

## CORPORATE EVALUATION RESOLUTION IN INDIA

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### Abstract

According to the “Companies Act, 2013”, the National Company Law Tribunal (NCLT) has brought revolutionary change in the corporate conflict management system. This center was designed as a specialized forum to handle corporate law disputes in matters for shareholders, corporate management, and insolvency. It assesses the NCLT ability to provide efficient and fair remedies by critically examining the role of the tribunal for corporate governance about investor confidence. Due to the functions assigned to the NCLT, which include the addressing of complexities and reduction of procedural time, the NCLT has succumbed to some challenges, which include procedural delays, a lack of viable structures, and jurisdictional conflicts with other legal entities. Corporate rescue and insolvency practice in India: The current article shows that while the NCLT has enhanced procedural rationality and judicial autonomy, it still has drawbacks. This paper argues that the efficiency of the current judicial system is frustrated by delays in court cases and unclear jurisdictions, thus requiring reforms in its capacity and functional efficiency. In tracing the evolution of the selected cases, the study details what the NCLT has achieved and where needed improvement is required. There are propositions towards procedure modifications and improvements of physical infrastructure, as well as recommendations relating to matters of jurisdiction, that aim to enhance the contribution of the tribunal towards the steady development of an appropriate corporate legal environment for India.

**Keywords:** NCLT, Companies Act 2013, corporate dispute resolution, corporate governance, investor confidence, insolvency

### INTRODUCTION

Currently, the corporate scene in India has seen a dramatic change in the last decades owing to globalization requirements, the emergence of domestic players, and the requirement for a more formal and standardized system of business governance. Litigation is therefore inherent within this framework due to matters of governance, shareholder rights, management discord, and compliance issues. These conflicts, if not well handled, create a lot of havoc in the business organizations, put off investors, and slow down an economy. Earlier, these disputes were taken up by civil courts and company law boards, but they failed to meet the requirements of the corporate world due to

lethargy, congestion, and non-specialization in corporate matters. These concerns were responded to by the new Companies Act of 2013 by issuing the National Company Law Tribunal (NCLT) as the new body of corporate disputes. Apart from this, it was made a point that there was a need for a specialized body that is capable of handling the expertise required to cope with the corporate cases. The new dawn was heralded in the solving of corporate disputes in India.

The formation of the NCLT was a turning point in the battle strategies of corporate issues in India. In particular, the NCLT centralized jurisdiction over corporate disputes that were supposed to be resolved more efficiently, quickly, and with a

more consistent approach. Earlier, such matters were dealt with under the Companies Act, 1956, and the Companies Act, 2013, which conferred the jurisdiction of handling various matters on NCLT, which were to be litigated over in various forums; the Act of Shareholder disputes; and cases of mismanagement and oppression. This change enabled increased resemblance of judgments, shorter durations of the processes, and a mere reduction of the jurisdictional disputes that used to characterize corporate disputes. This largely became true with the emergence of NCLT, where the increased need for corporate comprehension in the scope of the given decision became a reality and its members were appointed due to knowledge and experience in corporate laws, which was a contrast to expert generalists observed across the past. This specialized tribunal, together with the formation of NCLAT for appellate authority, makes corporate law matters much more streamlined, where corporate disputes can be dealt with in a single system.<sup>457</sup>

The main research question of this investigation is to analyze the NCLT system more critically, engaging in the assessment of its effectiveness in addressing corporate conflict situations and identifying other problems in the organization structure. The range of the research is defined by jurisdiction, procedural tools, and the effects of the decisions made by NCLT on the company's legislation in India. Thus, this study targets real cases to understand whether the tribunal has fulfilled its legislative intended and objectives as per the "Companies Act, 2013." Furthermore, the study will examine whether NCLT has observed procedural efficiency in the quick disposal of cases, maintains judicial independence, and assures confidence among corporate players. The study also attempts to provide judgment-making appreciations of the NCLT on certain important matters that have carved a new jurisprudential landscape in corporate India. Consequently, the study aims

to provide meaningful recommendations on the strengths, weaknesses, and need for improvement or change in the functionality of the tribunal in corporate dispute management.

