PREPARATION AND PRESENTATION BEFORE TRIBUNALS(INCLUDING REGULATORS AND ADJUDICATING AUTHORITIES)

Dr. Rajkumar S. Adukia

Ph.D., B.Com (Hons.), FCA, FCS, FCMA, LL.B, DIPR, DLL&LW, MBA, Dip IFR(UK)

rajkumarradukia@caaa.in

Mobile: 9820061049

INTRODUCTION

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

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

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

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

MEANING, TYPES AND ROLE OF TRIBUNALS

The Constitution of India is the longest written constitution of any sovereign country in the world and currently it consists of 22 parts which are divided into 448 Articles and 12 schedules. It is supreme law and all acts and rules derive their power from the Constitution.

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

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

Under Article 323 B the appropriate legislature (parliament or state legislatures) may provide for the adjudication or trial by tribunals of any disputes, complaints, or offences with respect to all or any of the matters with respect to which such Legislature has power to make laws viz:

- Levy, assessment, collection and enforcement of any tax
- Foreign exchange, import and export across customs frontiers;

- Industrial and labour disputes;
- Matters connected with Land reforms covered by Article 31A
- Ceiling on urban property;
- Elections to either House of Parliament or the House or either House of the Legislature of a State, but excluding specified matters
- Production, procurement, supply and distribution of food-stuffs (including edible oilseeds and oils) and such other goods as the President may, by public notification, declare to be essential goods
- Rent, its regulation and control and tenancy issues including the right, title and interest of landlords and tenants
- offences against laws with respect of any of the specified matters
- any matter incidental to any of the matters specified above

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

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

The term `Courts' refers to places where justice is administered or refers to Judges who exercise judicial functions. Courts are established by the state for administration of justice that is for exercise of the judicial power of the state to maintain and uphold the rights, to punish wrongs and to adjudicate upon disputes. Tribunals on the other hand are special alternative institutional mechanisms, usually brought into existence by or under a statute to decide disputes arising with reference to that particular statute, *or to determine controversies arising out of any administrative law. Courts refer to Civil Courts, Criminal Courts and High Courts. Tribunals can be either private Tribunals (Arbitral Tribunals), or Tribunals constituted under the Constitution (Speaker or the Chairman acting under Para 6(1) of the Tenth Schedule) or Tribunals authorized by the Constitution (Administrative Tribunals under Article 323-A and Tribunals for other matters under Article 323-B) or Statutory Tribunals which are created under a statute. [Para 12] [901-E-H; 902-A]*

The above judgement also cited reference to *Harinagar Sugar Mills Ltd. vs. Shyam SundarJhunjhunwala – (1962) 2 SCR 339; Jaswant Sugar Mills vs. Laxmi Chand – 1963 Supp (1) SCR 242; Associated Cement Companies Ltd. vs. P. N. Sharma – (1965) 2 SCR 366; Kihoto Hollohan vs. Zachillhu – 1992 Supp (2) SCC 651; S. P. Sampath Kumar vs. Union of India – (1987) 1 SCC 124,* and held:

(i)Courts are established by the State and are entrusted with the State's inherent judicial power for administration of justice in general. Tribunals are established under a statute to adjudicate upon disputes arising under the said statute, or disputes of a specified nature. Therefore, all courts are Tribunals. But all Tribunals are not courts.

(ii)Courts are exclusively manned by Judges. Tribunals can have a Judge as the sole member, or can have a combination of a Judicial Member and a Technical Member who is an 'expert' in the field to which Tribunal relates. Some highly specialized fact finding Tribunals may have only Technical Members, but they are rare and are exceptions.

(iii)While courts are governed by detailed statutory procedural rules, in particular the Code of Civil Procedure and Evidence Act, requiring an elaborate procedure in decision making, Tribunals generally regulate their own procedure applying the provisions of the Code of Civil Procedure only where it is required, and without being restricted by the strict rules of Evidence Act. . [Para 14] [907-B-F]

The judicial system in India is stratified at various levels at the apex is the Supreme

Court, followed by the High Courts at the State level, District courts at the District levels and Lok adalats at the village and Panchayat levels and various Tribunals. The Tribunals play a distinct role in this system. One of the country's leading news paper stated that it feels the real reason for creating more tribunals is to generate more post retirement opportunities for the bureaucracy and even high court judges. If one has to bat for more Tribunals then there should be uniformity in ground rules applicable to them and put them all under control of the Law Ministry. In view of this, The Tribunals, Appellate Tribunals and Other Authorities (Conditions of Service) Bill, 2014 which seeks to establish uniform conditions of service for the chairpersons and members of 26 tribunals and authorities was introduced in Rajya Sabha on 19th February, 2014 and is currently pending.

CONSTITUTIONAL STATUS

The status of tribunal has been recognized by the Constitution of India. Article 136 of the Constitution empowers the Supreme Court to grant special leave to appeal from any judgment, decree, determination, and sentence or order passed or made by the any tribunal in India. Likewise, Article 227 enables every High Court to exercise power of superintendence over all tribunals throughout the territories over which it exercise jurisdiction. Parliament enacted the 42nd Constitution (Amendment) Act, 1976 inserting Articles 323A and 323B which provided for the establishment of administrative and other tribunals to deal with the matters specifically provided for, thus giving constitutional recognition to the Tribunals with effect from 3rd January 1977. Article 323-B (I) empowers the appropriate legislature to provide for the adjudication or trial by tribunal of any disputes, complaints or offences with respect to all or any of the matters specified in clause (2). Such law may also provide for the exclusion of jurisdiction of all courts except that of the Supreme Court under Article 136.

Two landmark judgments related to Section 28 of the Administrative Tribunals Act, 1985 which deals with exclusion of jurisdiction of courts except the Supreme Court of

India under Article 136 of the Constitution thereby implying that the appeals from the Tribunal shall lie with the Supreme Court. These are (i) S.P. Sampath Kumar Vs. Union of India (AIR 1989 SC 1185) and (ii) L.Chandra Kumar Vs. Union of India (AIR, 1997 SC 1125). In the case of S.P.Sampath Kumar, the Supreme Court held that Section 28 of the Administrative Tribunals Act, 1985 which excludes the jurisdiction of the High Court under Articles 226 and 227 of the Constitution is not unconstitutional. But, in the later case of L.Chandra Kumar, the Supreme Court held that the writ jurisdiction of the High Court under Articles 226 and 227 constitutes basic structure of the constitution and cannot be extinguished by a legislation. Following these judicial pronouncements by the Apex Court, the decisions of the Tribunal are being heard in appeal in the Double Benches of the High Court within whose jurisdiction the Tribunal fell.

In 1997, a seven-Judge Bench of the Supreme Court in L. Chandra Kumar [JT 1997 (3) SC 589] held that clause 2 (d) of article 323A and clause 3(d) of article 323B, to the extent they empower Parliament to exclude the jurisdiction of the High Courts and the Supreme Court under articles 226/227 and 32 of the Constitution, are unconstitutional. Section 28 of the Administrative Tribunals Act, 1985 and the "exclusion of jurisdiction" clauses in all other legislations enacted under the aegis of articles 323A and 323B would, to the same extent, be unconstitutional. The Court held that the jurisdiction conferred upon the High Courts under articles 226/227 and upon the Supreme Court under article 32 of the Constitution is part of the inviolable basic structure of our Constitution. All decisions of the Administrative Tribunals are subject to scrutiny before a Division Bench of the High Court within whose jurisdiction the Tribunal concerned falls. As a result, orders of the Administrative Tribunals are being routinely appealed against in High Courts, whereas this was not the position prior to the L. Chandra Kumar's case.

The Law Commission of India in its 215th Report on 17th December 2008 titled 'L. Chandra Kumar be revisited by Larger Bench of Supreme Court', recommended to the Government of India to request the Hon'ble Supreme Court to reconsider L. Chandra Kumar's case. In the alternative, necessary and appropriate amendments in the Administrative Tribunals Act 1985 be effected in accordance with law.

EFFECTIVE TRIBUNAL ADVOCACY – DO'S AND DON'T'S

Good advocacy requires a mix of mental and performance skills. Advocacy is the means by which a practitioner puts their client's case to the adjudicating authority or tribunal, and it may be both written and oral. It is a specialist skill, the quality and excellence of which distinguishes the practitioner from other providers of legal services.

Advocacy is a practice which involves an active promotion of a cause or principle and requires formulation of strategies for achieving desired goals. Active participation or involvement of the person practicing advocacy is the basic framework on which ease of representation and winning cases at the Tribunals is based. Also respecting the privacy and confidentiality of others, and following the basic rules of ethical conduct, to be effective and to maintain credibility is important. Advocacy is all about patience, persistence and perseverance.

Good Advocacy includes:

- Listening to all parties in a believing and nonjudgmental manner;
- Clarifying issues;
- Suggesting options;
- Documenting;
- Locating and providing information;
- Speaking on the client's behalf when they cannot speak for themselves;
- Helping the client with written correspondence or phone calls;
- Problem solving;
- Educating clients;
- Assisting clients
- Following up.

There is no fixed recipe for a correct advocacy approach. Based on individual traits and experiences, everyone has particular style and unique approach to solving problems. Qualities and skills develop and acquire flexibility with experience. However the three common characteristics of good Tribunal advocacy which have remained constant over all the years are:

- Passion and Enthusiasm both at time of preparation and presentation
- Assertive disposition and right communication
- Knowledge of all laws, rules and regulations associated with the case

DO'S & DON'TS POLICY

It is the vital matter to look into 'what to do and what not to do'. While preparing and presenting cases before Tribunals one needs to be aware of this do's and don'ts policy as the basic rules one must follow:

Advocacy Do's:

- Be informed! - Know the issue, the system and the key players.
- Form relationships! - Don't wait until you need something to contact policymakers
- Be open to talking to legislative staff.
- Be honest! - Do not exaggerate. It's ok to admit that you don't know something and that you'll get back to the legislator with more information later.
- Be concise! - Keep all visits, calls, testimonies brief and to the point.
- Practice, practice, practice!
- Seek out new partnerships & alliances with others who share your views.
- Be specific! - Know what you want your legislator to do, and ask for it!
- Stay active! - Maintain communication with policymakers.
- DO be courteous, firm and confident.
- Be patient, persistent and positive.
- Do stay up-to-date with research.

Advocacy Don’ts:

- Wait until you need something to contact policymakers.
- Ignore or be disrespectful to legislative staff.
- Exaggerate.
- Send form letters or emails
- Make threats-Telling legislators that they have to do what you want
- Expect the impossible or insist on immediate action.
- Pretend to speak for everyone.
- Bury them with paper.
- DON’T get defensive and frustrated
- Don’t argue—if it’s clear the policymaker will not support your position, just give them the facts and ask him or her to consider your viewpoint. \
- Don’t give up!

EFFECTIVE TRIBUNAL PRESENTATION

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

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

Conversely, cases which are well prepared and effectively presented have a positive effect on the Tribunal members and their thinking.

Conciseness and careful attention to efficiency and the preservation of time are fundamental aspects of effective advocacy before the Tribunals, given its duty to conduct proceedings as informally and expeditiously as the circumstances and considerations of fairness permit.

