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MINISTRY OF CORPORATE AFFAIRS

Notification

New Delhi, 21st July 2016

G.S.R.....(E).- In exercise of the powers conferred by section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules, namely:-

1. **Short title and commencement.**- (1) These rules may be called the National Company Law Appellate Tribunal Rules, 2016.
- (2) They shall come into force on the date of their publication in the Official Gazette.

Chapter – I

Definitions, forms etc.

2. **Definitions.**– In these rules, unless the context otherwise requires,-

- (a) **“Act”** means the Companies Act, 2013 (18 of 2013);
- (b) **“advocate”** means a person who is entitled to practise the profession of law under the Advocates Act, 1961 (25 of 1961);
- (c) **“Appeal”** means an appeal preferred under sub-section (1) of section 421 of the Act;
- (d) **“authorised representative”** means a person authorised in writing by a party to present his case before the Appellate Tribunal as provided under section 432 of the Act;
- (e) **“form”** means a form set forth in Annexure ‘A’ to these rules.
- (f) **“interlocutory application”** means an application in any appeal already instituted in the Appellate Tribunal, but not being a proceeding for execution of the order or direction of the Appellate Tribunal;

(g) “**party**” means a person who prefers an appeal before the Appellate Tribunal and includes respondent of any person interested in the appeal;

(h) “**Registrar**” means the Registrar of the Appellate Tribunal;

(i) “**section**” means a section of the Act;

(j) All other words and expressions used in these rules but not defined herein and defined in the Act and National Company Law Tribunal Rules, 2016 shall have the meanings respectively assigned to them in the Act and in the said rules.

3. Computation of time period.- Where a period is prescribed by the Act and these rules or under any other law or is fixed by the Appellate Tribunal for doing any act, in computing the time, the day from which the said period is to be reckoned shall be excluded, and if the last day expires on a day when the office of the Appellate Tribunal is closed, that day and any succeeding day on which the Appellate Tribunal remains closed shall also be excluded

4. Forms.- The forms prescribed by these rules with such modifications or variations as the circumstances of each case may require shall be used for the purpose mentioned therein.

5. Format of order or direction or rule.- every rule, direction, order, summons, warrant or other mandatory process shall be issued in the name of the Chairperson and shall be signed by the Registrar or any other officer specifically authorised in that behalf by the Chairperson, with the day, month and year of signing and shall be sealed with the official seal of the Appellate Tribunal.

6. Official seal of the Appellate Tribunal.- The official seal and emblem of the Appellate Tribunal shall be such, as the Central Government may from time to time specify and shall be in the custody of the Registrar.

7. **Custody of the records.**- The Registrar shall have the custody of the records of the Appellate Tribunal and no record or document filed in any cause or matter shall be allowed to be taken out of the custody of the Appellate Tribunal without the leave of the Appellate Tribunal.

Provided that the Registrar may allow any other officer of the Appellate Tribunal to remove any official paper or record for administrative purposes from the Appellate Tribunal.

8. **Sitting of Appellate Tribunal.**- The Appellate Tribunal shall hold its sitting at its headquarters in New Delhi.

9. **Sitting hours of the Appellate Tribunal.**- The sitting hours of the Appellate Tribunal shall ordinarily be from 09.30 AM. to 01.00 P.M. and from 2.15 P.M. to 5.00 P.M. subject to any order made by the Chairperson and this shall not prevent the Appellate Tribunal to extend its sitting as it deems fit.

10. **Working hours of office.**- (1) The office of the Appellate Tribunal shall remain open on all working days from 09:30 A.M. to 6.00 P.M.

(2) The filing counter of the Registry shall be open on all working days from 10.30 AM to 5.00 P.M.

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.

12. **Calendar.**- The Calendar of days of working of Appellate Tribunal in a year shall be as decided by the Chairperson and Members of the Appellate Tribunal.

13. **Listing of cases.**- All urgent matters filed before 12 noon shall be listed before the Appellate Tribunal on the following working day, if it is complete in all respects as provided in these rules and in exceptional cases, it may be received after 12 noon but before 3.00 P.M. for listing on the following day, with the specific permission of the Appellate Tribunal or Chairperson.