Methodologically, this research is doctrinal, which means that the effectiveness of NCLT will be assessed based on domestic statutes regulating NCLT, decisions of Indian courts, and secondary literature. The doctrinal research methodology advocates a qualitative assessment of NCLT role by considering the legislative provisions and the court interpretations of them, as well as using case law analysis to look at case outcomes and ideas on trends and patterns. This work has also adopted a comparative approach to assess the function of the NCLT against other corporate conflict resolution mechanisms in other countries, including the United States of America and the United Kingdom, for the adoption of one best practice that could enhance the working of the tribunal. The research questions guiding this study include: To what extent has the NCLT been effective in minimizing delay in corporate dispute resolution? Has the NCLT performed a good task in the prevention of and response to issues about corporate governance? But what are the systems that hinder the work of the tribunal? Answering these questions, this research intends to provide a critical view of the NCLT and outline the ways of its improvement. Using this assessment, the research shall provide valuable recommendations on the necessity and operation of the NCLT in the Indian Corporate Law regime, particularly regarding its efficiency and impartiality in solving corporate issues.<sup>458</sup>

### EVOLUTION OF CORPORATE DISPUTE RESOLUTION IN INDIA

The development of corporate dispute resolution mechanisms in India reflects the contours and dynamics of the Indian corporate environment, raising the argument that is the

<sup>457</sup> D. K. Jain, *Company Law Ready Reckoner* 90 (Bharat Law House, New Delhi, 26th edn., 2024).

<sup>458</sup> Sanjeev Gupta, *Company Law Procedures & Compliances* 76 (Taxmann Publications, New Delhi, 3rd edn., 2023).

subject of this paper. Earlier, grievance redressal in India's corporate world was the domain of civil courts and quasi-judicial formations, like the Company Law Board where cases were filed and the Board Industrial and Financial Reconstruction. However, such mechanisms appeared to be ineffective due to long turnarounds, delays, backlogs, and ineffective corporate legal experience. This inefficiency meant that a large number of corporations suffered setbacks simply because the lack of resolution to disputes made doing business difficult, indices of investor confidence were lowered, and corporate governance became unpredictable. Furthermore, given the rate of expansion of globalization, a more well-structured, effective, and specialized process was much needed. Alarmed by these issues, the Companies Act of 2013 established this broader and unique heterogeneous forum called the National Company Law Tribunal (NCLT) to streamline and modernize corporate law remedies. A significant change in the corporate legal framework of India, the working of the NCLT effectively filled the loopholes that required urgent overhaul and brought improvement to the ongoing corporate trials.<sup>459</sup>

#### **Historical Framework: Pre-Companies Act 2013**

Before the enactment of the Companies Act, 2013, the Indian system for the resolution of corporate legal issues was confined to the network of civil courts and the CLB, apart from the recently formed BIFR. The CLB, set up under Section 379 of the Companies Act of 1956, had very slight powers and restricted itself to dealing with complaints and applications relating to unfair treatment of shareholders, oppression or mismanagement of corporations, and a few specific corporate affairs. However, it failed to keep pace with the growing number of corporate cases, which led to longer time durations and several procedures that followed and disturbed the speedy and logical solution

of the disputes. The BIFR, however, was created under the Sick Industrial Companies (Special Provisions) Act 1985 with the responsibility of management and restructuring of sick firms. Known that the BIFR was important for insolvent companies, it was also plagued with issues of efficiency and jurisdictional issues that comprised the structure of corporate dispute resolution. The use of civil courts for corporate litigation aggravated the problem also because these courts usually do not possess adequate specialized knowledge of corporate law and frequently fail to comprehend several corporate legal concerns, hence producing lengthy trials and unsystematic rulings. This historical background emphasized the necessity of a specialized court endowed with all-around exclusive jurisdiction over corporate lawsuits and hence paved the way for the formation of the NCLT.

#### **Transition to NCLT: Legislative Intent and Key Changes**

The change of gear to NCLT under the Companies Act, 2013 was a major shift of corporate law in India. The rationale for forming the NCLT, according to the Indian legislature, was to fix and centralize all the corporate disputes in one authority so that all the related powers are vested in it. The Companies Act of 2013 intended to do away with the problem of jurisdictional contradiction that loomed over the Indian corporate legal structure as a result of placing the National Company Law Tribunal under one roof to deal with a wide range of corporate issues, including oppression and mismanagement, shareholders' disputes, and insolvency. Additionally, the NCLT was created to be populated by members who have a background in corporate law, meaning that issues would be decided by officers who understood the workings of corporations and businesses. The enhancement of the National Company Law Tribunal (NCLT) by the formation of the National Company Law Appellate Tribunal (NCLAT) also added an appellate layer over the NCLT decisions, thereby making the process

<sup>459</sup> LMP, *Company Law Procedures with Company Rules, Resolutions and SEBI (LODR) Regulation, 2015* 90 (Taxmann Publications, New Delhi, 6th edn., 2023).

increasingly judicial while it also fastened the appeal construction. Novelties like receiving the capacity to attend cases under the Insolvency and Bankruptcy Code, 2016 endowed the NCLT with the capacity to effectively address insolvency and corporate restructuring issues—all of which goes to show that the tribunal is a more encompassing consideration forum. The mandate of the NCLT therefore entailed a move away from piecemeal and time-consuming processes to an overarching, broad, specialized set-up meant to enhance investor confidence and good corporate governance.<sup>460</sup>