The first thing you should do to prepare for your hearing is to read tribunal's practice or procedure rules. Every Tribunal functions as per the procedures laid down in the rules made for this purpose in accordance with which it hears appeals; conducts proceedings and passes orders. The procedural rules related to Tribunals are listed below:

TRIBUNAL/ OTHER AUTHORITY	PROCEDURAL LEGISLATIONS
Appellate Tribunal for Benami Transactions	Prohibition of Benami Property Transactions Act 1988 Prohibition of Benami Property Transactions Rules 2016
PMLA Provisions (Appellate Tribunal)	Prevention of Money-laundering Act, 2002 Prevention of Money Laundering (Appeal) Rules 2005
National Company Law Tribunal	Companies Act 2013 National Company Law Tribunal Rules 2016
National Company Law Appellate Tribunal	Companies Act 2013 National Company Law Appellate Tribunal

	Rules 2016
Arbitral Tribunal	Arbitration & Conciliation Act 1996 The Rules and Procedure used in an arbitral proceeding are part of the arbitral agreement
Cyber Appellate Tribunal	Information Technology Act 2000 Cyber Regulations Appellate Tribunal (Procedure) Rules 2000
Securities Appellate Tribunal	Securities & Exchange Board of India Act, 1992 The Depositories Act, 1996 Securities Contracts (Regulation) Act, 1956 The Insurance Act 1938 The Pension Fund Regulatory and Development Authority Act, 2013 Securities Appellate Tribunal (Procedure) Rules, 2000 Depositories (Appeal to Securities Appellate Tribunal) Rules 2000 Securities Contract (Regulation) (Appeal to Securities Appellate Tribunal) Rules 2000 Pension Fund Regulatory and Development Authority (Appeal to

	Securities Appellate Tribunal) Rules, 2014 Insurance (Appeal to Securities Appellate Tribunal) Rules, 2016
Appellate Tribunal for Foreign Exchange	Foreign Exchange Management Act 1999 Foreign Exchange Management (Adjudication Proceedings & Appeals) Rules 2000
Appellate Tribunal for Electricity	The Electricity Act 2003 Appellate Tribunal for Electricity (Procedure, Form, Fee & Record of Proceedings) Rules 2007
Film Certification Appellate Tribunal	Cinematograph Act 1952
Competition Appellate Tribunal	Competition Act 2002 Competition Appellate Tribunal (Form & Fee for filing an Appeal and Fee for filing Compensation Applications) Rules 2009 Competition Appellate Tribunal (Procedure) Regulations 2011
Customs, Excise & Service Tax Appellate Tribunal	Customs Act 1962 Central Excise Act 1944

	Finance Act 1994 Customs Tariff Act 1975 Customs, Excise & Service Tax Appellate Tribunal (Procedure) Rules 1982 Central Excise (Appeals) Rules 2001 Customs (Appeals) Rules 1982 Rule 9 of Service Tax Rules 1994
Debt Recovery Tribunal	Recovery of Debts due to Banks and Financial Institutions Act 1993 Debt Recovery Tribunal (Procedure) Rules 1993
Debt Recovery Appellate Tribunal	Recovery of Debts due to Banks and Financial Institutions Act 1993 Debt Recovery Appellate Tribunal (Procedure) Rules 1994
Income Tax Appellate Tribunal	Income Tax Act 1961 Income Tax (Appellate Tribunal) Rules 1963

Intellectual Property Appellate Board	The Trademarks Act 1999 The Geographical Indications of Goods (Registration & Protection) Act 1999 The Patents Act 1970 The Intellectual Property Appellate Board (Patents Procedure) Rules 2010 The Trademarks (Application & Appeals to the Intellectual Property Appellate Board) Rules 2003 The Patents (Application & Appeals to the Intellectual Property Appellate Board) Rules 2011 The Geographical Indications of Goods (Registration & Protection) Rules 2002
National Consumer Dispute Redressal Commission	Consumer Protection Act 1986 Consumer Protection Rules 1987 Consumer Protection Regulations 2005 Consumer Protection (Procedure for Regulation of allowing appearance of Agents or Representatives or Non-Advocates or Voluntary Organizations before the Consumer Forum) Regulations 2014

Telecom Disputes Settlement & Appellate Tribunal	Telecom Regulatory Authority of India Act 1997 Telecom Disputes Settlement & Appellate Tribunal Procedures 2005 Telecom Disputes Settlement & Appellate Tribunal (Form, Verification and the Fee for Filing an Appeal) Rules 2003
National Green Tribunal	The National Green Tribunal Act 2010 The National Green Tribunal (Practices & Procedures) Rules 2011
Insolvency and Bankruptcy Board of India	Insolvency and Bankruptcy Code 2016 Insolvency and Bankruptcy Board of India (Insolvency Resolution Process For Corporate Persons) Regulations, 2016 Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016. Insolvency and Bankruptcy Board of India (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016 Insolvency and Bankruptcy Board of India (Insolvency Professional Agencies)

	Regulations, 2016
Real Estate Appellate Tribunal	The Real Estate (Regulation & Development) Act 2016

Tips for effective representation:

In general, your first task is to present the relevant facts — that is, the evidence that supports your case. The second task is to make submissions about the evidence — that is, tell the adjudicator what conclusions you want them to draw from the evidence that you presented. The third task is to describe how the law supports your case. The final task is to explain how all of this should result in the adjudicator making a decision in your favour.

The usual steps in a tribunal hearing are:

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

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

- Understand the Tribunal's jurisdiction, rules and procedures: Develop a comprehensive understanding of the Tribunal's enabling legislation, the applicable rules of procedure and any relevant policies, guidelines or practice notices. It is also important to respect case-specific instructions or processes as directed by the Tribunal. Referring to past decisions of the Tribunal may provide further guidance in relation to, for example, matters of jurisdiction.

- Prepare thoroughly: Thorough preparation typically involves interviewing witnesses, researching facts and law, refining written and oral arguments, dissecting opposing counsel's submissions, identifying not only the strong points of your case but also the weaknesses and determining how to address those weaknesses, and preparing witnesses for questioning
- Develop a Strategy: This will ensure that the submissions are well organized and convincing. The evidence needed to establish the various elements supporting the theory of the case, and how that evidence will be introduced should be well strategized.
- Use clear and concise language: Keep it simple. Plain language works best. The most effective submissions (oral or written) are clear, logical and convincing presentations of the relevant facts and arguments.
- Written submissions: When filing written submissions, remember: less is more.
- Witnesses: poor preparation of witnesses becomes a liability and can backfire the case. Ensure that the witnesses are well-prepared and able to give their testimony clearly and succinctly.
- Experts: Only use expert evidence when necessary. Carefully consider what value-addition the expert will bring to the case and how the expert evidence will support the theory of the case.
- Cross-examination: Have a very clear idea of what issues should be probed in cross-examination. This can be developed well in advance of the hearing, by separating the key issues from the marginal issues in line with the overall case strategy
- Evidence: Most Tribunals have a significant amount of discretion to determine its own procedures and is not strictly bound by the general rules of evidence, provided that it follows the rules of natural justice.

- Closing Argument: The closing argument is essentially a preview of what you want the decision to say. Focus should be on explaining how the facts and the law combine to allow the Tribunal to adopt the theory of the case.

Other points to be kept in mind:

1. Client screening

The first step when approached by a potential client is to decide whether to agree to represent the client in the particular matter. Before accepting representation, you should obtain as much information as possible to determine whether you can undertake the work required competently, effectively, and responsibly. This process of client screening can go a long way to avoiding many of the situations that result in malpractice claims.

2. Pre-screening:

Before accepting a new client, a counsel should meet the client personally. Also, it could help to identify through independent means the client for whom you are going to act.

The following need to be ascertained before accepting the client:

- Whether the client engaged or attempted to engage other professionals for this case? If so, reasons for the case being rejected needs to be ascertained.
- Does the client have a reasonable approach to the case?
- Does the client agree with the fee arrangement and is the client able to pay the fees for the services?
- Is the client willing to pay a retainer in advance of services rendered?
- Does the client have all of the documentation associated with the case and is he or she prepared to submit those to you?

3. Case analysis:

Once the initial screening has been done, the next step would be to analyse the case: In doing so, the following factors should be considered:

- Do the facts of the case support proceeding with the case?
- The counsel's expertise and experience with similar cases.
- Time availability to handle the case.
- The "gut" reaction to the client and the case.
- The prospective client's attitude toward the case
- Case value vs. cost to represent (use of firm resources, expense advance requirements, loss of opportunity);

4. Establishing Realistic Expectations

- After the screening process has been completed and a decision to represent the client has been made, the counsel should discuss the merits and problems of the client's case with the client.
- Any guarantees to the client regarding the outcome of the case should be strictly avoided.
- The counsel should convey verbally and in writing (via an engagement letter) the following to the client:
  - The issues involved with the case.
  - The problems regarding the case.
  - The process involved in pursuing the case.
  - The client's obligations throughout the case and any specific requirements of the client.
  - The estimated time frame for case resolution.
  - The economics of taking the case to trial or settling the case.
  - How the firm will communicate case status with the client.

6. Duties to the client

In general, the counsel has the following duties towards the client:

- To fearlessly defend the client, not to judge the case or cause of the client, but to represent the client according to the specific instructions given to the CA
- Not to misrepresent facts but to present all facts which are material and have a bearing on the issue under consideration
- Bring on record all facts.
- To be punctual, methodic and systematic
- To apply his skill to harp on the strong points of his client's case and to ensure that the other side is given / made available material used in defending his client.
- To raise proper preliminary objections whenever warranted and ensure that they are disposed of properly, by the forum concerned.

7. Propriety and Decorum in Conduct of Affairs

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

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

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

Rule 17A of the Income Tax (Appellate Tribunal) Rules 1963 prescribes the dress regulation for the members and for the representatives of the parties.

At the CESTAT (Customs, Excise and Service Tax Appellate Tribunal), only a black coat and tie should be worn. The instructing junior should also be dressed similarly, or at least wear a white shirt with contrast tie and present himself elegantly.

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

8. Skills required for Representation before Tribunals

- Knowledge of substantive and procedural law relating to the legislation concerned.
- Knowledge of Constitutional law, particularly when a case is to be represented before Tax Tribunals
- In depth understanding of court procedure and appellate mechanism and regulations and rules governing the above.
- Practical / hands-on experience in appearance before the forums concerned and putting forth arguments and advancing contentions.

- Skill of advocacy, examination of witnesses, cross-examination and re-examination of witnesses.
- Ability to summarize arguments after conducting examination of witnesses.
- Skill in Presentation of the case effectively before the presiding officer/judicial officer
- Knowledge of compilation procedure in relation to
    - appeal petitions,
    - paper books,
    - annexure,
    - case law citations,
    - Material documents relating to evidence to be appreciated by the concerned forum.
- Advancing counter arguments, improvising of arguments impromptu etc.
- Coordinating with lead counsel
- Upholding the interest of the profession concerned, by conducting himself as a member of an honorable profession in a dignified manner

TRIBUNAL CRAFT

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

Writing a good Brief

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

A Few General Tips

- In the petition for appeal or opening brief of appellant, counsel must state what happened in the lower court or commission and what errors committed there require reversal. The brief begins with a statement of the nature of the case and the material proceedings below. That should be followed by a statement of facts with exact references to the page of the appendix, trial transcript or other place in the record where each fact is to be found. The argument section must be related to the particular facts of the case. Through argument, counsel must show not only that error was committed but that the error was not harmless and requires reversal of the lower court decision.
- First, think about what you want to say before you begin to write.
- Outlining anticipated arguments will help identify points you want to make.
- Avoid clichés and technical jargon unless necessary.
- Avoid long quotations from testimony.
- Call the parties by their names, not “appellant” and “appellee.”
- Use short sentences and short paragraphs.
- Use headings.
- Use active voice, not passive.
- Finally, leave yourself enough time to revise, proofread, then revise, and proofread again.
- Your petition should clearly inform opposing counsel and the appellate authority of what ruling is being challenged and why.
- You may find as you are writing your petition that you need to refine it time and again. Re-visit your brief after you have drafted your argument, to make sure your petition embraces the argument you have made.
- The hallmark of good appellate advocacy is to focus on the points to which you believe the Tribunal will be most receptive. Numerous, even possibly frivolous, assignments of error will not increase your chances of having your appeal awarded.

- If, for example, your appeal involves interpretation of a statute, the appellate authority will review the adjudicating authority's decision de novo, without any deference to the adjudicating authority's decision. Other errors assigned in the appeal may be subject to a different standard of review, for example, either as a mixed question of fact and law, a factual issue or an issue that is subject to review only for abuse of discretion by the adjudicating authority.
- Present all the facts relevant to the appeal and leave out the facts that are not relevant. The facts should tell a consistent "story" of what happened in the case, without sounding like pure fiction or imaginary events.
- Cite portions of the record to support each fact. Do not make any statement unsupported by the record.
- Do not overstate your case or exaggerate the facts. The place to put your interpretation on the facts is in the argument section of your brief, not in the statement of facts itself.
- The appellate authority will view the evidence in the light most favorable to the party that prevailed at the trial. If there is a conflict in the evidence, the appellate authority is bound by the determination of the facts.
- Arguments should be tailored to the assignments of error. Arguments should be concise and to the point. If your argument is long or complex, you may lead off with a short summary of the argument.
- Quotations from the record should be short.
- Each argument must be related to the particular facts of the case.
- Each argument should be directed toward showing how and why the error was prejudicial and, therefore reversible.
- Because you must abide by page and word count limits, every word used should further your argument and unnecessary words should be eliminated.
- Cite cases to support your argument. You can also site cases from other jurisdictions or from treatises, law review articles or other persuasive authority. Citation to unpublished opinions is permitted as "informative," but they are not to be treated as binding authority.