14. **Power to exempt.**- The Appellate Tribunal may on sufficient cause being shown, exempt the parties from compliance with any requirement of these rules and may give such directions in matters of practice and procedure, as it may consider just and expedient on the application moved in this behalf to render substantial justice.

15. **Power to extend time.**- The Appellate Tribunal may extend the time appointed by these rules or fixed by any order, for doing any act or taking any proceeding, upon such terms, if any, as the justice of the case may require, and any enlargement may be ordered, although the application therefore is not made until after the expiration of the time appointed or allowed.

Part - II

Powers of the Registrar

16. **Powers and functions of the Registrar.**- The Registrar shall have the following powers and functions, namely:-

- (a) registration of appeals, petitions and applications;
- (b) receive applications for amendment of appeal or the petition or application or subsequent proceedings.

- (c) receive applications for fresh summons or notices and regarding services thereof;
- (d) receive applications for fresh summons or notice and for short date summons and notices;
- (e) receive applications for substituted service of summons or notices;
- (f) receive applications for seeking orders concerning the admission and inspection of documents;
- (g) transmission of a direction or order to the civil court as directed by Appellate Tribunal with the prescribed certificate for execution etc; and
- (h) such other incidental or matters as the Chairperson may direct from time to time.

17. **Power of adjournment.**- All adjournments shall normally be sought before the concerned Bench in court and in extraordinary circumstances, the Registrar may, if so directed by the Tribunal in chambers, at any time adjourn any matter and lay the same before the Tribunal in chambers.

18. **Delegation powers of the Chairperson.**- The Chairperson may assign or delegate to a Deputy Registrar or to any other suitable officer all or some of the functions required by these rules to be exercised by the Registrar.

Part - III

Institution of appeals - Procedure.

19. **Procedure for proceedings.** -(1) Every appeal to the Appellate Tribunal shall be in English and in case it is in some other Indian language, it shall be accompanied by a copy translated in English and shall be fairly and legibly type-written or printed in double spacing on one side of standard paper with an inner margin of about four centimeters

width on top and with a right margin of 2.5 cm, and left margin of 5 cm, duly paginated, indexed and stitched together in paper book form.

(2) The cause title shall state "In the National Company Law Appellate Tribunal" and also set out the proceedings or order of the authority against which it is preferred.

(3) Appeal shall be divided into paragraphs and shall be numbered consecutively and each paragraph shall contain as nearly as may be, a separate fact or allegation or point.

(4) Where *Saka* or other dates are used, corresponding dates of Gregorian calendar shall also be given.

(5) Full name, parentage, description of each party and address and in case a party sue or being sued in a representative character, shall also be set out at the beginning of the appeal and need not be repeated in the subsequent proceedings in the same appeal.

(6) The names of parties shall be numbered consecutively and a separate line should be allotted to the name and description of each party and these numbers shall not be changed and in the event of the death of a party during the pendency of the appeal, his legal heirs or representative, as the case may be, if more than one shall be shown by sub-numbers.

(7) Where fresh parties are brought in, they may be numbered consecutively in the particular category, in which they are brought in.

(8) Every proceeding shall state immediately after the cause title and the provision of law under which it is preferred.

20. Particulars to be set out in the address for service.- The address for service of summons shall be filed with every appeal on behalf of a party and shall as far as possible contain the following items namely:-

- (a) the name of the road, street, lane and Municipal Division or Ward, Municipal Door and other number of the house;
- (b) the name of the town or village;

- (c) the post office, postal district and PIN Code; and
- (d) any other particular necessary to identify the addressee such as fax number, mobile number and e-mail address, if any.

21. **Initialling alteration.**- Every interlineation, eraser or correction or deletion in any appeal shall be initialled by the party or his authorised representative.

22. **Presentation of appeal.**- (1) Every appeal shall be presented in **Form NCLAT-1** in triplicate by the appellant or petitioner or applicant or respondent, as the case may be, in person or by his duly authorised representative duly appointed in this behalf in the prescribed form with stipulated fee at the filing counter and non-compliance of this may constitute a valid ground to refuse to entertain the same.