### Comparative Analysis of NCLT with Previous Dispute Resolution Bodies

As compared to the past dispute resolution authorities, the NCLT has emerged as more efficient in addressing the requirements of the corporate world. While CLB and BIFR possessed limited jurisdiction and narrow powers of procedure, having a centralized tribunal for a variety of cases in the form of NCLT would benefit all economic entities to approach the legal forums with the related problems. This consolidation has led to faster case disposal, as evident in *Innoventive Industries Ltd. v. ICICI Bank*<sup>461</sup>, where NCLT has handed the process control in starting insolvency under the IBC framework. Besides, the NCLT working structure is empowered by having members from legal and technical backgrounds, unlike CLB, which was not mandatory to have members from corporate law backgrounds. It has resulted in more rational and principled decisions more often than not, like in “Cyrus Investments Pvt Ltd v Tata Sons Ltd [2021] (SCC)OnLineSCIII”, where the NCLT major analysis of shareholder’s rights and corporate governance has been affirmed by the NCLAT. In addition, the NCLAT has effectively been formed as an appellate bench, which helps to alleviate the burden of the higher courts and bring corporate laws effective solutions. Compared with the previous system

of appeals that heard corporate affairs and ended in high courts burdening the organization The NCLAT has provided a robust appellate process for corporate affairs, greatly improving the efficiency and reliability of Indian corporate dispute management systems. In these ways, the NCLT has provided evidence of the organization’s efficiency over previous bodies, as well as procedural effectiveness, procedural rationality, and a business-like approach that additionally explains India’s overall economic framework.

### STRUCTURE AND JURISDICTION OF THE NATIONAL COMPANY LAW TRIBUNAL (NCLT)

The NCLT is comprised of a bench of quasi-judicial forums governing corporate or insolvency-related matters under the ‘Companies Act, 2013’. Its composition is planned with judges, interpreters, or technical members for having specialist logical and technical properties. Judicial members are usually legal experts, selected from the bench, and they must be a person who has been a judge of the high court for a term of five years or more or meet certain other requirements recognized by the law. Technical members are also selected from chartered accountant cost accounting. Corporate management technical members must have specialized experience in these fields. This bifurcated composition is vital to have because only in this way can the NCLT have members with legal backgrounds and knowledge of the corporate sector’s hard technicalities. It also makes NCLT better placed to contend with the various shades of corporate disputes, such as mergers, amalgamations, or disputes arising under shareholders’ agreements, which usually require an annotated understanding of corporate law and accounting.<sup>462</sup>

<sup>460</sup> Milind Kasodekar, Shilpa Dixit, et. al., *Company Law Procedures with Compliance's and Checklists* 101 (Taxmann Publications, New Delhi, 7th edn., 2022).

<sup>461</sup> [2018] 1 SCC 407.

<sup>462</sup> NCLT & NCLAT: Opportunities & Challenges; Provisions Under NCLT for Oppression & Mismanagement, available at: <https://www.icsi.edu/media/portals/22/Team-1%20Project%20on%20NCLT%20&%20NCLAT%20Opportunities,%20Challenges.%20Oppression%20&%20Mismanagement.pdf> (last visited on October 3, 2024).

### **Powers and Jurisdiction under the Companies Act, 2013**

The jurisdiction and powers of the NCLT, as mentioned for the NCLT, are patriated with an all-encompassing role given under the Companies Act 2013 of India. The matters within the NCLT jurisdiction under the Act include Section 241 dealing with oppression and Section 242 dealing with mismanagement of companies, wound-up sick companies under Section 230, and mergers and amalgamations. Furthermore, the tribunal has territorial jurisdiction spanning insolvency, as under the IBC of 2016, the jurisdiction to monitor corporate insolvency was vested in it, and it was given the power to preside over insolvency petitions filed by either the creditors or the corporate persons. These additional powers do not only allow the NCLT to also sit as the forum through which all corporate law-related disputes and insolvency cases would be addressed, but they also seek to give birth to a more effective means of handling the financial difficulties and restructuring of some corporations. Furthermore, the NCLT has powers to make various kinds of interim orders, summon and compel the attendance of persons, and produce documents, which make the NCLT a potent body in a position to handle corporate disputes from a macro-civilizational point of view and with strong legal backing.