- Effective argument involves not just citation to authority but also discussion of the reasons why a certain case or principle should apply in your appeal. Merely quoting from a case, particularly a long passage, does not advance your argument. Analyze the law to your facts to show why the case does, or does not, control.
- You should cite authority to cover every legal point you make in your brief. Do not string-cite to several cases to support the same point. Ordinarily, one or two cases will be adequate and maintain brevity.
- Revise and Proofread Your Petition or Brief; Re-Check Your Case
- Good brief writing is a process whereby you clarify legal issues for yourself and your reader. You do this by drafting and then re-drafting your arguments.
- Keep in mind that although the person reading your brief is seeing the words on the page, he or she is actually hearing them in his or her head as well. If your prose is awkward, the reader will soon tire of trying to understand it and may miss the point you are trying to make.
- Clear and concise writing beats complicated prose every time.
- Finally, do not let a good argument be flawed by technical errors. Recheck case authorities for any recent developments. Proofread your brief one more time and have someone else proofread it also.

Mistakes that spoil a Good Brief

1. Take Shortcuts

Writing a brief is hard work, and doing it well requires you to proceed through certain stages: brainstorming, researching, brainstorming some more, outlining, writing, revising, and cite checking. Not all of these steps are fun, but skipping any one of them is the worst kind of false economy.

If you do not outline, then writing will take you twice as long and your brief risks being poorly structured and repetitive. If you do not brainstorm, then you may miss a key point. If you do not cite-check, then you will be embarrassed eventually. Moreover, if you do not research or revise, then may God have mercy on your soul.

2. Keep the Tribunal in Suspense

On brief (as in oral argument), it is important to get straight to the point. Judges are busy people. Your judge should understand the crux of your argument within sixty seconds of picking up your brief. Consider leading off with a summary of your argument, or at least an explanation of the question presented. If you launch straight into a statement of the case, your reader will struggle for pages to put everything in context.

3. Argue too Many Issues

There are rarely more than one or two, and never more than three, major points worth arguing in any brief. If you are not going to win on your strongest points, then you will certainly lose on your weaker ones. Judges have limited time to devote to your case, and you have few words in which to convince them. Excess argument dilutes your brief and erodes your credibility.

4. Ignore the Other Side's Best Arguments

The point of writing a brief is to help the judge arrive at the correct conclusion (i.e., the one you are advocating). You cannot do that without addressing the other side's best arguments. Those arguments will come out eventually, and the judge will have to grapple with them. Give the judge the tools to do so. Ignoring the other side's best points suggests that (i) you cannot rebut them or (ii) you were not clever enough to see them coming. Neither is an impression that you want to create.

5. Call the Other Side Names

Again, the judge is trying to arrive at the legally correct result. Convincing the judge that opposing counsel is a bad person is neither a necessary nor a sufficient condition for victory. Trying to do so will only erode your message, and worse, your credibility.

6. Repeat Yourself

As an applicant or petitioner before the Tribunal if you like to tell judges what your'e going to tell them, summarize what you're going to tell them, tell them, say it another way, repeat it for emphasis, and then conclude by telling them what you've already told them., your brief will be about five times as long as it should be, and a real painful experience to read. You can get the same benefit in a fraction of the word count by framing the issues up front; making your arguments well once; giving the reader descriptive headings and subheadings to use as a road map; and providing a conclusion that states the specific relief sought.

7. Use Nominalizations (Use of verb, adjective, adverbs as noun)

Don't take verbs and then turn them into "tion" nouns. For example, a lawyer might "conduct an evaluation" or "make an observation," while a normal person might "evaluate" or "observe" (or better yet, "see"). As a rule, if you can use the verb form of a word, do so.

8. Drop Numerous Footnotes

If it is not important enough to go in the text, it is not important enough to go in the brief. The only exceptions are minor subjects that you have to address out of forthrightness to the court or citations to the record, that would break the flow of your writing if placed in the text.

9. Quote with Abandon

Merging quotations from case law into sentences is hard to read. They are like shortcuts that make the reader work too hard. Read and analyze the case laws, paraphrase them and weave them into your argument.

10. Take Unreasonable Positions

The most elegant argument in the world will not do you any good if you advance it in support of an unsustainable position.

<u>Tips on Drafting of pleadings and written statements:</u>

While drafting pleadings and written submissions, care should be taken in respect of the following:

1. State facts, not law, but state all facts and material facts.

2. Do not state or quote verbatim the contents of statutory provision - suffice to mention the section number when relevant.

3. All evidence which are material and have a bearing on facts may be referred to in the pleadings,

4. Grounds of appeal should be direct and to the point, bringing out all the weaknesses in the impugned order, supported by citations wherever available, by giving the law report reference,

5. Statement of facts and grounds of appeal should be sequentially numbered and the relevant references to exhibits prominently stated.

6. All Exhibits or Annexure references should be given in the form of an index.

7. All pages to be paginated by means of a numbering machine or hand

8. Copies of all documents should be legible, and typescripts to be used wherever the Photostat copies are not clear.

9. Pleadings should be signed, verified in the prescribed manner, dated and place of execution mentioned clearly.

10. The counsel should enclose his Power of Attorney/Authorization of Appearance to the pleadings to bring himself on records of the appellate or other forum.

11. The proper stamp duty to be paid on the P/A in the form of a non-adhesive stamp duty, ie., stamp paper to be used

12. Impugned order to bear court fee, wherever prescribed

13. Attested orders to be attached to the appeal petition, when law requires the same, or an affidavit from the litigant that all the copies are true copies of the original.

14. Fee concerned payable under law to institute the appeal to be paid by means of a Treasury Receipt challan or by a demand draft when permitted by law.

15. Paper books to be prepared in required number of sets, paginated, serially numbered, annexured, indexed and filed with the presentation form / covering letter of the counsel.

16. Scrupulously adhere to the rules/regulations of the concerned appellate forum while preparing the pleadings.

17. Deliver the concerned number of sets to the appellate authority and the opposite side and ensure that no chances are taken in this regard.

18. Maintain an extra set or two with the party concerned or with the office, to ensure that the same is produced to assist the court or the other side when required.

19. Judgements which are relevant may be kept handy or attached to the paper book.

20. The language employed should be polished

21. The draftsman may employ language of the law, to distinguish the language from that of the layman and give the pleadings a flourish of its own

22. Pleadings should not be scandalous, vexatious or frivolous, which are liable to be struck-off by the court.

23. It is advisable to make a rough draft and cross-check it.

24. Employ the words and expression suitable to the forum concerned, e.g., Ld. Assistant Commissioner/Ld. Commissioner, Hon'ble Tribunal, His Lordship Mr. Justice........ who decided the case held thus........ and so on.

25. At the end of the pleadings, give a summary of the relief sought and if it is an appellate proceeding, pray for relief under the caption prayer etc.

26. Spell check and grammar check the pleadings and written statement and ensure that no mistakes appear whatsoever

27. Get all necessary documents signed by the client.

Verbal Argument

The goal of oral argument is to convince the Tribunal/appellate authority that your client should prevail. It is your opportunity to answer the Tribunal's questions and confirm the soundness of your position. For this reason, the petitioner should waive oral argument only in exceptional circumstances. In general, waiving argument signals to the Tribunal that you do not believe in the case. Oral argument may not be the deciding factor in many appeals, but occasionally it highlights a dispositive issue not fully developed or advanced in the briefs.

Points to remember:

- Do not risk the chance of losing an appeal which oral argument might have won.
- Oral argument has two components: preparation and presentation.

- The key to a successful oral argument is thorough preparation. No matter how smooth a speaker you are, your argument will not be successful if you are unprepared.
- The ones who look the most relaxed and sound the most persuasive at the podium are the ones who spent the most time preparing for their arguments.
- It should—but cannot—go without saying that you must be thoroughly conversant with the briefs, the record and the authorities cited in all the briefs sufficiently well to answer questions about the facts and law.
- Be prepared to answer questions concerning matters in the record; or how or why a case controls or is distinguishable from your case. It may be helpful to have case summaries available on cards or tabbed in an argument notebook for quick reference.
- Know the record. If you argue that a witness said "x" or that a document provides "y", you must be able to state the page in the joint appendix or record where the testimony or document can be found. When you can quickly point to the information you are relying on, it enhances your argument because it is clear you are prepared.
- Be clear on what you are asking the Tribunal to do and the broader ramifications that may follow. Bear in mind that the narrower the relief or rule of law you are asking the Tribunal to adopt, the greater your likelihood of success. When you know what rule applies, you also will be in a position to make appropriate concessions without harming your case.
- Try to do a moot court a week to several days ahead of the argument. If possible, enlist the assistance of colleagues who are knowledgeable in your field of practice but do not know the facts of your case. These folks are ideal for analyzing your case objectively.
- Always identify yourself, and who you represent, before proceeding with argument. No elaborate introduction is required and it wastes your time.
- Address the members of both courts as "Your Honor." This simple, respectful title saves the potential embarrassment of mispronouncing a judge or justice's name or mistakenly calling a Justice, "Judge" or vice versa. Be aware, too, that

some members of the Court find the use of “sir” or “ma’am” inappropriate. Remember, you are there to persuade the court, so be respectful and correct. In that vein, do not “call out” members of either court by name on an opinion, or—more particularly—a dissent, they wrote in some other case. Such an approach may put that judge or justice in an uncomfortable position and could cost you a potential ally. If you are relying on the opinion, you should say “the Court held . . .” If you are arguing the dissent was right in a particular circumstance, just argue the reasoning advanced in the dissent and stress why, under your facts, that is the correct analysis to adopt.

- Try to avoid distracting mannerisms that might divert the attention of the bench. The dramatic approach effective before a jury is invariably less persuasive on appeal and may offend some judges or justices. The appellate presentation should be calm, dispassionate, well-reasoned, and objective. It is important to capture and maintain the interest of the judges or justices, but a compelling legal argument is much more important to the appellate court than a flamboyant style.
- Although labeled “argument” this is your opportunity to have a conversation with the members of the court to explain your position.
- When judges ask questions during argument, counsel should answer promptly and If you do not know the answer, it is best to say so immediately.
- It is usually best to answer each question as soon as it is asked and some judges simply will not allow you the luxury of “getting back” to a question. If you need more time to answer a question effectively, say so.
- The best approach is to attempt to answer as directly as possible and then give your explanation. You may find also, that during the course of your argument you can formulate a better or more comprehensive answer and it is perfectly fine to weave that back into your argument. For example, you might address the judge or justice who asked the question and say something like: “Which brings me back to the point Your Honor raised earlier . . . ”
- Always make certain to answer every question before you conclude, even if the answer is weak.

- Bear in mind that questions do not necessarily mean that the questioners are hostile to your position. Members of the Tribunal ask questions to clarify their own understanding, to emphasize points they believe to be significant, and to narrow the issues by obtaining concessions. The questions may indicate that the questioner believes the important point in the case is one on which you had not relied in your brief and you may be able to strengthen your position or make a convert in the course of argument.
- Personalities should be avoided in argument. The appeal is not about you or opposing counsel. Your demeanor is an important part of your argument and it enhances your presentation to maintain a professional tone and businesslike assessment of what transpired.
- As in the brief, brevity, but not levity (lightheartedness), is appreciated in oral argument. Although each side is entitled to present full argument, it may be unnecessary to use the full time allocated, and it is a mistake to over-argue a case. Often an appeal involves only one question that is dispositive. Make your argument persuasively and concisely and conclude by stating the relief sought
- Plan your argument in advance. State your theory of the case and the belief you seek up front, as it may be the only chance you get before the questioning begins. You may then briefly explain what happened below and state why and in what respects reversible error was committed. The facts may be summarized, but the members of the Tribunal have read the briefs, so a detailed recitation is unnecessary and you may be wasting precious minutes lingering on unimportant details.
- This is not a presentation in which there is no audience participation. At its best, it is a conversation between knowledgeable colleagues on an interesting, perhaps difficult, point of law. No additional time is given to compensate for time lost in answering questions, so a flexible, albeit knowledgeable, approach works best. Proceed promptly to your strongest point and present it as succinctly and forcefully as you can.
- If you run out of time, ask the court to consider your argument on brief for points not reached during oral argument.