(2) Every appeal shall be accompanied by a certified copy of the impugned order.

(3) All documents filed in the Appellate Tribunal shall be accompanied by an index in triplicate containing their details and the amount of fee paid thereon.

(4) Sufficient number of copies of the appeal or petition or application shall also be filed for service on the opposite party as prescribed.

(5) In the pending matters, all other applications shall be presented after serving copies thereof in advance on the opposite side or his advocate or authorised representative.

(6) The processing fee prescribed by the rules, with required number of envelopes of sufficient size and notice forms as prescribed shall be filled along with memorandum of appeal.

23. **Number of copies to be filed.**- The appellant or petitioner or applicant or respondent shall file three authenticated copies of appeal or counter or objections, as the case may be, and shall deliver one copy to each of the opposite party.

24. Endorsement and verification.- At the foot of every appeal or pleading there shall appear the name and signature of the authorised representative and every appeal or pleadings shall be signed and verified by the party concerned in the manner provided by these rules.

25. Translation of document.- (1) A document other than English language intended to be used in any proceeding before the Appellate Tribunal shall be received by the Registry accompanied by a copy in English, which is agreed to by both the parties or certified to be a true translated copy by the authorised representative engaged on behalf of parties in the case.

(2) The Registrar may order translation, certification and authentication by a person approved by him for the purpose on payment of such fee to the person, as specified by the Chairperson.

(3) Appeal or other proceeding shall not be set down for hearing until and unless all parties confirm that all the documents filed on which they intend to rely are in English or have been translated into English and required number of copies are filed with the Appellate Tribunal.

26. Endorsement and scrutiny of petition or appeal or document.-(1) The person in charge of the filing-counter shall immediately on receipt of appeal or document affix the date and stamp of the Appellate Tribunal thereon and also on the additional copies of the index and return the acknowledgement to the party and he shall also affix his initials on the stamp affixed on the first page of the copies and enter the particulars of all such documents in the register after daily filing and assign a diary number which shall be entered below the date stamp and thereafter cause it to be sent for scrutiny.

(2) If, on scrutiny, the appeal or document is found to be defective, such document shall, after notice to the party, be returned for compliance and if there is a failure to comply

within seven days from the date of return, the same shall be placed before the Registrar who may pass appropriate orders.

(3) The Registrar may for sufficient cause return the said document for rectification or amendment to the party filing the same, and for this purpose may allow to the party concerned such reasonable time as he may consider necessary or extend the time for compliance.

(4) Where the party fails to take any step for the removal of the defect within the time fixed for the same, the Registrar may, for reasons to be recorded in writing, decline to register the appeal or pleading or document.

27. Registration of proceedings admitted.- On admission of appeal, the same shall be numbered and registered in the appropriate register maintained in this behalf and its number shall be entered therein.

28. Ex-parte amendments.- In every appeal or application, arithmetical, grammatical, clerical and such other errors may be rectified on the orders of the Registrar without notice to Parties.

29. Calling for records.- On the admission of appeal, the Registrar shall, if so directed by the Appellate Tribunal, call for the records relating to the proceedings from the respective Bench of Tribunal or adjudicating authority and retransmit the same at the conclusion of the proceedings or at any time.

30. Production of authorisation for and on behalf of an association.- Where an appeal purported to be instituted by or on behalf of an association, the person who signs or verifies the same shall produce along with such appeal, for verification by the Registry, a true copy of the resolution of the association empowering such person to do so:

Provided that the Registrar may at any time call upon the party to produce such further materials as he deems fit for satisfying himself about due authorization:

Provided further that it shall set out the list of members for whose benefit the proceedings are instituted.

31. Interlocutory applications.- Every interlocutory application for stay, direction, condonation of delay, exemption from production of copy of order appealed against or extension of time prayed for in pending matters shall be in **Form NCLAT-2** and the requirements prescribed in that behalf shall be complied with by the applicant, besides filing a affidavit supporting the application.