### **Procedures and Processes in NCLT for Dispute Resolution**

The NCLT operates with the help of certain procedures that are necessary and sufficient to provide a comprehensive and easy-to-reach dispute settlement. The NCLT practices the principles of natural justice, thereby providing each party interested with a fair hearing. In terms of process, a party has to form a petition to the tribunal, and the latter responds with notices to the concerned party, and the affected party gives their response within the prescribed period. The NCLT also has an inherent power to conduct the hearings through arguments and evidence presentation, or oral

hearings. The specific measures that the tribunal follows pertain to the NCLT Rules, 2016, where different rules, such as the time taken to file complaints and different rules and regulations relating to documents needed and allowed, are laid down, hence reducing the number of controversies that can arise. This systematic approach proves relevant in attempting to ensure that corporate disputes are resolved before the NCLT within a reasonable time, thereby supporting the legislative intent of the creation of the NCLT, which aimed at having a body possess the unique capacity to address several facets of corporate disputes. It also observes a certain measure of informality that minimizes procedural formalities to the extent that it speeds up the hearing process and gives a more direct and vigorous encounter with the substance of the case. As this is the case, and as much as the standard of procedural fairness is important, especially regarding small shareholders or minority shareholders who are unable to afford long legal battles.<sup>463</sup>

### **ROLE OF NCLT IN RESOLVING CORPORATE DISPUTES**

In India, the Nation Company Regulation Tribunal additionally recognized under the “Companies Act 2013” might considerably contribute to the present analysis as it provides an essential part of the corporate governance and regulation determination-making body as it properly deals with corporate pertinent authorized points. It was established as a quasi-judicial forum that deals with corporate and insolvency law issues and replaced the hitherto fragmented procedures. The institution of this court has enhanced efficiency in dealing with disputes operating in the Indian corporate world by pulling together procedures under one tribunal for an elongated duration of litigation. This US-based organization has a vast scope of duty that enlists general issues that are related to corporate governance structures,

<sup>463</sup> Sarang Kaushik, National Company Law Tribunal (NCLT) under the Indian Company Law Regime, 22 *Supremo Amicus* 93 (2020).

shareholders' rights, insolvency, and corporate compliance. Through consolidating the power in these significant issues, NCLT has earned itself the role of laying the strong foundation of a fair and efficient corporate marketplace that operates within the legal framework. In this role, the tribunal has offered considerable respite to the corporate stakeholders, particularly in the protection of shareholders' interests, in dealing with oppression and mismanagement cases, in insolvency cases under the "Insolvency and Bankruptcy Code (IBC), 2016" and in ensuring corporate compliance with statutory regulations.<sup>464</sup>

### **NCLT Role in Shareholder Disputes and Minority Protection**

One of the most significant considerations of the NCLT is the safeguarding of minority shareholders' rights and the shareholder management system. The legal statuses given to corporations—especially for big businesses—and their organizational forms allow power relations between the majority and minority shareholders, and the latter has no say in the management of the company. This imbalance can result in disagreements that range from a difference in policy to serious cases of shareholders' oppression. The NCLT is established to handle such complaints under sections 241 and 242 of the Companies Act, 2013 to hear complaints from shareholders that claim to be oppressed or deprived of fair management of the company. For instance, the tribunal has the right to interfere where actions of a majority are unequivocally oppressing a minority, for example, where the majority shareholders are making decisions or engaging in conduct that harms minority interests, for instance, engaging in asset stripping or lack of proper disclosure. It can order against such practices, prescribe cures, or, in some instances, dissolve the management and reorganize the company for the benefit of the shareholders.

This mechanism has the role of offering minority shareholders the protection they need in terms of the fairness of corporate governance. The kind of responsibility NCLT has demonstrated in such cases activates its determination to defend minority shareholders from exploitation in corporations.

### **Addressing Mismanagement and Oppression Cases**

The NCLT also has the power to handle affairs related to the management misrepresentation of companies and oppression. The cases often invoke managerial wrongdoing or intentional actions by the people in management who contribute to the harm of the company's stakeholders. "Section 241 of the Companies Act, 2013" provides the stakeholders with the ability to file a petition with the NCLT if they assume that business affairs of the company are being conducted in a manner that is detrimental to the public interest or the company, as well as to the interest of the shareholders. The tribunal has the legal right to find out the alleged misconduct and, if shown, give a final order to overcome the problem. This power involves the dismissal of directors, prescribing certain courses of business operations or corporate behavior, or the granting of an order to alter business structures to promote enhanced corporate governance and accountability. For instance, if he has information as to how this management has been involved in the issue of financial duplicity or embezzlement of assets, the NCLT can remove the board or compel tighter oversight on the functioning of the company. Taking these corporate governance measures ahead of a problem area acts to increase responsibility in firms and prevent mismanagement, thus making the system more credible for investors and other market players.<sup>465</sup>

<sup>464</sup> Shubham Paliwal, "The Constitutional Validity of the Establishment of NCLT and Its Role in Dispute Resolution", 3 *Jus Corpus Law Journal* 931 (2022-2023).

<sup>465</sup> Satyajit Dhar and Avijit Bakshi, "Role of NCLT in NPA Resolution in India", available at: [http://timesjourney.co.in/wp-content/uploads/2020/12/TJ\\_2018\\_3.pdf](http://timesjourney.co.in/wp-content/uploads/2020/12/TJ_2018_3.pdf) (last visited on October 3, 2024).

