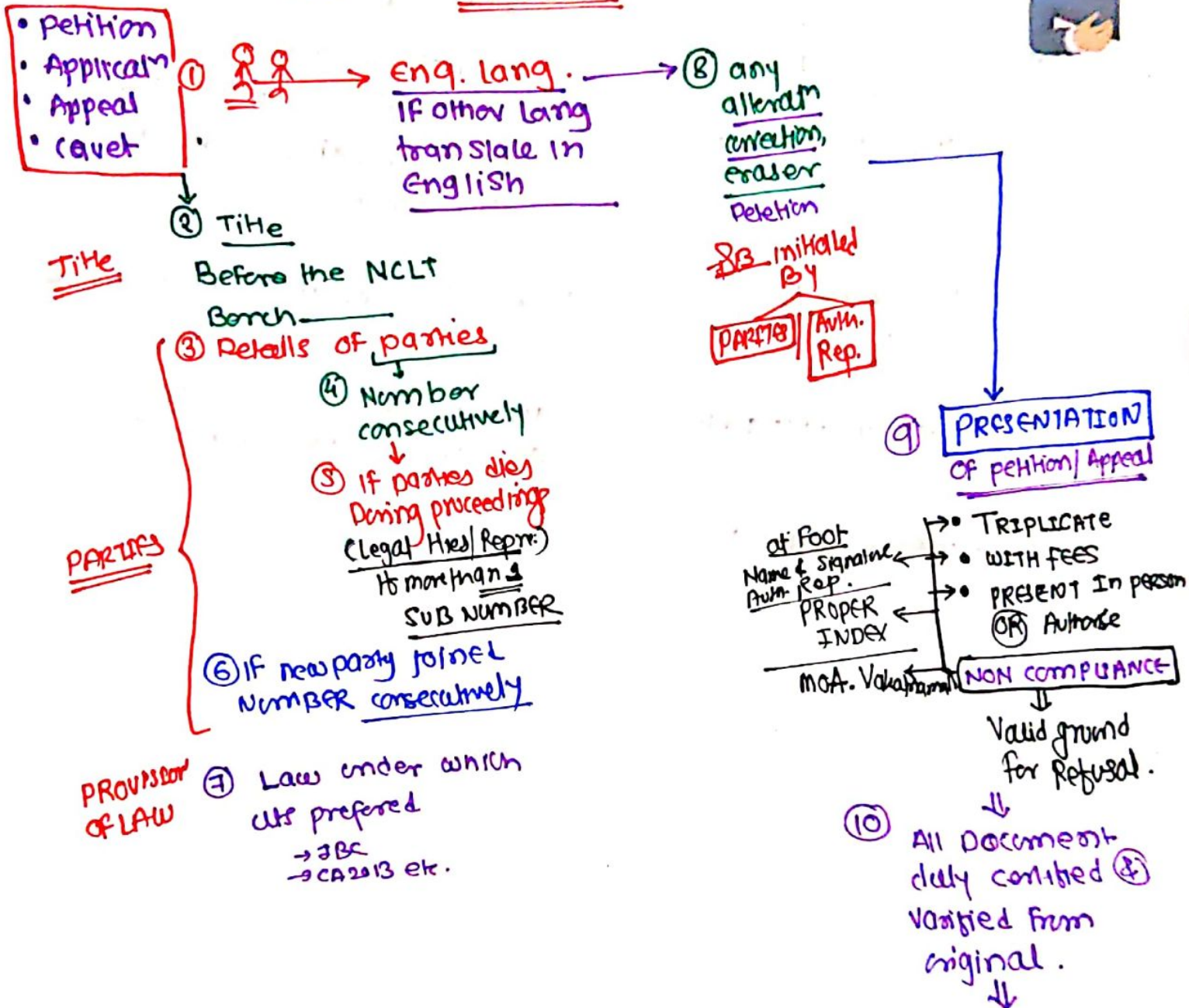




# Summary



## Procedure







## Summary



### COURT

- ① established by the state & inherent judicial power
- ② All court are tribunal
- ③ exclusively judge
- ④ Evidence Act / CPC

### Tribunal

Tribunal are established under statute to Adjudicate upon Disputes under the said Statutes.

But all tribunal are not court

can be judge as Sole member or can be have combined

own procedures.