32. Procedure on production of defaced, torn or damaged documents.- When a document produced along with any pleading appears to be defaced, torn, or in any way damaged or otherwise its condition or appearance requires special notice, a mention regarding its condition and appearance shall be made by the party producing the same in the Index of such a pleading and the same shall be verified and initialed by the officer authorized to receive the same.

Part IV

Cause list

33. Preparation and publication of daily cause list.- (1) The Registry shall prepare and publish on the notice board of the Registry before the closing of working hours on each working day the cause list for the next working day and subject to the directions of the Chairperson, listing of cases in the daily cause list shall be in the following order of priority, unless otherwise ordered by the concerned Bench; namely;-

- a) cases for pronouncement of orders;

- b) cases for clarification;
- c) cases for admission;
- d) cases for orders or directions;
- e) part-heard cases, latest part-heard having precedence; and
- f) cases posted as per numerical order or as directed by the Bench;

(2) The title of the daily cause list shall consist of the number of the appeal, the day, date and time of the sitting Bench hall number and the coram indicating the names of the Chairperson, Judicial member and Technical members constituting the Bench.

(3) Against the number of each case listed in the daily cause list, the following shall be shown, namely;-

(a) names of the legal practitioners or authorised representative appearing for both sides and setting out in brackets the designation of the parties whom they represent;

(b) names of the parties, if unrepresented, with their ranks in brackets.

(4) the objections and special directions, if any, of the Registry shall be briefly indicated in the daily cause list in remarks' column, whenever compliance is required.

34. Carry forward of cause list and adjournment of cases on account of non-sitting of an

Appellate Tribunal.- (1) If by reason of declaration of holiday or for any other unforeseen reason, the Appellate Tribunal does not function for the day, the daily cause list for that day shall, unless otherwise directed, be treated as the daily cause list for the next working day in addition to the cases already posted for that day.

(2) When the sitting of a particular Bench is cancelled for the reason of inability of any Member of the Bench, the Registrar shall, unless otherwise directed, adjourn the cases posted before that Bench to a convenient date.

(3) The adjournment or posting or directions shall be notified on the notice board.

Part-V

RECORD OF PROCEEDINGS

35. **Diaries.**- (1) Diaries shall be kept by the clerk-in-charge in such form as may be specified by the Registrar in each appeal and they shall be written legibly.

(2) The diary in the main file shall contain a concise history of the appeal, the substance of the order passed thereon and in execution proceedings it shall contain a complete record of all proceedings in execution of order or direction or rule and shall be checked by the Deputy Registrar and initialed once in a fortnight.

36. **Order sheet.**- (1) Order sheet shall be maintained in every proceedings by the Court Master and shall contain all orders passed by the Appellate Tribunal from time to time .

(2) All orders passed by the Appellate Tribunal shall be in English and the same shall be signed by the Members of the Appellate Tribunal constituting the Bench:

Provided that the routine orders, such as call for of the records, put up with records, adjourned and any other order as may be directed by the Member of the Appellate Tribunal shall be signed by the Court Master.

(3) The order sheet shall also contain the reference number of the appeal or petition or application, date of order and all incidental details including short cause title thereof.

37. **Maintenance of diary.**- (1) The Court Master of the Bench concerned shall maintain legibly a Diary, wherein he shall record the proceedings of the Bench for each sitting with respect to the applications or petitions or appeals listed in the daily cause list.

(2) The matters to be recorded in the Diary shall include details as to whether the case is adjourned, or part-heard or heard and disposed of or heard and orders reserved, as the case may be, along with dates of next sitting wherever applicable.

38. **Statutes or citations for reference.**- The parties or authorised representatives shall, before the commencement of the proceedings for the day, furnish to the Court Master a list of law journals, reports, statutes and other citations, which may be needed for reference or photo copy of full text thereof.

39. **Calling of cases in Bench.**- Subject to the orders of the Bench, the Court Master shall call the cases listed in the cause list in the serial order.