- Rebuttal may be unnecessary, but it generally is advisable to reserve some rebuttal time.

General tips on Arguments at hearing

- It is important to ensure that arguments are addressed in a coherent manner, consistent with the written pleadings, that the adjudicator or the presiding members/judges are disposed to hear the case with patience.
- The counsel should bear a sober countenance and a mark of dignity about him while addressing arguments and ensure that at no stage should the presiding officer be offended or arguments unnecessarily stretched beyond a point.
- When the judge has seen your viewpoint and his demeanor shows that he is inclined to agree with you, show your mark of gratitude and take your seat (if arguments are addressed standing in court)
- When the opposite side is asked to answer a law-point or put forth his case, do not interrupt, make notes and when your turn comes traverse every point to which you object.
- Take preliminary objections at once, before the opposite side begins his case, if you are for the Respondent in appeal.
- Ensure that copies of case laws are handed over in advance to the court master and the opposite side, in a case compilation duly paginated with exhibits marked.
- While arguing a case, *voice modulation* makes a lot of difference to the person hearing you and opposing you. Therefore this art should be practiced effectively
- If you desire you may present a written synopsis of the case based on the original statement of facts and grounds of appeal already on record, before commencement of arguments, which would assist the court and the opponent equally.
- Carry your own books, manuals, statute references, dictionaries etc., to court and never take chances, since the bar room library may be locked, or a

cupboard with a particular volume required may be locked or a particular decision may be mutilated in the library etc.

- Never leave things to chance, when it comes to references to circulars notifications of yester years. Adequate copies of these should be carried to hand over the same to the presiding officer / opposite side, as many a time the court may not have a library as well equipped as yours.
- Your demeanor and comportment is of paramount significance and so are your opening remarks, concluding remarks and sentence construction during the course of addressing the Bench.
- Commence your arguments with the opening sentence. May it please Your Lordships / Honour(s) e.t.c
- Maintain the same style of address throughout your arguments.
- Bow before you take your place at the Bar and after completing your case, when you enter the court hall and leave the same.
- Be firm and courteous to your junior instructing counsel if you are the lead counsel, and never allow the junior to address the court, without the special leave of the court.

TRIBUNALS AND PRINCIPLES OF NATURAL JUSTICE

"It is beyond doubt that there are certain canons of judicial conduct to which all tribunals and persons that have to give judicial or quasi- judicial decisions ought to conform. The principles on which they rest are, we think, implicit in the rule of law. Their observance is demanded by our national sense of justice."

- The Committee on Minister's Powers

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

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

The principle of natural justice encompasses following two rules: -

1. Nemo judex in causa sua - No one should be made a judge in his own cause or the *rule against bias.*
2. Audi alteram partem - Hear the other party or the rule of fair hearing or the rule that no one should be condemned unheard.

RULE AGAINST BIAS (NEMO JUDEX CAUSA SUA)

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

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

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

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

- There must not be real likelihood of bias.

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

AUDI ALTERAM PARTEM OR RULE OF FAIR HEARING

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

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

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

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

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

"Rules of 'natural justice' are not embodied rules.The phrase 'natural justice' is also not capable of aprecise definition. The underlying principle of naturaljustice, evolved under the common law, is to checkarbitrary exercise of power by the State or its functionaries. Therefore, the principle implies a duty toact fairly i.e. fair play in action." [Para 17] [34-E-F]

A.K. Kraipak and Ors. vs. Union of India and Ors. (1969)2 SCC 262:1970 (1) SCR 457; Income Tax Officer and Ors.vs. M/s Madnani Engineering Works Ltd. Calcutta (1979) 2SCC 455: 1979 (2) SCR 905; Swadeshi Cotton Mills vs.Union of India (1981) 1 SCC 664: 1981 (2) SCR 533; CanaraBank vs. V.K. Awasthy (2005) 6 SCC 321: 2005 (3) SCR 81; Sahara India (Firm), Lucknow vs. Commissioner of IncomeTax, Central-I and Anr. (2008) 14 SCC 151: 2008 (6) SCR427 – were the case laws which were referred to.

COMMERCIAL TRIBUNALS

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

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

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

APPELLATE TRIBUNAL FOR BENAMI TRANSACTIONS

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

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

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

PMLA PROVISIONS APPELLATE TRIBUNAL

The Central Government Vide Notification No. G.S.R.No.438 (E) dated 1st July 2005, in exercise of the powers conferred by section 25 of the Prevention of Money-laundering Act, 2002 (15 of 2003) (PMLA 2002) constituted an Appellate Tribunal at New Delhi under the Department of Revenue, Ministry of Finance to hear appeals against the orders of the Adjudicating Authority and the authorities under the said Act.

Procedural Aspects of Appeal under PMLA provisions

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

1. Every appeal shall be filed within a period of forty-five days from the date on which a copy of the order made by the Adjudicating Authority or Director is received and it shall be in such form and be accompanied by such fee as may be prescribed. The Appellate Tribunal may after giving an opportunity of being heard entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

2. Every appeal preferred before the AppellateTribunal against the order of the Adjudicating Authority or theDirector, as the case may be, under the PMLA 2002 shall be in the Form as appended to the Rules and the appeal shall be inquadruplicate and accompanied by four copies of the orderappealed against.

3. At the time of filing, every appeal shall be accompanied with anamount of prescribed fee, in the form of demanddraft payable in favour of the Registrar, Appellate Tribunal, NewDelhi.

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

5. Where the appeal is preferred after the expiry of the period of fortyfivedays as mentioned above, itshall be accompanied by a petition, in quadruplicate , duly verifiedand supported by the documents, if any, relied upon by theappellant, showing cause as to how the appellant had beenprevented from preferring the appeal within the period of forty-fivedays.

NATIONAL COMPANY LAW TRIBUNAL

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

The genesis of the NCLT and NCLAT began with the Companies (Second Amendment) Act, 2002 which provided for the setting up of a National Company Law Tribunal and Appellate Tribunal to replace the existing Company Law Board (CLB) and Board for Industrial and Financial Reconstruction (BIFR).

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

The NCLT shall consist of a President and such number of Judicial and Technical members, as the Central Government may deem necessary, to be appointed by it by notification, to exercise and discharge such powers and functions as are, or may be, conferred on it by or under this Act or any other law for the time being in force.

In the first phase the Ministry of Corporate Affairs have set up eleven Benches, one Principal Bench at New Delhi and one each Regional Benches at New Delhi, Ahmedabad, Allahabad, Bengaluru, Chandigarh, Chennai, Guahati, Hyderabad, Kolkata and Mumbai. These Benches will be headed by the President and 16 Judicial Members and 09 Technical Members at different location.

Location and Jurisdiction of NCLT Benches:

Serial Number	Title of the Bench	Location	Territorial Jurisdiction of the Bench
(1)	(2)	(3)	(4)
1.	(a) National Company Law Tribunal, Principal Bench. (b) National Company Law Tribunal, New Delhi Bench.	New Delhi	(1) State of Haryana. (2) State of Rajasthan. (3) Union territory of Delhi.
2.	National Company Law Tribunal, Ahmedabad Bench.	Ahmedabad	(1) State of Gujarat. (2) State of Madhya Pradesh. (3) Union territory of Dadra and Nagar Haveli. (4) Union territory of Daman and Diu.
3.	National Company Law Tribunal, Allahabad Bench.	Allahabad	(1) State of Uttar Pradesh. (2) State of Uttarakhand.
4.	National Company Law Tribunal, Bengaluru Bench.	Bengaluru	(1) State of Karnataka.
5.	National Company Law Tribunal, Chandigarh Bench.	Chandigarh	(1) State of Himachal Pradesh. (2) State of Jammu and Kashmir. (3) State of Punjab. (4) Union territory of Chandigarh.
6.	National Company Law Tribunal, Chennai Bench.	Chennai	(1) State of Kerala. (2) State of Tamil Nadu. (3) Union territory of Lakshadweep. (4) Union territory of Puducherry.
7.	National Company Law Tribunal, Guwahati Bench.	Guwahati	(1) State of Arunachal Pradesh. (2) State of Assam. (3) State of Manipur. (4) State of Mizoram. (5) State of Meghalaya. (6) State of Nagaland. (7) State of Sikkim. (8) State of Tripura.
8.	National Company Law Tribunal, Hyderabad Bench.	Hyderabad	(1) State of Andhra Pradesh. (2) State of Telangana.
9.	National Company Law Tribunal, Kolkata Bench.	Kolkata	(1) State of Bihar. (2) State of Jharkhand. (3) State of Odisha. (4) State of West Bengal. (5) Union territory of Andaman and Nicobar Islands.
10.	National Company Law Tribunal, Mumbai Bench.	Mumbai	(1) State of Chhattisgarh. (2) State of Goa. (3) State of Maharashtra.

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

An applicant meaning a petitioner or an appellant or any other person or entity capable of making an application including an interlocutory application or a petition or an appeal under the Companies Act 2013, is eligible to apply to NCLT.

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

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

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

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

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

(1) Every appeal or petition or application or caveat petition or objection or counter presented to the Tribunal shall be in English and in case it is in some other Indian language, it shall be accompanied by a copy translated in English and shall be fairly

and legibly type written, lithographed or printed in double spacing on one side of standard petition paper with an inner margin of about four centimeter width on top and with a right margin of 2.5. cm, and left margin of 5 cm, duly paginated, indexed and stitched together in paper book form;

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

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

(4) Where Saka or other dates are used, corresponding dates of Gregorian Calendar shall also be given. (‘Saka’ is a term used to imply the Indian national calendar)

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

(6) The names of parties shall be numbered consecutively and a separate line should be allotted to the name and description of each party.

(7) These numbers shall not be changed and in the event of the death of a party during the pendency of the appeal or petition or matter, his legal heirs or representative, as the case may be, if more than one shall be shown by sub-numbers.

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

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

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

(1) Every petition, application, caveat, interlocutory application, documents and appeal shall be presented in triplicate by the appellant or applicant or petitioner or respondent, as the case may be, in person or by his duly 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.

(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 alongwith memorandum of appeal.

For the purpose of endorsement and verification of the petition, appeal, pleading, the following points need to be ensured:
(1) At the foot of every petition or appeal or pleading there shall appear the name and signature of the authorised representative.
(2) Every petition or appeal shall be signed and verified by the party concerned in the manner provided by the NCLT Rules 2016.

NATIONAL COMPANY LAW APPELLATE TRIBUNAL

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

The NCLAT is empowered to hear appeals against the Orders of NCLT and can be set up with a maximum number of 11 members including Chairperson, Judicial & Technical Members. The chairperson of NCLAT shall be a person who is or has been a Judge of the Supreme Court or the Chief Justice of a High Court. A Judicial Member shall be a person who is or has been a Judge of a High Court or is a Judicial Member of the Tribunal for five years. A Technical Member shall be a person of proven ability, integrity and standing having special knowledge and experience, of not less than twenty-five years, in law, industrial finance, industrial management or administration, industrial reconstruction, investment, accountancy, labour matters, or such other disciplines related to management, conduct of affairs, revival, rehabilitation and winding up of companies.

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

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

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

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

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

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

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

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

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

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

(3) Appeal shall be divided into paragraphs and shall be numbered consecutively and each paragraph shall contain asnearly 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 representativecharacter, shall also be set out at the beginning of the appeal and need not be repeated in the subsequent proceedings in thesame appeal.

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

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

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

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

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

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

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

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

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

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

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

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

ARBITRAL TRIBUNAL

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

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

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

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

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

Two appointed arbitrators fail to appoint the third arbitrator, the appointment shall be made by the Supreme/High Court or any person or institution designated by such Court. The designating authority will take into account the followings before appointing an arbitrator : - (section 11(8))

1) An qualification required of the arbitrator by the agreement of the parties ; and

2) Other consideration as are likely to secure the appointment of an independent and impartial arbitrator.

