



ICMAI
THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA
(Statutory Body under an Act of Parliament)



Southern India Regional Council, Chennai
Opportunities for CMAs in NCLT / NCLAT
Professional development Webinar – Online
Friday, 21st February 2025

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Chairman - SIRC of ICMAI (2022-23)
Chairman - Kerala Insolvency Professional Forum (2024-25)
Member , Board of Studies, SLS, CUSAT (2024-28)

Agenda

- Benches
- Jurisdiction on NCLT and NCLAT
- Cost accountants (CMA)
- Legislation wise empowerment
- Inherent Powers: Rule 11 of NCLT and NCLAT Rules
- Filing of Petitions, Applications
- Sine Quo non
- Q&A

Benches- NCLT

- **15 benches**
 - New Delhi (Principal Bench & normal benches,)Ahmedabad, Allahabad, Hyderabad, Bengaluru, Chandigarh, Chennai, Cuttack, Guwahati, Indore, Jaipur, Kochi, Kolkata, and Mumbai
 - More than one benches in Ahmedabad (2) Hyderabad(2) Delhi(6), Mumbai(6), Chennai(2) and Kolkata(2)
- **Sanctioned Strength of Members in NCLT**
 - **Hon'ble President-1**
 - **Hon'ble Members (Judicial)-31**
 - **Hon'ble Members(Technical)-31**
- **The present strength of NCLT as on 12.2.2025 :**
 - Hon'ble President-1-Chief Justice(R) Ramalingam Sudhakar
 - Hon'ble MemberJudicial-30
 - Hon'ble MemberTechnical-29
- Members sits at multiple benches > delay

Benches- NCLAT

- **2 Benches**
 - New Delhi – 4 benches
 - Chennai
 - Registrar bench

Opportunity for CMA -Technical members in NCLT-

- Shall consist of President and such Number of Judicial & Technical Members as Central Government deems fit to be appointed by Notification
- Technical Member -
 - Member of Indian Corporate Law Service for at least 15 years or Indian Legal Service in the pay scale of Joint Secretary or above OR
 - Company Secretary/ Chartered Accountant /**Cost Accountant in practice for at least 15 years** OR
 - **Any Person of proven ability, integrity and Standing having special knowledge and experience of at least 15 years in law, finance, industrial management or administration, accountancy** etc. OR
 - Person who is ex-presiding Officer of a Labour Court, Tribunal or National Tribunal under Industrial Dispute Act

Opportunity for CMA -Technical members in NCLAT-

- A Technical member shall be a person of proven ability, integrity and standing having special knowledge and professional experience of not less than twenty-five years in industrial finance, industrial management, industrial reconstruction, investment and accountancy.

Jurisdiction on NCLT and NCLAT

IBC 2016:

- Section 5(1) “Adjudicating Authority”, for the purposes of this Part, means National Company Law Tribunal constituted under section 408 of the Companies Act, 2013 (18 of 2013);
- **Section 60. Adjudicating Authority for corporate persons. –**
 - (1) The Adjudicating Authority, in relation to insolvency resolution and liquidation for corporate persons including corporate debtors and personal guarantors thereof shall be the National Company Law Tribunal having territorial jurisdiction over the place where the registered office of the corporate person is located.
- **Section 61. Appeals and Appellate Authority. -**
 - (1) Notwithstanding anything to the contrary contained under the Companies Act 2013 (18 of 2013), any person aggrieved by the order of the Adjudicating Authority under this part may prefer an appeal to the National Company Law Appellate Tribunal.

Jurisdiction on NCLAT

Competition Act

- 53A. (1) The National Company Law Appellate Tribunal constituted under section 410 of the companies Act, 2013 shall, on and from the commencement of Part XIV of Chapter VI of the Finance Act, 2017, be the Appellate Tribunal for the purpose of this Act and the said appellate Tribunal shall ..
 - *(a) to hear and dispose of appeals against any direction issued or decision made or order passed by the Commission under 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 Act;*
 - *(b) to adjudicate on claim for compensation that may arise from the findings of the Commission or the orders of the Appellate Tribunal in an appeal against any finding of the Commission or under section 42A or under sub-section(2) of section 53Q of this Act, and pass orders for the recovery of compensation under section 53N of this Act.*

Jurisdiction on NCLT and NCLAT

- Companies Act 2013 : Chapter CHAPTER XXVII
 - **Section 408. Constitution of National Company Law Tribunal.**— The Central Government shall, **by notification, constitute, with effect from such date as may be specified therein, a Tribunal to be known as the National Company Law Tribunal consisting of a President and such number of Judicial and Technical members, as the Central Government may deem necessary,** to be appointed by it by notification, to exercise and discharge such powers and functions as are, or may be, conferred on it by or under this Act or any other law for the time being in force.
 - **Section 410. Constitution of Appellate Tribunal.**— **The Central Government shall, by notification, constitute, with effect from such date as may be specified therein, an Appellate Tribunal to be known as the National Company Law Appellate Tribunal consisting of a chairperson and such number of Judicial and Technical Members,** not exceeding eleven, as the Central Government may deem fit, to be appointed by it by notification, for hearing **appeals against the orders of the Tribunal.**