40. **Regulation of Bench work.**- (1) When a Bench is holding a sitting, the Deputy Registrar shall ensure :-

(a) that no inconvenience or wastage of time is caused to the Bench in making available the services of Court Master or Stenographer or Peon or Attender;

(b) the Court Master shall ensure that perfect silence is maintained in and around the Bench hall and no disturbance whatsoever is caused to the functioning of the Appellate Tribunal and that proper care is taken to maintain dignity and decorum of the Appellate Tribunal.

(2) When the Appellate Tribunal passes order or issues directions, the Court Master shall ensure that the records of the case along with proceedings or orders of the Court are transmitted immediately to the Registry and the Registry shall verify the case records received from the Court Master with reference to the cause list and take immediate steps to communicate the directions or orders of the Court.

Part VI

Maintenance of Registers

41. **Registers to be maintained.**- The following Registers shall be maintained and posted on a day to day basis by the Registry of the Appellate Tribunal by such ministerial officer or officers as the Registrar may, subject to any order of the Chairperson, direct:-

a) register of appeals;

- b) register of unnumbered appeals; and
- c) register of Interlocutory applications;

42. Arrangement of records in pending matters.— The record of appeal shall be divided into the following four parts and shall be collated and maintained.

- (a) Main file: (Appeal being kept separately);
- (b) miscellaneous application file;
- (c) process file; and
- (d) execution file

43. Contents of main file:— The main file shall be kept in the following order and it shall be maintained as permanent record till ordered to be destroyed under the rules:-

- (a) Index;
- (b) order Sheet;
- (c) Final order or judgment;
- (d) memo of appeal or petition as the case may be together with any schedule annexed thereto;
- (e) counter or reply or objection, if any;
- (f) (i) oral evidence or *proof of* affidavit
(ii) evidence taken on commission; and
(iii) documentary evidence.
- (g) written arguments.

44. Contents of process file.— The process file shall contain the following items; namely,-

- (a) index;
- (b) powers of attorney or vakalatnama or memo of appearance;
- (c) summons and other processes and affidavits relating thereof;
- (d) applications for summoning witness;

(e) letters calling records; and

(f) all other miscellaneous papers such as postal acknowledgements

45. Execution file.- The execution file shall contain the following items, namely,-

(a). index;

(b) the order sheet;

(c) the execution application;

(d) all processes and other papers connected with such execution proceedings;

(e) transmission of order to civil court, if ordered; and

(f) result of execution;

46. File for miscellaneous applications.- For all miscellaneous applications there may be only one file with a title page prefixed to it and immediately after the title page, the diary, the miscellaneous applications, supporting affidavit, the order sheet and all other documents shall be filed.

47. Destruction of record.- Record of Appellate Tribunal, except permanent record, shall be ordered to be destroyed by the Registrar or Deputy Registrar after six years from the final conclusion of the proceedings after obtaining prior order of the Chairperson.

Explanation: For the purpose of this rule, permanent record shall include order; appeal register, petition register and such other record as may be ordered to be included by the Chairperson.

Part-VII

SERVICE OF PROCESS / APPEARANCE OF RESPONDENTS AND OBJECTIONS

48. Issue of notice.- (1) Where notice of an appeal or petition or interlocutory application is issued by the Appellate Tribunal, copies of the same, the affidavit in support thereof

and if so ordered by the Appellate Tribunal the copy of other documents filed therewith, if any, shall be served along with the notice on the other side.

(2) The copies of the documents referred to sub-rule (1) shall show the date of presentation of the appeal or interlocutory application and the name of the authorised representative, if any, of such party with his full address for service and the interim order, if any, made thereon.

(3) The Appellate Tribunal may order for issuing notice in appropriate cases and also permit the party concerned for service of said notice on the other side by *Dasti* and in such case, deliver the notice to such party and it is for such party to file affidavit of service with proof.

49. Summons.- Whenever summons or notice is ordered by private service, the appellant or applicant or petitioner as the case may be, unless already served on the other side in advance, shall arrange to serve the copy of all appeals or petitions or applications by registered post or courier service and file affidavit of service with its proof of acknowledgement before the date fixed for hearing.