3) In case of International Commercial Arbitration, Supreme/ High Court or any person or institution designated by such court may appoint an arbitrator of a nationality other than nationalities of the parties where the parties belong to different nationalities. (Section 11(9))

Procedural Aspects at Arbitration Proceedings

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

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

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

i. The arbitral tribunal shall give equal treatment to the parties to the reference.

ii. The arbitral tribunal shall give to each party to the reference full opportunity to present its case.

The section lays down the basic principles of natural justice.

a) An Arbitrator must not receive information from one party, which is not disclosed to the other party.

b) The refusal by Arbitrator to give adjournment for one day as the counsel was busy in another case was held violative of principles of natural justice.

c) When a matter is remanded to the arbitrators for reconsideration, the parties are entitled to "personal hearing"

d) Examination of one party or witness in the absence of the opposite party is often fatal to the award.

e) Unless expressly authorised by the parties, an arbitrator cannot decide on the basis of private or secret enquires.

f) A point blank refusal by the arbitrator to record an oral evidence was held against the Law of natural justice.

(2) Rules of Procedure {Section 19}

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

(3) Venue {Section 20}- The parties are free to agree on the place of arbitration.

(4) Language -{Section 22}The parties have freedom to decide the language of proceedings. In absence of any such agreement, the arbitral tribunal shall determine the language or languages to be used in the arbitral proceedings.

(5) Statement Of Claims & Defense {Section 23}

Party who makes the claim is called claimant; party against whom the claim is made is called a Respondent. Claimant has to file a statement of claims within the period agreed. Claimant shall also state the facts and enclose the relevant documents. The copy of statement of claim is given to each member of arbitral tribunal as to the respondent.

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

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

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

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

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

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

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

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

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

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

(9) Hearing By The Tribunal{Section 24}

Unless otherwise agreed by the parties, the arbitral tribunal shall decide whether to hold oral hearings for the presentation of evidence or an argument, or whether the proceedings shall be conducted on the basis of documents and other materials. However, the amended Act recommends that the tribunal should hold oral hearings for presentation of evidence or for oral arguments on day to day basis. Adjournments should be discouraged and shouldnot be granted unless sufficient cause is given. Moreover, the amended Act also empowers the tribunal impose costs including exemplary costs on the party seeking adjournment without any sufficient cause.

(10) Who Shall Represent?

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

(11) Appointment Of Experts {Section 26}

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

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

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

CYBER APPELLATE TRIBUNAL

Cyber Appellate Tribunal (CyAT) has been established under the Information Technology Act, 2000 in accordance with the provisions contained under Section 48(1) of the Information Technology Act, 2000. The Tribunal was initially known as the Cyber Regulations Appellate Tribunal (C.R.A.T.).

The Cyber Appellate Tribunal has, for the purposes of discharging its functions under the I.T. Act, 2000 the same powers as are vested in a civil court under the Code of Civil Procedure, 1908. Though the procedure laid down by the Code of Civil Procedure, 1908 applies but at the same time the Tribunal is guided by the principles of natural justice.

The Cyber Appellate Tribunal has powers to regulate its own procedure including the place at which it has its sittings. Every proceeding before the Cyber Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code and the Cyber Appellate Tribunal shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

The composition of the Cyber Appellate Tribunal is provided for under section 49 of the Information Technology Act, 2000. Initially the Tribunal consisted of only one person who was referred to as the Presiding Officer who was to be appointed by way of notification by the Central Government. Thereafter the Act was amended in the year 2008 by which section 49 which provides for the composition of the Cyber Appellate Tribunal has been changed. As per the amended section the Tribunal shall consist of a Chairperson and such number of other Members as the Central Government may by notification in the Official Gazette appoint. The selection of the Chairperson and Members of the Tribunal is made by the Central Government in consultation with the Chief Justice of India. The Presiding Officer of the Tribunal is now known as the Chairperson.

Procedural Aspects of representation at Cyber Appellate Tribunal

The procedure for filing applications to CyAT is laid down in Cyber Regulations Appellate Tribunal (Procedure) Rules, 2000.

An application to the Tribunal shall be presented in Form 1 annexed to these rule by the applicant in person or by an agent or by a duly authorized legal practitioner, to the Registrar or sent by registered post addressed to the Registrar along with the prescribed fees.

The application shall be presented in six complete sets in a paper-book form along with one empty file size envelope bearing full address of the respondent. Where the number of respondents is more than one, sufficient number of extra paper-books together with required number of empty file size envelopes bearing the full address of each respondent shall be furnished by the applicant.

The applicant may attach to and present with his application a receipt slips as in Form No.1 which shall be signed by the Registrar or the officer receiving the applications on behalf of the Registrar in acknowledgement of the receipt of the application.

Notwithstanding anything contained above, the Tribunal may permit –

- More than one person to join together and file a single application if it is satisfied, having regard to the cause of action and the nature of relief prayed for, that they have the same interest in the service matter; or
- An Association representing the persons desirous of joining in a single application provided, however, that the application shall disclose the names of all the persons on whose behalf it has been filed.

Points to be noted with respect to the application:

1. Every application filed with the Registrar shall be accompanied by a fee of Rs.2,000 (rupees two thousand) only which shall be either in the form of a crossed demand draft or a pay order drawn on a Scheduled Bank in favour of the Registrar and payable at New Delhi.

2. Every application filed under rule 3 shall set forth concisely under distinct heads, the grounds for such application and such grounds shall be numbered consecutively and typed in double space on one side of the paper.

3. It shall not be necessary to present a separate application to seek an interim order or direction if the application contains a prayer seeking an interim order or direction pending final disposal of the application.

4. An application may, subsequent to the filing of application under section 57 of the Information Technology Act, 2000 apply for an interim order or direction. Such an application shall, as far as possible, be in the same form as is prescribed for on application under section 57 and shall be accompanied by a fee of Rs.5 (Rupees five only) which shall be payable in court fee stamps affixed on such application.

6. Every application shall be accompanied by a paper book containing –

I. a certified copy of the order against which the application has been filed;

II. copies of the documents relied upon by the applicant and referred to in the

application; and

III. an index of documents

The documents referred may be attested by an advocate or by a Gazetted Officer.

7. Where an application is filed by an agent, documents authorising him to act as such agent shall also be appended to the application. Provided that where an application is filed by an advocate it shall be accompanied by a duly executed "Vakalatnama".

SECURITIES APPELLATE TRIBUNAL

Securities Appellate Tribunal (SAT) is a statutory body established under the provisions of Section 15K of the Securities and Exchange Board of India (SEBI) Act, 1992 to hear and dispose of appeals against orders passed by the Securities and Exchange Board of India or by an adjudicating officer under the Act and to exercise jurisdiction, powers and authority conferred on the Tribunal by or under this Act or any other law for the time being in force.

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

Nariman Point,
Mumbai – 400021

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

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

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

Under section 110 of the Insurance Act 1938 which was changed via the Insurance Laws (Amendment) Ordinance 2014 (No.8 of 2014) promulgated on 26th December, 2014, and then later inserted by The Insurance Laws (Amendment) Act 2015, any person aggrieved by an order of the Insurance Regulatory and Development Authority of India (IRDA) may prefer an appeal to the SAT having jurisdiction in the matter within 45 days from the date on which a copy of the order made by the Authority is received by him and it shall be in such form and accompanied by such fees as may be prescribed. SAT may entertain an appeal after expiry of the said 45 day period if it is satisfied that there is sufficient cause for not filing within that period. SAT shall endeavour to dispose of the appeal finally within 6 months from the date of the receipt of appeal.

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

The procedural aspects of appeals to SAT are contained in

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

<u>Procedural Aspects at Securities Appellate Tribunal</u>

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

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

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

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

1. The proceedings of the Appellate Tribunal shall be conducted in English or Hindi.

2. Every appeal, application, reply, representation or any document filed before the Appellate Tribunal shall be typewritten, cyclostyled or printed neatly and legibly on one side of the good quality paper of foolscap size in double space and separate sheets shall be stitched together and every page shall be consecutively numbered and filed in the prescribed manner.

3. The appeal shall be presented in 3 sets in a paper book along with an empty file size envelope bearing full address of the respondent and in case the respondents are more than one, then sufficient number of extra paper books together with empty file size envelope bearing full addresses of each respondent shall be furnished by the appellant.

4. The Registrar shall endorse on every appeal the date on which it is presented under or deemed to have been presented and shall sign endorsement. If, on scrutiny, the appeal is found to be in order, it shall be duly registered and given a serial number.

5. If an appeal on scrutiny is found to be defective and the defect noticed is formal in nature, the Registrar may allow the appellant to rectify the same in his presence and if the said defect is not formal in nature, the Registrar may allow the appellant such time to rectify the defect as he may deem fit. If the appeal has been sent by post and found to be defective, the Registrar may communicate the defects to the appellant and allow the appellant such time to rectify the defect as he may deem fit.

6. Every memorandum of appeal shall be accompanied with a prescribed fee

7. Every memorandum of appeal shall set forth concisely under distinct heads, the grounds of such appeal without any argument or narrative, and such ground shall be numbered consecutively and shall be in the prescribed manner

8. Every memorandum of appeal shall be in triplicate and shall be accompanied with copies of the order, at least one of which shall be certified copy, against which the appeal is filed.

9. Where a party is represented by authorised representative, a copy of the authorisation to act as the authorised representative and the written consent thereto by such authorised representative, shall be appended to the appeal.

9. A memorandum of appeal shall not seek relief or reliefs therein against more than one order unless the reliefs prayed for are consequential.

10. The Appellate Tribunal shall notify the parties the date of hearing of the appeal in such manner as the Presiding Officer may by general or special order direct.

11. On the day fixed or on any other day to which the hearing may be adjourned, the appellant shall be heard in support of the appeal. The Securities Appellate Tribunal shall, then, if necessary, hear the Board or its authorised representative against the appeal, and in such case the appellant shall be entitled to reply. During the course of the hearing of appeal the written arguments could be supplemented by time-bound oral arguments.

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

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

12. Dress regulations for the Presiding Officer and for the representatives of the parties.-

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

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

APPELLATE TRIBUNAL FOR FOREIGN EXCHANGE

The Appellate Tribunal for Foreign Exchange (ATFE) has been established by the Central Government in exercise of powers conferred by section 18 of the Foreign Exchange Management Act 1999 (FEMA 1999). It falls under the Department of Legal Affairs, Ministry of Law and Justice, Government of India.

AFTE hears appeals against the orders passed by the Adjudicating Authorities and the Special Director (Appeals) under this Act. The office of ATFE is located at Delhi:

Appellate Tribunal for Foreign Exchange
15th Floor,
The Hindustan Times House,
K.G Marg,
New Delhi

The Appellate Tribunal shall consist of a Chairperson and such number of Members as the Central Government may deem fit. At present there is one chairperson and two full time members in the ATFE.

Subject to the provisions of FEMA 1999:

- the jurisdiction of AFTE may be exercised by Benches thereof;
- a Bench may be constituted by the Chairperson with one or more Members as the Chairperson may deem fit; the Chairperson may transfer a Member from one Bench to another Bench
- the Benches of the Appellate Tribunal shall ordinarily sit at New Delhi and at such other places as the Central Government may, in consultation with the Chairperson, notify;
- the Central Government shall notify the areas in relation to which each Bench of the Appellate Tribunal may exercise jurisdiction

If at any stage of the hearing of any case or matter it appears to the Chairperson or a 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 or matter may be transferred by the Chairperson or, as the case may be, referred to him for transfer, to such Bench as the Chairperson may deem fit.

The Appellate Tribunal for Foreign Exchange shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and, subject to the other provisions of this Act, the Appellate Tribunal shall have powers to regulate its own procedure. For the purposes of discharging its functions under the FEMA 1999, it shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908) while trying a suit in respect of the following matters, namely:-

- summoning and enforcing the attendance of any person and examining him on oath;
- requiring the discovery and production of documents;
- receiving evidence on affidavits;

- subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872 (1 of 1872), requisitioning any public record or document or copy of such record or document from any office;
- issuing commissions for the examination of witnesses or documents;
- reviewing its decisions;
- dismissing a representation of default or deciding it ex parte;
- setting aside any order of dismissal of any representation for default or any order passed by it ex parte; and
- any other matter which may be prescribed by the Central Government.

All proceedings before the Appellate Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860) and the Appellate Tribunal shall be deemed to be a civil court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973 (2 of 1974).

