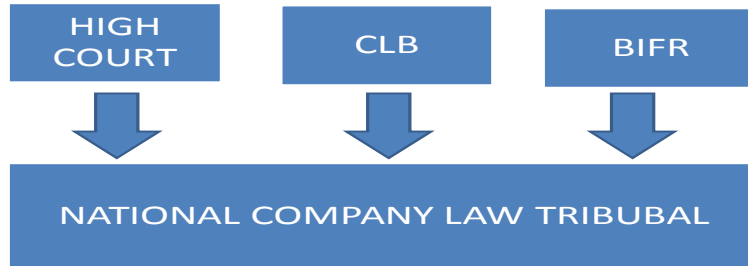


The Companies Act, 2013 had introduced provision of constituting National Company Law Tribunal (NCLT), which will be consisting of judicial and technical member and the Principal bench of NCLT shall be at New Delhi. NCLT shall dispose of the proceeding within 3 months time from the date of presentation of the application or petition.

## INTRODUCTION OF NCLT

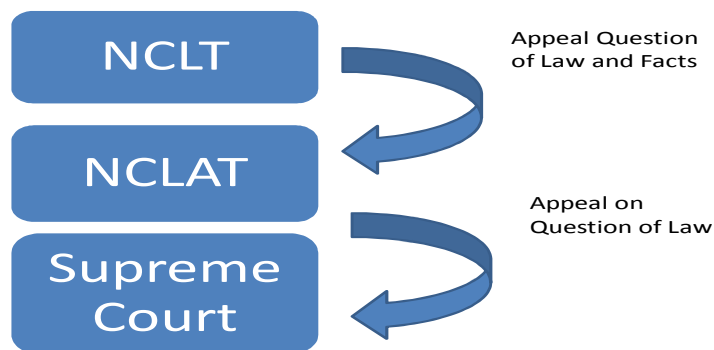


39

Any person aggrieved by an order of NCLT may prefer an appeal to Appellate Tribunal (NCLAT) within 45 days from the date of receipt of order

Any person aggrieved by the order of NCLAT may prefer an appeal to Supreme Court within 60 days from the date of receipt of Order only on question of law arising out of such order.

## QUASI JUDICIAL STRUCTURE



**NCLT (National Company Law Tribunal) :** NCLT assumes jurisdiction of the High Court as sanctioning authority in relation to :

- Restructuring
- Mergers and Amalgamation
- Reduction of Capital
- Compromise and Arrangement with Crs and Members
- Extension of Financial Year
- CDR
- Oppression and Mismanagement
- Class Action Suit
- Removal of Statutory Auditors

42

## Recent changes on 1<sup>st</sup> June 2016

### **CONSTITUTION OF NATIONAL COMPANY LAW TRIBUNAL (“NCLT”) AND NATIONAL COMPANY LAW APPELLATE TRIBUNAL (“NCLAT”)**



The Ministry of Corporate Affairs (“MCA”) has issued a notification no. S.O. 1932(E) S.O. 1933(E) and S.O. 1934(E).— dated June 1, 2016 Constituting of National Company Law Tribunal (“NCLT”) and National Company Law Appellate Tribunal (“NCLAT”) with effect from June 01, 2016. With the constitution of NCLT, the Company Law Board constituted under Companies Act, 1956 stands dissolved MCA in its notification has also listed out eleven Benches, its location and the territorial jurisdiction of the Benches.

## Amita Desai & Co. Company Secretaries

---

Provisions and Section of Companies Act, 2013 relating to NCLT are notified as detailed below, however rules made thereunder are not yet be enforced.

<b>Sr No.</b>	<b>Chapter No</b>	<b>Chapter Name</b>	<b>Section notified</b>	<b>Powers under CA 2013</b>
1	II	Incorporation of Company	7 (7) [except clause ( c ) and (d) ]	Legal action for false or incorrect information or representation in any of the document pursuant to incorporation except removal of name or winding up orders
2	II	Incorporation of Company	14 (1) and (2)	Conversion of status of the Company from Private to Public and Public to Private
3	IV	Share Capital and Debentures	55 (3)	Further issue of Redeemable Preference Shares to its Existing Preference Shareholder in case Company is not in position to Redeem its Preference Shares or pay dividend thereof ( roll over )
4	IV	Share Capital and Debentures	Proviso to 61(1) (b)	Consolidation and sub-division of shares resulting in change in voting percentage
5	IV	Share Capital and Debentures	62 (4) to (6)	Conversion or Change in Terms of Debentures where the Debentureholder is Government and such conversion is in public interest
6	IV	Share Capital and Debentures	71 (9) to (11)	Debenture Trustee can approach to the Tribunal for Redemption of Debentures in case of secured assets becomes insufficient
7	V	Acceptance of Deposits	75	Action against the Company in case it intends to defraud the depositors

