

# National Company Law Appellate Tribunal

August 11, 2020

- National Company Law Appellate Tribunal (NCLAT) was constituted under Section 410 of the Companies Act, 2013 for hearing appeals against the orders of National Company Law Tribunals (NCLT).
- NCLAT is also the appellate tribunal for hearing appeals against the orders passed by NCLTs under Section 61 of the Insolvency and Bankruptcy Code, 2016 (IBC) and Insolvency and Bankruptcy Board of India under Section 202 and Section 211 of IBC.
- NCLAT is also the appellate tribunal to hear and dispose of appeals against any direction issued or decision made or order passed by the Competition Commission of India (CCI) – as per the amendment brought by the Finance Act, 2017.
- NCLAT decisions can be challenged in the Supreme Court on a point of law. In some cases, NCLAT decisions have been overturned by the SC, like in the case of ArcelorMittal when the top court set aside the tribunal's order to pave way for the global steel giant to acquire Essar Steel.

## Composition

- The chairperson and judicial members of the Appellate Tribunal shall be appointed after consultation with the Chief Justice of India.
- The members of the tribunal and the technical members of the Appellate Tribunal shall be appointed on the recommendation of a Selection Committee consisting of:
  - Chief Justice of India or his nominee (Chairperson).

- A senior judge of the Supreme Court or a Chief Justice of the High Court
  - Secretary in the Ministry of Corporate Affairs
  - Secretary in the Ministry of Law and Justice
  - Secretary in the Department of Financial Services in the Ministry of Finance
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- Chairperson – Should be/been judge of the Supreme Court or should be/been Chief Justice of the High Court.
  - Judicial Member – Is/has been a judge of a High Court or is a judicial member of a tribunal for 5 years or more.
  - Technical member- Person with proven ability, integrity and standing having special knowledge and experience of 25 years or more (in specified areas)
  - Term of office of chairperson and members is 5 years and they can be reappointed for additional 5 years.