Procedural Aspects at Appellate Tribunal for Foreign Exchange

The procedure for filing appeals before the tribunal is laid down in the Foreign Exchange Management (Adjudication Proceedings and Appeal) Rules, 2000.

Every appeal presented to the Appellate Tribunal under section 19 of FEMA 1999 shall be in the Form II signed by the applicant. The appeal shall be sent in triplicate and accompanied by three copies of the order appealed against. Every appeal shall be accompanied by a fee of Rupees ten thousand in the form of cash or demand draft payable in favour of the Registrar, Appellate Tribunal for Foreign Exchange, New Delhi.

The applicant shall deposit the amount of penalty imposed by the Adjudicating Authority or the Special Director (Appeals) as the case may be, to such authority as may be notified. However, where the Appellate Tribunal is of the opinion that the deposit of such penalty would cause undue hardship to such person, the Appellate

Tribunal may dispense with such deposit subject to such conditions as it may deem fit to impose so as to safeguard the realization of penalty.

The appeal shall set forth concisely and under distinct heads the grounds of objection to the order appealed against without any argument of narrative and such grounds shall be numbered consecutively; and shall specify the address for service at which notice or other processes may be served on the applicant, the date on which the order appealed against was served on the applicant; and the sum imposed by way of penalty and the amount of fee prescribed had been deposited or not.

Every appeal shall be filed to ATFE within a period of forty-five days from the date on which a copy of the order made by the Adjudicating Authority or the Special Director (Appeals) is received by the aggrieved person or by the Central Government and it shall be in such form, verified in such manner and be accompanied by such fee as may be prescribed. The Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

Where the appeal is presented after the expiry of the period of forty five days in which it is to be filed, it shall be accompanied by a petition, in triplicate, duly verified and supported by the documents, if any, relied upon by the applicant, showing cause how the applicant had been prevented from preferring the appeal within the said period of forty five days.

<u>Procedure before Appellate Tribunal:</u>

1. On receipt of an appeal the Appellate Tribunal shall send a copy of the appeal, together with a copy of the order appealed against, to the Director of Enforcement.

2. The Appellate Tribunal shall, then, issue notices to the applicant and the Director of Enforcement fixing a date for hearing of the appeal.

3. On the date fixed for hearing of the appeal, or any other day to which the hearing of the appeal may be adjourned, the applicant as well as the presenting officer of the Directorate of Enforcement shall be heard.

Where on the date fixed, or any other day to which the hearing of the appeal may be adjourned, the applicant or the presenting officer fail to appear when the appeal is called on for hearing, the Appellate Tribunal may decide the appeal on the merits of the case.

The order of Appellate Tribunal shall be in writing and shall state briefly the grounds for the decision. The order shall be signed by the Chairman or Member of the Appellate Tribunal hearing the appeal.

Any applicant who has filed an appealbefore the Appellate Tribunal under section 19 of the Act may appoint alegal practitioner or a charted accountant to appear and plead and act onhis behalf before the Special Director (Appeal) under the Act.

APPELLATE TRIBUNAL FOR ELECTRICITY

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

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

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

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

Procedural Aspects at Appellate Tribunal for Electricity

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

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

2. The cause title shall state "In the Appellate Tribunal For Electricity" and shall specify the jurisdiction Appellate, Original or Special Original respectively under section 111(1) and section 121 of the Act in which it is presented and also set out the proceedings or order of the authority against which it is preferred.

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

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

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

6. The names of parties shall be numbered consecutively and a separate line should be allotted to the name and description of each party. These numbers shall not be changed and in the event of the death of a party during the pendency of the appeal or petition or matter, his legal heirs or representative, as the case may be, if more than one shall be shown by sub-numbers. Where fresh parties are brought in, they may be numbered consecutively in the particular category, in which they are brought in.

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

8. Every interlineation, eraser or correction or deletion in any appeal or petition or application or document shall be initialed by the party or his recognized agent or advocate presenting it.

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

10. Every appeal or petition shall be accompanied by a certified copy of the impugned order.

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

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

13. In the pending matters, all applications shall be presented after serving copies thereof in advance on the opposite side or his/her advocate on record.

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

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

16. The respondent may lodge a caveat in triplicate in any appeal or petition or application that may be instituted before this Tribunal by paying the prescribed fee after forwarding a copy by registered post or serving the same on the expected petitioner or appellant and the caveat shall be in form prescribed and contain such details and particulars or orders or directions, details of authority against whose orders or directions the appeal or petition is being instituted by the expected appellant or petitioner with full address for service on other side, so that the appeal or petition could be served before the appeal or petition or interim application is taken up.

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

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

19. A document other than English language intended to be used in any proceeding before the Appellate Tribunal shall be received by the Registry accompanied by a

copy in English, which is agreed to by both the parties or certified to be a true translated copy by an advocate engaged on behalf of parties in the case or by any other counsel whether engaged in the case or not or if the counsel engaged in the case authenticates such certificate or prepared by a translator approved for the purpose by the Registrar on payment of such charges as he may order.

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

FILM CERTIFICATION APPELLATE TRIBUNAL

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

The Tribunal hears the appeals filed under Section 5C of the Act under which any applicant for a Certificate in respect of a film who is aggrieved by an order of the Central Board of Film Certification (CBFC), can file an Appeal before the Tribunal. The Tribunal has its headquarters in New Delhi.

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

Procedure Aspects for filing Appeal

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

(a) refusing to grant a certificate; or

(b) granting only an 'A' certificate; or

(c) granting only a 'S' certificate; or

(d) granting only a 'UA' certificate; or

(e) directing the applicant to carry out any excisions or modifications.

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

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

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

1. Six copies of the Appeal

2. Six copies of the synopsis of the film

3. One copy of the authenticated script of the film (i.e. appellant will sign on each page of the script)

4. Six copies of Script translated into English

5. Six clearly typed and authenticated copies of the original and English translation of the songs, if any.

6. Six copies of CBFC's Order appealed against.

7. An affidavit declaring that the print of the film being presented to the Tribunal is the same as was presented to the CBFC; and the authenticated script and the translation thereof, presented to the Tribunal is the same as that submitted to the CBFC.

8. A demand draft for Rs.100/- (for films with length up to 2000 ft. – short film) or Rs.750/- (for films with length more than 2000 ft – long film), drawn in favour of the Drawing and Disbursing Officer, Ministry of I&B, payable at New Delhi.

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

COMPETITION APPELLATE TRIBUNAL

The Competition Appellate Tribunal is a statutory organization established under the provisions of the Competition Act, 2002 to hear and dispose of appeals against any direction issued or decision made or order passed by the Competition Commission of India (CCI) under certain sections of the Competition Act, 2002 and also to adjudicate compensation applications in respect of claims arising from the findings of CCI or on orders of the COMPAT.The Central Government or the State Government or a local authority or enterprise or any person may prefer an appeal to the COMPAT if aggrieved by any direction, decision or order with respect to sub-sections (2) and (6) of section 26, section 27, section 28, section 31, section 32, section 33, section 38, section 39, section 43, section 43A, section 44, section 45 or section 46 of the Competition Act 2002.

Chapter VIIIA related to Competition Appellate Tribunal (COMPAT) was inserted in the Competition Act 2002 vide the Competition (Amendment) Act 2007. In exercise of powers under section 53A of Competition Act 2002, the Central Government vide Notification No. S.O 1240 (E), established the COMPAT with effect from 15th May, 2009 with headquarters at New Delhi.

Competition Appellate Tribunal,
Kota House Annexe,
No. 1 Shahjhan Road,
New Delhi-110 011.

The Appellate Tribunal shall consist of a Chairperson and not more than two other members to be appointed by the Central Government.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 the Competition Act 2002 and of any rules made by the Central Government. COMPAT shall have, for the purposes of discharging its functions under the Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908. Every order made by the Appellate Tribunal shall be enforced by it in the same manner as if it were a decree made by a court in a suit pending therein. If any person contravenes, without any reasonable ground, any order of the Appellate Tribunal, he shall be liable for a penalty of not exceeding rupees one crore or imprisonment for a term up to three years or with both as the Chief Metropolitan Magistrate, Delhi may deem fit.

Procedure Aspects for filing Appeal

The procedural aspects of appeal before COMPAT are contained in Competition Appellate Tribunal (Form and fee for filing an appeal and fee for filing compensation applications) Rules, 2009 and The Competition Appellate Tribunal (Procedure) Regulations, 2011.

1. A memorandum of appeal shall be presented in the Registry of the Competition Appellate Tribunal or shall be sent by registered post addressed to Registrar of the Appellate Tribunal in the Form prescribed in the Rules.

2. A memorandum of appeal sent by post shall be deemed to have been presented on the day it was received in the registry.

3. Every Memorandum of Appeal shall be in five copies and shall be accompanied with the certified copy of the direction or decision or order against which the appeal is filed.

4. Where a party is represented by an authorized representative, a copy of the authorization to act as the authorized representative and the written consent thereto by such authorized representative, shall be appended to memorandum of the appeal.

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

5. Every memorandum of appeal and compensation application shall be accompanied with a prescribed fee and such fee may be remitted in the form of demand draft drawn in favour of Pay and Accounts Officer, Ministry of Corporate Affairs, payable at New Delhi.

6. The procedure for filing the appeal shall be as decided by the Appellate Tribunal.

7. The proceedings of the Tribunal shall be conducted in English. No appeal, application, document or other papers contained in any other language than English shall be accepted by the Tribunal unless the same is accompanied by a translation thereof in English attested by a translator and countersigned by the party concerned.

8. Every appeal or application supported by an affidavit and a certified copy of the impugned direction, decision or order of the Commission, shall be verified and if found to be in order, be registered by the Registrar and shall be given a serial number.

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL (CESTAT)

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

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

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

Procedural Aspects of Appeal

The procedure adopted by this tribunal is covered in the following legislations:Customs, Excise and Service Tax Appellate Tribunal (Procedure) Rules, 1982; Central Excise (Appeals) Rules, 2001; Customs (Appeals) Rules, 1982 and Rule 9 of Service Tax Rules, 1994.

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

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

3. Memorandum of appeal in the relevant form means the following under the various Acts:
a. In Central Excise matters – The Form prescribed for filling appeal before Tribunal is EA-3, whereas the Memorandum of cross-objections is required to be filed in Form No. E.A.-4. Each of these Form has to be filed in quadruplicate and is required to be an equal number of copies of the order appealed against (one of which at least shall be a certified copy). [Rule 6 of the Central Excise (Appeals) Rules, 2001]
b. In matter of Customs - Relevant forms for appeal and memorandum of cross objections prescribed are C.A.-3 & C.A.-4 respectively. [Rule 6 of the Customs (Appeals) Rules, 1982]
c. In service tax matters - Relevant forms for appeal and memorandum of cross objections prescribed are Form ST-5 & ST-6 respectively. [Rule 9 of the Service Tax Rules, 1994]

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

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

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

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

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

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

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

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

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

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

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

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

A District Judge is appointed as Presiding Officer of the Tribunal and he is assisted by with one or more Recovery Officers and such other officers and employees as the Government may think fit. The Central Government may authorize the Presiding Officer of one Tribunal to discharge also the functions of the Presiding Officer of another Tribunal. Presently 34 DRT's and 5 DRAT's are functioning in India.

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

DRT and DRAT shall have, for the purposes of discharging their functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:—
(a) summoning and enforcing the attendance of any person and examining him on oath;
(b) requiring the discovery and production of documents;
(c) receiving evidence on affidavits;
(d) issuing commissions for the examination of witnesses or documents;

(e) reviewing its decisions;
(f) dismissing an application for default or deciding it ex parte;
(g) setting aside any order of dismissal of any application for default or any order passed by it ex parte;
(h) any other matter which may be prescribed.

Procedural Aspects at DRT

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

1. Where a bank or a financial institution has to recover any debt from any person, it may make an application to the Tribunal within the local limits of whose jurisdiction—
(a) the defendant, or each of the defendants where there are more than one, at the time of making the application, actually and voluntarily resides, or carries on business, or personally works for gain; or
(b) any of the defendants, where there are more than one, at the time of making the application, actually and voluntarily resides, or carries on business, or personally works for gain; or
(c) the cause of action, wholly or in part, arises:

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

3. The proceedings of the Tribunal shall be conducted in English or Hindi. No reference, application, representation, documents or other matter contained in any

language other than English or Hindi shall be accepted by the Tribunal unless the same is accompanied by the true translation thereof in English or Hindi.