---

Off : 1005, Solaris Hubtown, Andheri East End of Andheri Flyover, Andheri East, Mumbai-400 069

Tel : 91 22 26845919/20/21 Cell 09820177691

Website : [www.amitadesai.com](http://www.amitadesai.com) email : [info@amitadesai.com](mailto:info@amitadesai.com)

## Amita Desai & Co. Company Secretaries

8	VII	Management and Administration	97	Power to call AGM in case of failure of the Company to hold it
9	VII	Management and Administration	98	Power to call Meeting of Members other than AGM
10	VII	Management and Administration	99	Penal provision for non compliance with directions of Tribunal to call for AGM / Members Meeting
11	VII	Management and Administration	119 (4)	Order for inspection in case of default made by Company for not providing copy of Minutes of GM
12	IX	Accounts of Companies	130	Order for Re-Opening of Accounts if earlier Accounts are prepared in fraudulent manner or the affairs of Companies were mismanagement
13	IX	Accounts of Companies	131	Order for voluntary revision of Financial Statement or Director's Report filed by the Company
14	X	Audit and Auditors	140 (4) and (5)	Removal of Auditor without giving opportunity for representation and also suo moto order to change the Auditors in case Tribunal finds him involved in fraud
15	XI	Appointment and Qualification of Directors	169(4)	Order that representation need not be read out in case of removal of Director
16	XIV	Inspection, Inquiry and Investigation	213	Investigation into the Company's affairs
17	XIV	Inspection, Inquiry and Investigation	216(2)	Power to appoint Inspector for investigation
18	XIV	Inspection, Inquiry and Investigation	218	Power to approve taking of any action against the employees

Off : 1005, Solaris Hubtown, Andheri East End of Andheri Flyover, Andheri East, Mumbai-400 069

Tel : 91 22 26845919/20/21 Cell 09820177691

Website : [www.amitadesai.com](http://www.amitadesai.com) email : [info@amitadesai.com](mailto:info@amitadesai.com)

## Amita Desai & Co. Company Secretaries

---

19	XIV	Inspection, Inquiry and Investigation	221	Power to freeze assets of Company during investigation if prejudicial to the interest of the Company and other stakeholders
20	XIV	Inspection, Inquiry and Investigation	222	Power to freeze securities of Company during investigation
21	XIV	Inspection, Inquiry and Investigation	224 (5)	Power of Tribunal based on inspector's report to disgorgement of assets of the Company in case of fraud by the Director or KMP or other person and make them liable personally without any limitation of liability
22	XVI	Prevention of Oppression and Mismanagement	241, 242 [except Clause b(1), Clause (c) and (g) of Sub Section (2)], 243, 244 and 245	Oppression Mismanagement and Class Action suits
23	XXIV	Registration Office and Fees	399	No production of documents filed with Registrar relating to Courts Orders without permission of Tribunal or Court
24	XXVII	National Company Law Tribunal	415 to 433 both inclusive	Appointment, Removal, Power, Procedure for appeal etc of NCLT
25	XXVII	National Company Law Tribunal	434 (1)(a) and (b) and sub section (2)	Transission provision for pending CLB cases
26	XXVIII	Special Courts	441	Power to compound certain offences which are punishable with Fine only
27	XXIX	Miscellaneous	466	Dissolution of Company Law Board

---

Off : 1005, Solaris Hubtown, Andheri East End of Andheri Flyover, Andheri East, Mumbai-400 069

Tel : 91 22 26845919/20/21 Cell 09820177691

Website : [www.amitadesai.com](http://www.amitadesai.com) email : [info@amitadesai.com](mailto:info@amitadesai.com)

**OUR VIEWS:-**

Constitution of National Company Law Tribunal (NCLT) is a boon in the dynamic Corporate Governance environment and it will reduce the burden of High Court from piling up of cases of Company Law matters.

Class Action Suit is a welcome move in Indian Regulation which gives powers to minority shareholders to take action not only against the Company and its officers but also against the Audit Firm, expert, advisor or consultant (including Company Secretary) of the Company. As more onus is endeavored, Professionals need to act more diligent while performing their duties.

\*\*\*\*\*