### **Role in Insolvency and Bankruptcy Cases (Under IBC Provisions)**

The NCLT also has an important role in terms of corporate governance and shareholder protection coupled with insolvency elements under the “Insolvency and Bankruptcy Code (IBC), 2016.” The IBC was passed to deal with the ever-growing NPAs in India and improve the mechanism that exists for insolvency and liquidation. Under this code, the NCLT holds the authority to admit the CIRP applications relating to the corporate debtor by the creditor or the corporate debtor himself. Through this, the NCLT minimizes the risk of chaos that could arise when companies with financially troubled assets are placed under a regime that protects the interests of creditors while, at the same time, allowing the company to find a way to correct the business. This particular work of the NCLT has had a profound effect on India’s financial sector because it alleviates confusion and delays that usually disrupt insolvency cases, which are very important for the general improvement of the corporate surroundings. The NCLT operates with rather strict time limits for decision-making, including 180 to 270 working days, that allow to avoid longstanding problems of insolvency proceedings in India connected with long-term delays. The spirited involvement of the NCLT in the insolvency cases underlines the NCLT important function in the steadying of the corporate segment; they offer the attractive benefit of an extraneous and default-free option to the financial recuperation or structured liquidation for the benefit of all the stakeholders involved.

### **Corporate Governance and Compliance Issues Resolved by NCLT**

The NCLT is also involved in ensuring that corporations adhere to their legal requirements and has a great responsibility for the observation of rules in corporate governance. Where firms breach or neglect stipulations of the law on legal filing, timely disclosure of information, and regulatory compliances, the NCLT has jurisdiction to penalize or direct

compliance. For example, the NCLT can pass an order to compel a company to conduct an AGM or present financial statements whenever it omits to do so in violation of the provisions of the “Companies Act, 2013.” The measures adopted serve to enhance corporate disclosure rules and safeguard the rights of investors and creditors, besides calling for legal compliance by the corporate entities. In addition, the tribunals’ duty of overseeing compliance goes as far as the corporate governance structures of organizations. In this way, the NCLT actively participates in the formation of business ethics and legal proposals for the further effective functioning of enterprises. Such proactiveness towards compliance leads to positive accountability and a low profile of malpractices, hence leading to a more stable and trustworthy corporate world in India.<sup>466</sup>

### **EFFECTIVENESS OF NCLT IN CORPORATE DISPUTE RESOLUTION**

The introduction of the National Company Law Tribunal (NCLT) under the Companies Act, 2013 can be regarded as one of the important landmark reforms for the corporate restructuring of Indian civil dispute resolutions. The NCLT is a specialized body that reciprocally deals with corporate disputes with a fairly different outlook that involves a mix of legal brains and technicians. The rationale for this reform was to escape from the delays and slowness that are part of conventional civil courts and to offer a more committed setting for corporate disputes. The NCLT, from its very formation, has contributed significantly to the formation of a corporate governance structure that is characterized by efficiency, accessibility, and fairness. Besides that, the efficiency of a tribunal is also integrated while its design raises ideals of gaining principles of accessibility and cost-effectiveness, which have always been counterproductive in the traditional legal system. Gradually, NCLT emerged as a

<sup>466</sup> Kahnay Mahajan, "Inherent Powers of NCLT/NCLAT Vis-à-vis IBC", available at: [https://elsevier-ssrn-document-store-prod.s3.amazonaws.com/19/12/27/ssrn\\_id3312306\\_code3313751.pdf](https://elsevier-ssrn-document-store-prod.s3.amazonaws.com/19/12/27/ssrn_id3312306_code3313751.pdf) (last visited on October 3, 2024).

necessary and appropriate institution to dispense justice, where stakeholders in the corporate world are being protected as well as the statutory provisions under the “Companies Act, 2013” are being maintained. Detailed, thus, the legislation has proved itself worthwhile throughout corporate peculiarities, and its function from the peculiarities of the NCLT in solving cases quickly and equitably emphasizes its importance within the corporate regulation space.

### **Speed and Efficiency of Dispute Resolution Mechanism**

Among the major feats registered by the NCLT is the disposition of cases with equal speed and efficiency compared to the general civil courts. The NCLT works on a standard time frame for the disposal of cases, and this is well-marked in insolvency cases concerned with IBC. According to “Section 12 of the IBC”, the corporate insolvency resolution processes (CIRP) should, in an ideal world, take 180 days and a maximum of 270 days. This specific time-bound structure has offered a considerable positive overhaul in terms of the problems of delay that are characteristic of insolvency cases. The operation of NCLT was perfectly shown in “*Innoventive Industries Ltd. v. ICICI Bank*”<sup>467</sup>, where the tribunal helped in the initiation of the CIRP process without much time elaborating the efficiency of IBC. Further, the accuracy possessed by the NCLT has also been found to be equally efficient when it comes to cases related to mergers or amalgamations. They used to take years in civil courts, but due to the specialized working of NCLT and the practice followed strictly to a strict legal calendar, such duration has remarkably reduced. Therefore, the NCLT has also established a better and faster procedure in the Indian corporate environment.<sup>468</sup>

<sup>467</sup> [2017] 1 SCC 407.