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

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

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

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

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

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

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

Procedural Aspects at DRAT

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

Every appeal shall be filed within a period of forty-five days from the date on which a copy of the order made, or deemed to have been made, by the Tribunal is received by him and it shall be in such form and be accompanied by such fee as may be prescribed. The Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

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

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

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

INCOME TAX APPELLATE TRIBUNAL

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

Income Tax Appellate Tribunal (ITAT) is a quasi judicial institution set up in January, 1941 and specializes in dealing with appeals under the Direct Taxes Acts. The orders passed by the ITAT are final and an appeal lies to the High Court only if a substantial question of law arises for determination..

The Commissioner of Income-Tax (Appeals) is the first appellate authority and the Income Tax Appellate Tribunal (ITAT) is the second appellate authority. Appeal to the ITAT can be filed by any of the aggrieved party either by the taxpayer or by the

Assessing Officer. The ITAT is constituted by the Central Government and functions under the Ministry of Law & Justice.

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

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

The Income Tax (Appellate Tribunal) Rules, 1963, have been made by the Tribunal. The headquarters of Income Tax Appellate Tribunal is located at Mumbai. At present, it is functioning with 63 Benches at 27 different places having specified jurisdiction. For the sake of administrative convenience, the Income Tax Appellate Tribunal is divided into nine zones. The President of the Tribunal is the Head of the Department and he also exercises administrative control over all the Benches of the Tribunal. Each zone is headed by a Vice-President.

Procedural Aspects at ITAT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5. Documents to be submitted with Appeal include:

- Form No. 36 - in triplicate.
- Order appealed against - 2 copies (including one certified copy).
- Order of Assessing Officer - 2 copies
- Grounds of appeal before first appellate authority [i.e., Commissioner of IncomeTax (Appeals)] - 2 copies.
- Statement of facts filed before first appellate authority [i.e., Commissioner of
- Income-Tax (Appeals)] - 2 copies.
- In case of appeal against penalty order – 2 copies of relevant assessment order.

- In case of appeal against order under section 143(3), read with section 144A of Income Tax Act 1961 – 2copies of the directions of the Joint Commissioner under section 144A.
- In case of appeal against order under section 143, read with section 147 of Income Tax Act 1961 - 2 copiesof original assessment order, if any.
- Copy of challan for payment of fee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

INTELLECTUAL PROPERTY APPELLATE BOARD (IPAB)

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

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

IPAB has jurisdiction to hear appeals from the order/decision of the Registrar and all cases pertaining to rectification of register and all pending cases by virtue of section 100 of The Trademarks Act 1999.

The provision of appellate remedy before the IPAB is laid down in the Geographical Indications of Goods (Registration and Protection) Act 1999. The IPAB was conferred by the Patents Act 1970 (as amended vide the Patents (Amendment) Act 2002) with the jurisdiction to hear all cases against any order or decision of the controller and all cases pertaining to revocation of patent other than on a counter claim in a suit for infringement and rectification of registers and all such cases which were pending before the High Court stood transferred to the IPAB.

Procedural Aspects

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

- The Intellectual Property Appellate Board vide Notification GSR 929(E). dated 5th December 2003 to regulate its procedure, in exercise of powers conferred upon it by section 92 of the Trade Marks Act, 1999 (47 of 1999), made The Intellectual Property Appellate Board (Procedure) Rules, 2003.
- IPAB made vide notification G.S.T 930(E) dated 29th November 2010, the Intellectual Property Appellate Board (Patents Procedure) Rules, 2010
- Trade Marks (Applications and appeals to the Intellectual Property Appellate Board) Rules, 2003
- Patents (Applications and appeals to the Intellectual Property Appellate Board) Rules, 2011

Procedure with respect to Trademarks:

1. Any person aggrieved by an order or decision of the Registrar, may prefer an appeal to the Appellate Board within three months from the date on which the order

or decision sought to be appealed against is communicated to such person preferring the appeal. An appeal may be admitted after the expiry of the 3 month period specified if the appellant satisfies the Appellate Board that he had sufficient cause for not preferring the appeal within the specified period.

2. An appeal to the Appellate Board shall be in the prescribed form and shall be verified in the prescribed manner and shall be accompanied by a copy of the order or decision appealed against and by such fees as may be prescribed.

3. An application shall be filed in the Form 1 annexed to the Trade Marks (Applications and appeals to the Intellectual Property Appellate Board) Rules, 2003 by an aggrieved person in the Registry of the Appellate Board.

4. An appeal from any order or decision of the Registrar of Trade Marks shall be filed in the Forms 2,3 or 4 of the Trade Marks (Applications and appeals to the Intellectual Property Appellate Board) Rules, 2003.

5. An application or appeal sent by post shall be deemed to have been presented before the Registry on the day it was received in the Registry.

6. The prescribed fees shall be paid through bank draft payable at Chennai drawn in favour of the Deputy Registrar, Intellectual Property Appellate Board.

7. The proceedings of the Appellate Board shall be conducted in English or Hindi. All decisions or orders of the Appellate Board shall be either in English or Hindi.

8. Every application, appeal, counter statement, rejoinder, reply or other document filed before the Appellate Board shall by typed or printed neatly. The application or appeal shall be presented in three sets in a paper-book form along with an empty file size envelope bearing full address of the respondent and, in case the respondents are more than one, then, sufficient number of extra paper-books together with empty file size envelopes bearing full addresses of each respondent shall be furnished by the applicant or appellant.

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

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

(a) receiving evidence;

(b) issuing commissions for examination of witnesses;

(c) requisitioning any public record; and

(d) any other matter which may be prescribed.

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

NATIONAL CONSUMER DISPUTE REDRESSAL COMMISSION (NCDRC)

The National Consumer Dispute Redressal Commission (NCDRC) is established under the Consumer Protection Act, 1986 which provides for establishment of Consumer Dispute Redressal Commissions to be established at the District, State and at the National level.

The National Consumer Disputes Redressal Commission (NCDRC), India is a quasi-judicial commission in India which was set up in 1988 under the Consumer Protection Act of 1986 with its head office in New Delhi. The commission is headed by a sitting or retired judge of the Supreme Court of India.

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

As per Section 21 of Consumer Protection Act, 1986 the NCDRC shall have jurisdiction to entertain a complaint valued more than one crore and also have Appellate and Revisional jurisdiction from the orders of State Commissions or the District fora as the case may be. Section 23 of Consumer Protection Act, 1986, provides that any person aggrieved by an order of NCDRC may prefer an Appeal against such order to Supreme Court of India within a period of 30 days.

Procedure of Filing a Case

Apart from the Consumer Protection Act 1986, the Procedure for filing complaints before the Consumer Forum is contained in the Consumer Protection Rules 1987, Consumer Protection Regulations 2005 and Consumer Protection (Procedure for Regulation of allowing appearance of Agents or Representatives or Non Advocates or Voluntary Organizations before the Consumer Forum) Regulations 2014.

Consumers can file different types of complaints depending on their specific grievance by visiting the Consumer Court at the district, state or national level along with the documents required for filing the complaint.

Consumer Complaint (CC)

Consumer Complaint as provided under Section 21(a)(i) of the Consumer Protection Act, 1986, where the value of the goods or services and compensation, if any, claimed, exceeds Rupees One Crore is to be filed in with the Registry of the NCDRC within a period of two years from the date on which the cause of action has arisen. Complaint can be filled on all working days (Monday to Friday) between 10:00 A.M. to 4:30 P.M. at Ground Floor 'Upbhokta Nyay Bhawan', 'F' Block, General Pool Office Complex, INA, New Delhi-110 023. Consumer Complaint should be signed by the complainant and supported by a Notarised attested affidavit with 1+3 sets + Number of Opposite Parties (with File cover) The Consumer Complaint along with all the copies should be paginated and duly indexed.

Documents to be submitted at the time of Consumer Complaint:

Fee for Rs.5,000/- for making Consumer Complaint (Demand Draft in favour of "The Registrar, NCDRC, New Delhi

- Index
- Complaint with Affidavit
- Supporting Documents in favour of the Complaint e.g receipt, voucher etc.
- Limitation if any – 2 years from cause of action

Note:

1. The documents shall be filed in English language only or translated copy of any other language, duly typed in double space on one side of the paper. If any supporting documents are not legible the same will not be accepted until clear legible/photo copies are filed.

2. If the documents are not filed as per in the format mentioned above the same will be returned to the parties at thecounter itself without acknowledgement and will only be registered after removing the defects

3. After the issue of notice, any documents in a case, the same has to be served on the other side and 1+3 sets be filed with proof of service. No document will be accepted unless filed two days (working days) in advance from the date of hearing.

4. The counsel or the parties appearing in person are to file independent or separate appeals/revision petitions, against each appeal/complaint decided by the State Commission in the common order.

5. Caveat Application filed in the Commission in Revision Petition and First Appeal has to be filed in 1+3 sets along with proof of service on Opposite Parties and also copy of order of the State Commission.

First Appeal (FA)

As provided under Section 19 of the Consumer Protection Act, 1986, Any person aggrieved by an order made by the State Commission in exercise of its powers conferred by sub-clause (i) of clause (a) of section 17 may prefer an appeal against such order before this Commission within a period of thirty days from the date of receipt of the order on all working days (Monday to Friday) between 10:00 A.M. to 4:30 P.M. at Ground Floor, 'Upbhokta Nyay Bhawan', 'F' Block, General Pool Office Complex, INA, New Delhi - 110 023. First Appeal must be supported by a Notarised attested affidavit with 1+3 sets + Number of Opposite Parties (with File cover). The First Appeal along with all the copies should be paginated and duly indexed.

Documents to be submitted at the time of First Appeal:

- Memo of Appeal with Affidavit
- Stay Application with Affidavit, if required
- Statuary Deposits as per Section 19 of the Consumer Protection Act, 1986 in the form of Demand Draft (in favour of "The Registrar, NCDRC, New Delhi")
- Certified Copy of Order of State Commission
- Copy of Complaint, Pleadings, Evidence, Reply & Rejoinder filed in State Commission and other documents relied on by both parties.(All the Annexures must be attested as True Copy on the last page with name & signature)
- Limitations, if any – within 30 days of the receipt of the Order

Note:

1. The documents shall be filed in English language only or translated copy of any other language, duly typed in double space on one side of the paper. If any supporting documents are not legible the same will not be accepted until clearlegible/photo copies are filed.

2. If the documents are not filed as per in the format mentioned above the same will be returned to the parties at thecounter itself without acknowledgement and will only be registered after removing the defects

3. The counsel or the parties appearing in person are to file independent or separate appeals/revisionpetitions, against each appeal/complaint decided by the State Commission in the common order.

4. Caveat Application filed in the Commission in Revision Petition and First Appeal has to be filed in 1+3 sets alongwith proof of service on Opposite Parties and also copy of order of the State Commission.

Revision Petition (RP)

Revision Petition as provided under Section 21(b) of the Consumer Protection Act, 1986 to call for the records and pass appropriate orders in any consumer dispute which is pending before or has been decided by any State Commission can be filed with the Registry of NCDRC within a period of ninety days from the date of receipt of the order on all working days (Monday to Friday) between 10:00 A.M. to 4:30 P.M. at Ground Floor, 'Upbhokta Nyay Bhawan', 'F' Block, General Pool Office Complex, INA, New Delhi - 110 023. Revision Petition must be supported by an Notarised attested affidavit with 1+3 sets + Number of Opposite Parties (with File cover). The Revision Petition along with all the copies should be paginated and duly indexed.

Documents to be submitted at the time of Revision Petition:

- Index
- Memo of Parties
- Revision Petition with affidavit
- Stay Application, or any other application if any, with affidavit
- Certified copy of order of State Commission
- Copy of order of District Forum
- Copy of Complaint, Reply & Rejoinder filed before District Forum as well as copy of evidence if recorded and other documents relied on by both parties. (All the Annexures must be attested as True Copy on the last page with name & signature)
- Limitations, if any (within 90 days of the receipt of the Order)

Note :

1. The documents shall be filed in English language only or translated copy of any other language, duly typed in doublespace on one side of the paper. If any supporting documents are not legible the same will not be accepted until clear legible/photo copies are filed.