50. Steps for issue of fresh notice.- (1) If any notice issued under rule 46 is returned unserved, that fact and the reason thereof shall be notified immediately on the notice board of the Registry.

(2) The applicant or petitioner or his authorised representative shall within seven days from the date of the notification, take steps to serve the notice afresh.

51. Consequence of failure to take steps for issue of fresh notice.- Where, after a summon has been issued to the other side, and returned unserved, and the applicant or petitioner or appellant, as the case may be, fails to take necessary steps within the period as ordered by the Appellate Tribunal from the date of return of the notice on the

respondent(s), the Registrar shall post the case before the Appellate Tribunal for further directions or for dismissal for non-prosecution.

52. Entries regarding service of notice or process.- The Judicial Section of the Registry shall record in the column in the order sheet 'Notes of the Registry', the details regarding completion of service of notice on the respondents, such as date of issue of notice, date of service, date of return of notice, if unserved, steps taken for issuing fresh notice and date of completion of services etc.

53. Non-appearance of respondent and consequences.- Where the respondent, despite effective service of summons or notice on him does not appear before the date fixed for hearing, the Appellate Tribunal may proceed to hear the appeal *ex-parte* and pass final order on merits.

Provided that it is open to the Appellate Tribunal to seek the assistance of any authorised representative as it deems fit in case the matter involves intricate and substantial questions of law having wide ramifications.

54. Filing of objections by respondent, form and consequences.- (1)The respondent, if so directed, shall file objections or counter within the time allowed by the Appellate Tribunal. (2) The objections or counter shall be verified as an appeal and wherever new facts are sought to be introduced with the leave of the Appellate Tribunal for the first time, the same shall be affirmed by a supporting affidavit.

(3) The respondent, if permitted to file objections or counter in any proceeding shall also file three copies thereof after serving copies of the same on the appellant or petitioner or their authorised representatives, as the case may be.

Part VIII

FEE FOR APPEAL, PROCESS FEE AND AWARD OF COSTS

55. **Fee.-** (1) Fee for filing appeal or interlocutory application, and process fee shall be, as prescribed in the Schedule of fee to these rules.

(2) The fee and process fee shall be deposited by separate demand draft or Indian Postal Order favouring the Pay and Accounts Officer, Ministry of Corporate Affairs, payable at New Delhi.

(3) The Appellate Tribunal may, to advance the cause of justice and in suitable cases, waive payment of such fee or portion thereof, taking into consideration the economic condition or indigent circumstances of the petitioner or appellant or applicant or such other reason, as the case may be.

56. **Award of costs in the proceedings.-** (1) Whenever the Appellate Tribunal deems fit, it may award cost for meeting the legal expenses of the respondent or defaulting party.

(2) The Appellate Tribunal may in suitable cases direct appellant or respondent to bear the cost of litigation of the other side, and in case of abuse of process of court, impose exemplary costs on defaulting party.

Part IX

INSPECTION OF RECORD

57. **Inspection of the records.-** (1) The parties to any case or authorised representative may be allowed to inspect the record of the case by making an application in writing to the Registrar and fee prescribed therein.

(2) Subject to such terms and conditions as may be prescribed by the Chairperson by a general or special order, a person who is not a party to the proceeding, may also be allowed to inspect the proceedings after obtaining the permission of the Registrar in writing.

58. Grant of inspection.- Inspection of records of a pending or decided case before the Appellate Tribunal shall be allowed only on the order of the Registrar.

59. Application for grant of inspection.- (1) Application for inspection of record under rule 58 shall be in the **Form NCLAT-3** and presented at the filing counter of the Registry between 10.30 AM and 3.00 PM on any working day and two days before the date on which inspection is sought, unless otherwise permitted by the Registrar.

(2) The Registry shall submit the application with its remarks before the Registrar, who shall on consideration of the same, pass appropriate orders.

(3) Inspection of records of a pending case shall not ordinarily be permitted on the date fixed for hearing of the case or on the preceding day.