<sup>468</sup> Hiteshkumar Thakkar, Pranay Agarwal, et. al, "Efficacy of Adjudication Process of Corporate Insolvency Resolution Process (CIRP): Law and Economics Analysis of National Company Law Tribunal (NCLT)", 14 *Asian Journal of Law and Economics Issue 2* (2023).

### **Accessibility and cost-effectiveness of NCLT procedures**

There is also procedural accessibility and cost of the NCLT, and these have made it effective in its role of executing the corporate laws in corporate dispute resolution. The formation of the NCLT was supposed to ensure that everything related to corporate disputes is tried in the NCLT, cutting down on expenses and the number of times the case was to be transferred to another forum. The NCLT is quite different from the civil court system, where procedural formalities and steep charges have always forestalled small companies and shareholder minorities from justice. Minor shareholders and small businesses, which are usually treated as inconsequential and locked out from access to the formal courts, can present their cases before the tribunal at reasonable costs. In situations like *Cyrus Investments Pvt. Ltd. v. Tata Sons Ltd.*<sup>469</sup>, the NCLT was useful in delivering a platform to address shareholders' concerns and oppression complaints that would have otherwise incurred severe procedural costs in civil procedures. This is complemented by the procedural arrangements of the tribunal provided by the NCLT Rules, 2016 that eliminate general uncertainty in the filing of petitions, submission of documents, and setting of hearings, thereby minimizing general causes for delay. Thus, it gives a promising option for the corporate persons and stakeholders and provides the legal remedy with a feasible cost.

### **Judicial Independence and Impartiality in Decision-Making**

An independent and impartial judiciary is inherent to the NCLT decisions and delivers a fair solution grounded on the principles of the rule of law. The members of the tribunal are designated from both judicial and technical perspectives, which gives a specialized touch to the decision-making, thus providing it with sound legal and sectoral characterization. Where a company is involved in a corporate

<sup>469</sup> (2021) SCC OnLine SC 1113.



conflict, especially one on a company's management, shareholders, financial instruments, or legal safeguards, then the ability to make an objective decision is essential. This was highlighted in *"Sanjay Singal v. Ashok Agarwal"*<sup>470</sup>, where the NCLT has shown the best of impartiality in handling disputes, especially with complicated shareholder management. Besides, the NCLT is free from political or commercial influence, and this supports its autonomy. Overall, the NCLT also has an extremely powerful position in protecting shareholders' interests, resolving cases only on the merits and facts of a case, and following corporate governance norms even when it has faced some opposition in a few cases. This sort of independent working has not only provided confidence to the corporate houses that deny NCLT partiality towards the corporations; in fact, it has helped in carving out its image in the eyes of the corporate world as a judicial body of corporate justice.<sup>471</sup>

### Case Studies: Landmark Judgements Reflecting NCLT Role

Overall performance can be judged from its judgments, which contain the set precedents and clear many things regarding the imports known laws of the corporate laws. *"ArcelorMittal India Pvt. Ltd. v. Satish Kumar Gupta"*<sup>472</sup>, the approval of the resolution plan by ArcelorMittal by NCLT, which proves essential in drafting the framework of corporate debt restructuring within the IBC, shows the critical role of the tribunal. Thus, similar to *Binani Industries Ltd. v. Bank of Baroda*<sup>473</sup> is the NCLT understanding of the provisions of the IBC regarding the sanctity granted to the resolution plan, which underlined the function of the tribunal in protecting the essence of insolvency law. Another landmark judgment includes *"Tata Consultancy Services Limited v. Vishal Sikka"*<sup>474</sup>, where legal and ethical norms of the tribunal brought the ethical

corporate action in the issues relating to directorial behavior and management rights. These judgments show that the NCLT is best placed to enforce the standards of corporate governance, solve business disputes with underlying sustainable resolutions, and interpret and clarify the statutory provisions in a manner that will enhance corporate regulation in India. By its key decisions, the NCLT has discharged its responsibility as the stalwart of both statutory provisions and emergent needs of the Indian corporate world, while corporate litigation is not only a solution to an existing problem but also a part of a sound legal framework for corporate India.<sup>475</sup>