2. If the documents are not filed as per in the format mentioned above the same will be returned to the parties at the counter itself without acknowledgement and will only be registered after removing the defects

3. The counsel or the parties appearing in person are to file independent or separate appeals/revisionpetitions, against each appeal/complaint decided by the State Commission in the common order.

4. No. of copies to be filed in the Commission 1+3 sets + Number of Opposite Parties (with File cover).

5. Caveat Application filed in the Commission in Revision Petition and First Appeal has to be filed in 1+3 sets alongwith proof of service on Opposite Parties and also copy of order of the State Commission.

Transfer Application (TA)

Transfer Application as provided under Section 22 B of the Consumer Protection Act, 1986-On the application of the complainant or of its own motion, the National Commission may, at any stage of the proceeding, in the interest of justice, transfer any complaint pending before the District Forum of one State to a District Forum of another State or before one State Commission to another State Commission, can be filed with the Registry of this Commission on all working days (Monday to Friday) between 10:00 A.M. to 4:30 P.M. at Ground Floor, 'Upbhokta Nyay Bhawan','F' Block, General Pool Office Complex, INA, New Delhi-110 023.Transfer Application must be supported by a Notarised attested affidavit with 1+3 sets + Number of Opposite Parties (with File cover).The Transfer Application along with all the copies should be paginated and duly indexed.

Documents to be submitted at the time of Transfer Application:

- Index
- Transfer Application with affidavit
- Copy of complaint and appeal filed before forum (All the Annexures must be attested as True Copy on the last page with name & signature)

Note :

1. The documents shall be filed in English language only or translated copy of any other language, duly typed in double space on one side of the paper. If any supporting documents are not legible the same will not be accepted until clear legible/photo copies are filed.

2. If the documents are not filed as per in the format mentioned above the same will be returned to the parties at the counter itself without acknowledgement and will only be registered after removing the defects

3. The counsel or the parties appearing in person are to file independent or separate appeals/revision petitions, against each appeal/complaint decided by the State Commission in the common order.

4. No. of copies to be filed in the Commission 1+3 sets + Number of Opposite Parties (with File cover).

5. Caveat Application filed in the Commission in Revision Petition and First Appeal has to be filed in 1+3 sets along with proof of service on Opposite Parties and also copy of order of the State Commission.

TELECOM DISPUTES SETTLEMENT &APPELLATE TRIBUNAL (TDSAT)

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

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

Procedural Aspects

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

Government framed the Telecom Disputes Settlement and Appellate Tribunal (Form, Verification and the Fee for filing an appeal) rules, 2003.

Some important procedural aspects are as follows:

1. The language of the Tribunal shall be English provided that the Bench may in its discretion permit the use of Hindi in its proceedings.

2. An advocate representing a party in a case shall file a duly executed Vakalatnama bearing court stamp of Rs.2.75;

3. Parties/Counsel will be required to file one original and four copies of the petition/ appeal/ misc. application and all other pleadings;

4. Wherever any page of a document is not legible, a typed copy shall be annexed.

5. The petition shall be in the proforma appended to these procedures. The appeal shall be in form A appended to the Telecom Disputes Settlement and Appellate Tribunal (Form, Verification and the Fee for filing an appeal) Rules, 2003 notified by the Central Government in the Gazette of India on 2nd April 2003.

6. The contents of the petition/appeal/misc. application/counter affidavit etc. shall be supported by a verification regarding their correctness by the petitioner/appellant/applicant or respondent or the person authorised to sign petition/appeal/misc. application/counter affidavit etc.

7. Before filing any petition/appeal/misc. application/other pleadings before the Tribunal, a copy of the same shall be served on opposite parties and proof of service necessarily be enclosed.

8. Pagination of the cases filed before the Tribunal shall be in continuous manner beginning from the petition/ appeal along with annexures. Counter-affidavit, rejoinder and other miscellaneous applications etc. filed from time to time shall follow ad seriatum. The petition/appeal, counter affidavit, rejoinder etc shall be retained in the same volume. However, if the number of pages of the documents on an average exceed 200, a separate volume numbered as volume II and so on shall be prepared.

The index page of Volume I shall be formatted in a manner that leaves enough space for additional entries to be made in regard to the documents submitted subsequently;

9. The parties concerned shall do proper pagination while filing the petitions/appeals, counter and rejoinder etc. The concerned advocate(s) or their representatives shall obtain the last page of the Volume already on file from the Registry of the Tribunal and shall arrange to paginate their documents in continuation and in coordination with the officials of the Registry in all the copies.

10. Petition/Appeal/Misc. Application shall accompany the required fees in the form of demand draft, in favour of Drawing and Disbursing Officer, Telecom Disputes Settlement and Appellate Tribunal. The fees for filing an appeal shall be as provided in Telecom Disputes Settlement and Appellate Tribunal (Form, Verification and the Fees for Filing an Appeal) Rules, 2003. The fees for filing a miscellaneous application shall be Rs.1, 000/-.

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

(i) Petition seeking declaratory relief with consequential relief.

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

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

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

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

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

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

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

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

(c) an ad valorem rate of 0.5%, over and above the fees computed at (b) above , of the total amount/sum total of all periodical amounts claimed, including interest, if any, where the sum total of all amounts claimed, including interest, is more than Rs. 5 crore, subject to a maximum fees of Rs. 50 lakhs.

NATIONAL GREEN TRIBUNAL

The National Green Tribunal has been established on 18.10.2010 under the National Green Tribunal Act 2010 for effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to environment and giving relief and compensation for damages to persons and property and for matters connected therewith or incidental thereto. It is a specialized body equipped with the necessary expertise to handle environmental disputes involving multi-disciplinary issues. The Tribunal shall not be bound by the procedure laid down under the Code of Civil Procedure, 1908, but shall be guided by principles of natural justice.

The Tribunal's dedicated jurisdiction in environmental matters shall provide speedy environmental justice and help reduce the burden of litigation in the higher courts. The Tribunal is mandated to make and endeavour for disposal of applications or appeals finally within 6 months of filing of the same. Initially, the NGT is proposed to be set up at five places of sittings and will follow circuit procedure for making itself more accessible. New Delhi is the Principal Place of Sitting of the Tribunal and Bhopal, Pune, Kolkata and Chennai shall be the other 4 place of sitting of the Tribunal.

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

INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

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

The Insolvency and Bankruptcy Code was passed by Lok Sabha on 5th May, 2016 and by Rajya Sabha on 11th May, 2016. The Code received the President's assent on May 28, 2016 and was notified in the Gazette of India soon after as 'The Insolvency and Bankruptcy Code 2016' (Act No. 31 of 2016). The Code is divided into 5 parts; 255 sections; 11 Schedules and 21 chapters.

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

Board shall be at such place in the National Capital Region, as the Central Government may, by notification, specify.

The Insolvency and Bankruptcy Board of India was established on October 1, 2016 by Notification S.O. 3110(E) in exercise of provisions under sub-section (1) and (3) of section 188 of The Insolvency and Bankruptcy Code, 2016, with its head office at New Delhi. The IBBI office is located at CMA Bhawan, 3, Institutional Area, Lodhi Road, New Delhi-110003. Phone No. 011 24666127,128 Fax- 011 24666127,128. The IBBI currently consists of 5 members including the Chairperson.

The Insolvency and Bankruptcy Board of India (IBBI), in exercise of its powers conferred under section 240 of the Insolvency and Bankruptcy Code, 2016, has notified the following two regulations on 21st November 2016:

a. The Insolvency and Bankruptcy Board of India (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016.

b. The Insolvency and Bankruptcy Board of India (Insolvency Professional Agencies) Regulations, 2016.

The Insolvency and Bankruptcy Board of India (IBBI), in exercise of its powers conferred under section 240 of the Insolvency and Bankruptcy Code, 2016 (Code), has notified the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016 on 23rd November 2016 which shall come into effect from 29th November, 2016.

On 1st December, 2016, the IBBI notified the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

REAL ESTATE APPELLATE TRIBUNAL (REAT)

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

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

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

IMPORTANT WEBSITES

Cyber Appellate Tribunal: http://catindia.gov.in/

NCLT: http://nclt.gov.in/

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

Appellate Tribunal for Foreign Exchange: http://dor.gov.in/Foreign_Exchange_acts

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

Film Certification Appellate Tribunal: mib.nic.in/fcat/

Customs, Excise and Service Tax Appellate Tribunal: http://cestat.gov.in/

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

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

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

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

Telecom Disputes Settlement & Appellate Tribunal: http://tdsat.nic.in/

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

Competition Appellate Tribunal: http://compat.nic.in/

PMLA: http://dor.gov.in/

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

AUTHOR'S PROFILE

Dr. Rajkumar S. Adukia

B. Com (Hons.), FCA, FCS, FCMA, L.L.B, M.B.A, DIPR, Dip IFRS (UK), Dip LL & LW, dip in criminology, Phd.

Mobile 098200 61049

Email : rajkumarradukia@caaa.in

Dr. Rajkumar S. Adukia is an eminent Business Advisor, Author and Speaker. He has been conducting seminar and lectures across various countries. Having graduated from Sydenham College of Commerce & Economics in 1980 as 5th rank holder in Bombay University, he received a Gold Medal for highest marks in Accountancy & Auditing. He passed the Chartered Accountancy with 1st Rank in Inter CA and 6th Rank in Final CA examination. He also secured 3rd Rank in Final Cost Accountancy Course in 1983. He has been awarded G.P.Kapadia prize for best student of the year 1981. Besides, he holds Degree in law, PhD in Corporate Governance in Mutual Funds, MBA, Diploma IFRS (UK), Diploma in Labour law and Labour welfare, Diploma in IPR, Diploma in Criminology.

He has be Hon. Sec. of Western India Regional Council of Institute of Chartered Accountants of India in 1991-92 and Chairman of WIRC in 1997-98, central council member from 1998 to 2016 , International Member of Professional Accountants in Business Committee (PAIB) of International Federation of Accountants (IFAC) from 2001 to 2004. He has been Chairman of Research Committee, Board of Studies, Public Relation Committee, Members in Industry, University & Higher Secondary Board Liaison Committee, Peer review Board & International Trade Law & WTO OF ICAI, Member of Inspection Panel of Reserve Bank of India, Member of J.J. Irani committee which drafted Companies Bill 2008, Member of Secretarial Standards Board of ICSI, Member of working group of Competition Commission of India, National Housing Bank, NABARD, RBI, CBI etc. He has also been Independent Director of Mutual Fund Company and Asset Management Company.

He has written more than 100 books on wide variety of topic ranging from those dealing with Trade, Taxation, Finance, Real Estate to topics like Time Management and Professional Opportunities. He is a successful Practicing Chartered Accountant since last 30 years in varied fields of Financial Planning, Taxation and Legal Consulting. He has been a business advisor for various companies on varied subjects and has travelled across the globe for his professional work and knowledge sharing. He has widely travelled three fourth of globe addressing international conferences and seminar on various international issues like Corporate Social Responsibility, Corporate Governance, Business Ethics etc.

He is currently Member of Quality Review Board under Chartered Accountants Act 1949, Member of CAG Advisory Audit Committee, Member of International Financial Reporting Standards Foundation SME Group. He has been actively involved with ICAI as a Central Council Member during the period when the convergence to IFRS was conceptualized in India and has been instrumental in materializing the idea. He has written two books on IFRS viz. Encyclopedia on IFRS and Handbook on IFRS. He has given Lecture on IFRS at various prestigious forums including National Academy of Audit and Accounts. He has been associated with numerous corporate and banks (like DENA Bank & Central Bank of India)in their convergence procedure both directly and by giving training on Ind AS to their staff members. He has also trained staff members of various regulatory bodies like Regional Director and Registrar of Companies, Western Region, Ministry of Corporate Affairs, CBDT and CBEC. 126

He has won numerous awards like The Jeejeebhoy Cup for proficiency and character, State Trainer by the Indian Junior Chamber, "Rajasthan Shree" by Rajasthan Udgosh, a noted Social Organization of Rajasthan and many other awards as a successful leader in various fields.

He promotes leadership, education, authorship and entrepreneurship and is always available for any assistance in this regard. He promotes knowledge development and is approachable for co-authorship with other enthusiastic professionals.