Legislation wise empowerment

Companies Act 2013, IBC 2016 and Competition Act 2002

CA2013 : NCLT Rules 2016 and NCLAT

- Authorised representative
 - **FORM NO. NCLT. 12 - Memorandum of appearance**
- (9) “**certified**” means in relation to a copy of a document as hereunder;-
 - (a) certified as provided in section 76 of the Indian Evidence Act, 1872; or
 - (b) certified as provided in section 6 of Information Technology Act, 2000; or
 - (c) certified copy issued by the Registrar of Companies under the Act;
 - (d) copy of document as may be downloaded from any online portal prescribed under section 398 of the Act or a photo copy of the original pertaining to any company registered with the Office of the Registrar of Companies of the concerned State duly certified by a legal practitioner or a chartered accountant or **a cost accountant** or a company secretary;

CA2013: NCLAT Rules 2016

Part X

Appearance of authorised representative

- Section 63. Appearance of authorised representative .- Subject to provisions of Section 432 of the Act, a party to any proceedings or appeal before the Appellate Tribunal may either appear in person or authorise one or more chartered accountants or company secretaries of **cost accountants** or legal practitioners of any other person to present his case before the Appellate Tribunal.
- Section 64. Proof of engagement.-
 - (1) Where an advocate is engaged to appear for and on behalf of the parties, he shall submit Vakalatnama.
 - (2) The professionals like chartered accountants or company secretaries or **cost accountants** shall submit Memorandum of Appearance.

Intervention by NCLT under CA2013

2((38) —expert|| includes an engineer, a valuer, a chartered accountant, a company secretary, **a cost accountant** and any other person who has the power or authority to issue a certificate in pursuance of any law for the time being in force;

- Mergers and acquisition : chairman/ scrutineers
- Administrator
- Company Liquidator u/s 271
- Regd. Valuer u/s 247
- Mediator
- Forensic Auditor
- Investigation u/s 213

IBC 2016 and CMAs

- Interim Resolution Professional (IRP)
- Authorized representative
- Resolution Professional (RP) in both Corporate insolvency Resolution Process and Individual insolvency Resolution Process
- Liquidator
- Bankruptcy Trustee
- Regd . Valuer
- Forensic Auditor
- Expert advisory
- Litigation expert
- Consultancy – documentation, reporting etc.

Competition Act 2002 and CMAs

Competition Act 2002

- Section 35. A [person or an enterprise] or the Director General may either appear in person or authorise one or more chartered accountants or company secretaries **or cost accountants** or legal practitioners or any of his or its officers to present his or its case before the Commission.
- Explanation.—For the purposes of this section,—
 - (a) “chartered accountant” means a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;
 - (b) “company secretary” means a company secretary as defined in clause (c) of sub-section (1) of section 2 of the Company Secretaries Act, 1980 (56 of 1980) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;
 - **(c) “cost accountant” means a cost accountant as defined in clause (b) of sub section (1) of section 2 of the Cost and Works Accountants Act, 1959 (23 of 1959) and who has obtained a certificate of practice under sub- section (1) of section 6 of that Act;**

Competition Act 2002 and CMAs

[17. Appointment of Secretary, experts, professionals and officers and other employees of Commission. =

(1)The Commission may appoint a Secretary and such officers and other employees as it considers necessary for the efficient performance of its functions under this Act.

(2)The salaries and allowances payable to, and other terms and conditions of service of, the Secretary and officers and other employees of the Commission and the number of such officers and other employees shall be such as may be prescribed.

(3)The Commission may engage, in accordance with the procedure specified by regulations, such number of experts and professionals of integrity and outstanding ability, who have special knowledge of, and experience in, economics, law, business or such other disciplines related to competition, as it deems necessary to assist the Commission in the discharge of its functions under this Act.]

Inherent Powers u/s 11 of the NCLT and NCLAT Rules

Rule 11 of NCLAT Rules

- *11. Inherent powers.- Nothing in these rules shall be deemed to limit or otherwise affect the inherent powers of the Appellate Tribunal to make such orders or give such directions as may be necessary for meeting the ends of justice or to prevent abuse of the process of the Appellate Tribunal.*

Rule 11 of NCLT Rules

- *11. Inherent Powers.- Nothing in these rules shall be deemed to limit or otherwise affect the inherent powers of the Tribunal to make such orders as may be necessary for meeting the ends of justice or to prevent abuse of the process of the Tribunal.*

Process: Filing of Petitions, Applications and Pleadings

1. Company Petition under CA2013, IBC and Competition Act 2002
2. Interlocutory Petitions under company petition u/r 32
3. Process



4. Cause list, Index, Synopsis, date of events, Notice of Admission, Notice of Motion, Memorandum of Application, Relief & interim Relief, Affidavit, Annexures, Proof of payments of Fees, Proof of service and NCLT/NCLAT Acknowledgement

Sine Quo non

- Empanelment under jurisdictional registry
- Constantly updating the Act, Rules, Regulation and case laws of SCI and HC, NCLAT/NCLT
- Visit website of NCLAT (<https://nclat.nic.in>) and NCLT (<https://nclt.gov.in>), IBBI (<https://ibbi.gov.in>)
- Constant presence in the NCLT
- Engagement with corporate lawyers : Co-value creation

Let's discuss & stay connected

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Thank you