### CRITICAL EVALUATION OF NCLT'S FUNCTIONING

Since its enactment under the "Companies Act, 2013", the National Company Law Tribunal (NCLT) has brought revolutionary changes in the corporate dispute redressal system in India. As the forum dedicated to the hearings of corporate and insolvency-related matters, the NCLT offers a suitable and efficient mechanism to the corporate sector. However, it is for this reason that the tribunal still encounters several challenges that hamper its optimal performance. It suggests that the assessment of the tribunal focuses on its achievements as well as the challenges it encounters in providing credible speedy justice. The complications that were expected to be solved by the tribunal formulated to handle corporate litigation and insolvency are still apparent, and they are causing uncertainty to corporations and investors since the structure and pace of the processes remain problematic. Faced with a fast-evolving corporate and business environment in India, the present paper performs a systematic analysis of the NCLT to identify key factors that require reform to improve the tribunal's performance and its

<sup>470</sup> [2020] SCC OnLine SC 716.

<sup>471</sup> Bloomsbury Professional India, *Supreme Court on Company Law* 45 (Bloomsbury, New Delhi, 1st edn., 2022).

<sup>472</sup> [2018] SCC OnLine SC 1733.

<sup>473</sup> [2018] SCC OnLine NCLAT 521.

<sup>474</sup> [2017] SCC OnLine NCLT 8.

<sup>475</sup> Utkarsh Mishra, "Comparative Analysis of NCLT & NCLAT Orders in the Tata-Mistry Case", available at: [https://elsevier-ssrn-document-store-prod.s3.amazonaws.com/20/06/22/ssrn\\_id3632948\\_code4243662.pdf](https://elsevier-ssrn-document-store-prod.s3.amazonaws.com/20/06/22/ssrn_id3632948_code4243662.pdf) (last visited on October 3, 2024).

position in the corporate governance system.<sup>476</sup>

### Analysis of Challenges Faced by NCLT

The internal and external constraints affect the ability of the NCLT to perform its depiction role as the manager of corporate litigation. Though established as a specialized tribunal, its effectiveness in the resolution of corporate disputes has been greatly hampered by procedural delays, inadequate resources, and the existence of other structures with similar jurisdiction. Every one of these challenges is, in one way or another, impairing the efficiency of the tribunal in delivering cases expeditiously and fairly, thus affecting its reliability as a platform to deal with corporate disputes.

### Procedure Delays and Case Backlog

The first major issue that hinders the NCLT is the large number of cases, which greatly affects the time taken to deliver results. Originally meant to be a quick-track forum for commercial matters, the tribunal is now overwhelmed by a pile of outstanding cases resulting from a growing number of corporate and insolvency cases. Housing the two forums under a single roof was not well received when the IBC, which specifically assigned the NCLT as the legal forum to hear and decide the corporate insolvency resolution processes, was enacted in 2016. That tribunal has its strict working periods outlined under Section 12 of the IBC, normally 180 days but allowed to go up to 270 days considering the influx of cases; the time has been very hard for it to observe these timeframes. These backlogs have distorted the efficiency of the NCLT, where it was initially intended to provide fast results and quick resolutions, as seen in the case of *Essar Steel India Ltd. v. Satish Kumar Gupta*<sup>477</sup>, as there were more cases referred to the higher judiciary due to delay. As such, stakeholders such as corporations, creditors, etc. are afflicted as winding up takes time, making the resolution

process longer and with more uncertainty about corporations' financial status. To this end, measures such as simplification of procedures, expansion of the judiciary arm, and the actual consideration and examination of other ways of reducing burden may be crucial in reviving the functioning of the tribunal.

### Inadequate Infrastructure and Resources

However, the NCLT efficiency is impaired by many problems, including inadequate infrastructure and resources at its disposal. Though establishing the tribunal needed huge support to administer corporate and insolvency cases, there were inadequate facilities and manpower constraints to make the tribunal go operational. For instance, several NCLT benches across India are struggling with a shortage of members, so the problem means there are few adjudicators to address the increasing number of cases. Further, the lack of modern technological tools and the first delay in establishing regional benches have also reduced its accessibility and functioning. This infrastructure deficiency is sometimes a cause for the suspension of phase proceedings and the delay in the resolution of disputes affecting those stakeholders who rely on the prompt determination of the matters. They do not possess enough resources to meet their constitutional obligations effectively, and additionally, the varied directions make it seem as if NCLT is not a reliable forum as an adjudicating authority in corporate and insolvency issues.

### Overlapping Jurisdiction with Other Legal Bodies

Another considerable problem is the conflict of competence between the NCLT and other legal and quasi-legal authorities, including SATs and high courts. This overlap quite often results in jurisdictional clashes, especially where there is an overlap of the securities regulations or mergers and acquisitions where we find that both the SAT and the NCLT have jurisdiction. For instance, about company law and securities,

<sup>476</sup> Navdeep Singh Suhag, Aniket Sarvate, and Abhishek Raj, "Analysis of NCLAT's Functioning as Competition Law Appellate Tribunal", 2 *Journal on Competition Law and Policy* 71 (2021).

