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NCLT

Background:

To replace multiple Quasi-Judicial forums like **Ex:** Company Law Board(CLB), Board for Industrial and Financial Reconstruction (BIFR) and the Appellate Authority for Industrial and Financial Reconstruction, MCA notified one single forum to hear all company law and other related matters i.e National Company law Board(NCLT) and National Company Law Appellate Tribunal(NCLAT).

From 01 June 2016 onwards, All matters or proceedings pending before CLB, shall stand transferred to NCLT. Provisions related to NCLT and NCLAT provided in Chapter XXVII.

Note: Winding up and Corporate Insolvency under IBC also covered under NCLT Jurisdiction

Note: Sec 408-419 is not part of syllabus. Chapter will start from Sec 420 onwards.

	NCLT	NCLAT	Supreme Court
Relevant Section	Sec 420	Sec 421	Sec 423
Nature of Appeal	All Company Law related matters and Corporate Insolvency matters under IBC	Order of NCLT	On order of NCLAT only on Question of Law.
Time Limit		45 Days (Delay may be condoned on sufficient cause by max 45days)	60 Days from order of NCLT (Delay may be condoned on sufficient cause by max 60days)
Final order	After giving an opportunity of being heard, Tribunal may pass such orders as it deems fit and shall send copy of order to parties concerned.	-----Do-----	Order of Supreme Court shall be final and binding on both the parties.

Section 422:

- Every Application filed before NCLT and NCLAT should be disposed by it expeditiously with 3 months from the date of appeal before NCLT and NCLAT.
- If NCLT/NCLAT appeal is not disposed off with in 3 months, it should record reasons for such delay.
- After recording reason for such delay, President /Chairperson as the case may be can extend time period of 3 months by further 90 days.
- Extension of time period by further 90 days is under discretion of President /Chairperson. If President /Chairperson is of the opinion that no extension is to be provided, then they may not extend period for dispose off the appeal.

MCQ

Appeal before NCLT made on 01 April 2021. Maximum by when NCLT should pass an order including extended time granted by President.

- a. On or before 30 Sep 2021
- b. On or before 01 Oct 2021
- c. On or before 28 Sep 2021
- d. On or before 30 Jun 2021

Ans: C

Procedure before Tribunal and Appellate Tribunal (Sec 424)

While disposing off the appeal, Tribunal and Appellate Tribunal have power to regulate its own procedure. Both jurisdictions have same power as like that of civil court.

(All points are common. You might have read the same in other chapters, Just recapitulate them.)

- 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. subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, requisitioning any **public record or document** or a copy of such record or document from any office;
- e. **Issuing commissions** for the examination of witnesses or documents;
- f. Dismissing a representation for default or deciding it **ex parte**;
- g. **setting aside any order of dismissal** of any representation for default or any order passed by it ex parte;
- h. **Any other matter** which may be prescribed.

Hint: Sec 420 to 424 and sec 431 and 432 are important for Exams

Summary of Sec 425 to 434:

Tribunal and Appellate Tribunal have same Jurisdiction, Power and Authority as like High Court under provisions of contempt of courts act 1971. (Sec 425)

The Tribunal or the Appellate Tribunal may, by general or special order, direct, subject to such conditions, if any, as may be specified in the order, any of its officers or employees or any other person authorized by it to inquire into any matter connected with any proceeding (Sec 426).

No suit, prosecution or other legal proceeding shall lie against the Tribunal, the President, Member, officer or other employee, or against the Appellate Tribunal, the Chairperson, Member, officer or other employees if they act in good faith (Sec 428).

No Civil court has jurisdiction any matter which falls under NCLT and NCLAT Jurisdiction(Sec 430).

No act or proceeding of the Tribunal or the Appellate Tribunal shall be questioned or shall be invalid merely on the ground of the existence of any vacancy or defect in the constitution of the Tribunal or the Appellate Tribunal, as the case may be.(Sec 431)

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. (Sec 432)

Hint: So far most of the questions were asked from this chapter are from Time limit and condonation of delay before NCLAT and Supreme Court.

Question and Answers from Past Attempts/RTP/MTP:

Study Material

1. On an application filed before Tribunal from one of the shareholder of Company, Tribunal **(NCLT) passed order on 20th December 2019** without the consent of parties. Mr. Rama, one of the party to the proceeding whose family condition was not good so didn't take much interest in order of tribunal but after few days due to aggrieved by the order, he **filed an appeal before Appellate Tribunal (NCLAT) on 15th March 2020** showing sufficient cause of delay for not filling appeal up to 45 days from the date of order. The Appellate Tribunal has passed an order dated **30th April 2020**, Mr.Rama was not satisfied and made **application to Supreme Court on 30th September 2020** against the order of the Appellate Tribunal. Considering the given situation, examine whether Appeal filed before the **Supreme Court is admissible after showing cause of delay.**

Ans/Clue: As per sec 423, Supreme court can accept an appeal after 60 days time limit in case of delay with sufficient cause. However SC can condone delay only upto 60 Days. Appeal before SC filed on 30 September 2020 on NCLAT order dated 15 March 2020. Mr Rama took 196 days to file an appeal before SC. This is after permissible time period of 120 days(60 days original+ max extend time by SC 60 days). Hence this is a time barred appeal. This appeal won't stand before SC.

From Past attempts:

JSK, a shareholder of CRI (Private) Ltd. filed an application before erstwhile Company Law Board, alleging various acts of oppression and mis-management in the affairs of the Company and sought certain relief measures. The petition was transferred to NCLT on its constitution. The NCLT passed an order on 5th October, 2017 without the consent of the parties. Aggrieved by the order, the shareholder decided to prefer an appeal. Nevertheless the shareholder was suffering from low blood pressure. He was medically advised not to move and he did not move. Therefore, he preferred the appeal with NCLAT on 5th December, 2017. Examine whether the appeal is admissible with reference to time limitation? Identify the provisions governing further appeal on the orders of NCLAT under Section 423 of the Companies Act, 2013. **(May 2018)**

Ans/Clue: order of NCLT is on 05 Oct 2017. Hence time available to appeal before NCLAT is 19 Nov 2017. Tribunal may accept appeal due to following reasons:

1. Party is suffered with low blood pressure which Tribunal may consider as sufficient cause and may condone delay
2. Further appeal filed is on 05 Dec 2017. Delay caused is within the limit of 90 days. (45 days limit+45 additional days for condonation of delay)