<sup>477</sup> [2019] 2 SCC 1.

some issues may occur whereby the parties in dispute fail to determine whether the NCLT has jurisdiction or SAT, thereby resulting in conflict in interpretations and hence protracted litigations. This can prolong the process of resolution and also result in appeals in higher courts, thus complicating the already messy discovery of the best approaches to the resolution of disputes.<sup>478</sup>

### Impact on Corporate Entities and Investors' Confidence

The situation implies certain problems for the NCLT and affects the legal and regulatory environment of corporate entities and investors across India. The primary role envisaged in setting up the NCLT was to provide fast and credible means of solving business disputes arising in the companies to facilitate business and investment. However, procedural delays, inadequacies in infrastructure, and jurisdiction problems impair this objective. When corporate disputes and insolvency cases take long periods of legal proceedings, corporate entities become exposed to uncertainties of operation, which have impacts on the entity's financial and strategic plans. For instance, lengthy decision-making in complex insolvency cases means that asset values are likely to decline, reducing recovery values to creditors and shareholders. In the case of *Jaypee Infratech Ltd. v. IDBI Bank Ltd.*<sup>479</sup>, the long-drawn-out legal trial process caused a delay in providing justice to creditors and investors, and thus the demerits of delay in the delivery of justice are not lost for the corporate player.

Furthermore, these difficulties also provide the perception of foreign and domestic investors in the Indian corporate regulation systems in the way they are handled by the NCLT. Several investors seek protection of their investments through legal means, and, therefore, the failure of the tribunal to perform this role effectively and promptly acts as a deterrent for potential investors. The "Ease of Doing Business" ranking

that India aims to enhance is set back wherever judicial factors discourage investment and corporate growth. Therefore, it appears that the success of the NCLT goes beyond corporate governance because investors are indispensable to the development of the relatively young Indian economy. Improving the NCLT working and overcoming the noted limitations would not only augment the corporation's dispute settlement institution but also support India's stability of the corporate structure, essential for corporations and shareholders.

### CONCLUSION AND SUGGESTIONS

The NCLT, since its establishment under the Companies Act of 2013, has steadily transformed the Indian corporate environment by providing an exclusive forum to address such corporate-related issues. Through the centralization of corporate litigation and insolvency matters in one legal regime, the NCLT has achieved its goal of minimizing procedural complexities and offering faster legal remedies as compared to traditional civil courts.

However, the experience of the identified systemic challenge highlights the fact that, although the NCLT has brought positive changes to the corporate legal environment, the Supreme Court has not yet achieved its intended effectiveness. Several procedural stay issues and a large caseload persistently remain a challenge regarding the time taken to deliver justice and corporate and insolvency matters. These litigations have overwhelmed the tribunal, lifted caseload pressure and caused situations where timelines, as provided in the Code, might be hard to achieve. It erodes the legislative agenda of the tribunal to provide a swift-track mechanism to resolve commercial disputes, predating the need for judicial change geared towards procedural efficiency and case conduct.

However, challenges in operation relate to infrastructural constraints and are anti-folded with other actors such as the Securities

<sup>478</sup> *Supra* note 20.

<sup>479</sup> [2019] 8 SCC 58.

Appellate Tribunal (SAT) and the High Courts. This means that due to limited resources in terms of infrastructure and personnel, the tribunal cannot undertake cases effectively. In addition, overlapping jurisdictions create uncertainties, which lead to confusion that takes legal battles beyond what is desirable. These matters affect business-focused investor confidence, especially the foreign investor who needs legal settings that come with clear and efficient dispute contract resolution mechanisms.

To amplify the functionality of the NCLT, the following changes are needed: More specifically, enhanced judicial capacity and implementation of IT solutions may ease case information and lessen the number of cases on the move. Also, legal governance of jurisdiction and sufficient resource equipment will help the tribunal discharge its mandate efficiently. Many of these measures could provide improvement to investor confidence, which would be in line with India's more exhaustive seventh administration goals of economic growth and a better Ease of Business ranking.

In conclusion, although the NCLT has been effective in revolutionizing the framework of corporate litigation in India, it thus exposes the shortcomings of the tribunal, which needs reformative measures at the earliest. Procedural complexities, lack of adequate infrastructure, and insufficient clarity in the demarcation of jurisdictions. They have proposed certain suggestions to enhance the NCLT capacity to act as an efficient and reliable awarding body. These reforms would enable the NCLT to serve the larger purpose of developing a transparent, efficient, and investor-friendly legal environment necessary for the growth of corporate structures and sustainable economic development.