60. Fee payable for inspection.- Fee as given in the Schedule of the fees appended to these rules shall be payable by way of Demand Draft or Indian Postal Order to be drawn in favour of the Pay and Accounts Officer, Ministry of Corporate Affairs, New Delhi on any application for inspection of records of a pending or decided case.

61. Mode of inspection.- (1) On grant of permission for inspection of the records, the Deputy Registrar shall arrange to procure the records of the case and allow inspection of such records on the date and time fixed by the Registrar between 10.30 AM and 12.30 PM and between 2.30 PM and 4.30 PM in the immediate presence of an officer authorized in that behalf.

(2) The person inspecting the records shall not in any manner cause dislocation, mutilation, tampering or damage to the records in the course of inspection.

(3) The person inspecting the records shall not make any marking on any record or paper so inspected and taking notes, if any, of the documents or records inspected may be done only in pencil.

(4) The person supervising the inspection, may at any time prohibit further inspection, if in his opinion, any of the records are likely to be damaged in the process of inspection or the person inspecting the records has violated or attempted to violate the provisions of these rules and shall immediately make a report about the matter to the Registrar and seek further orders from the Registrar and such notes shall be made in the Inspection Register.

62. Maintenance of register of inspection.- The Deputy Registrar shall cause to maintain a Register for the purpose of inspection of documents or records and shall obtain therein the signature of the person making such inspection on the Register as well as on the application on the conclusion of inspection.

Part X

Appearance of authorised representative

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 or any other person to present his case before the Appellate Tribunal.

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.

65. Restriction on party's right to be heard.- The party who has engaged a authorised representative to appear for him before the Appellate Tribunal shall not be entitled to be heard in person unless permitted by the Appellate Tribunal.

66. **Professional dress for the authorised representative.**- While appearing before the Appellate Tribunal, the authorised representative shall wear the same professional dress as prescribed in their Code of Conduct.

Part XI

AFFIDAVITS

67. **Title of affidavits.**- Every affidavit shall be titled as "Before the National Company Law Appellate Tribunal." followed by the cause title of the application or other proceeding in which the affidavit is sought to be used.

68. **Form and contents of the affidavit.**- The affidavit as per **Form NCLAT-4** shall conform to the requirements of order XIX, rule 3 of Civil Procedure Code, 1908 (5 of 1908).

69. **Persons authorised to attest.**- Affidavits shall be sworn or affirmed before an Advocate or Notary, who shall affix his official seal.

70. **Affidavits of illiterate, visually challenged persons.**- Where an affidavit is sworn or affirmed by any person who appears to be illiterate, visually challenged or unacquainted with the language in which the affidavit is written shall be in **Form NCLAT-5**, the attester shall certify that the affidavit was read, explained or translated by him or in his presence to the deponent and that he seemed to understand it, and made his signature or mark in the presence of the attester.

71. **Identification of deponent.**- If the deponent is not known to the attester, his identity shall be testified by a person known to him and the person identifying shall affix his signature in token thereof.

72. **Annexures to the affidavit.**- (1) Document accompanying an affidavit shall be referred to therein as Annexure number and the attesor shall make the endorsement thereon that this is the document marked putting the Annexure number in the affidavit.

(2) The attesor shall sign therein and shall mention the name and his designation.

Part XII

DISCOVERY, PRODUCTION AND RETURN OF DOCUMENTS

73. **Application for production of documents, form of summons.**-(1) Except otherwise provided hereunder, discovery or production and return of documents shall be regulated by the provisions of the Code of Civil Procedure, 1908 (5 of 1908).

(2) An application for summons to produce documents shall be on plain paper setting out the documents the production of which is sought, the relevancy of the documents and in case where the production of a certified copy would serve the purpose, whether application was made to the proper officer and the result thereof.

(3) A summons for production of documents in the custody of a public officer other than a court shall be addressed to the concerned Head of the Department or such other authority as may be specified by the Appellate Tribunal.

74. **Suo motu summoning of documents.**- Notwithstanding anything contained in these rules, the Appellate Tribunal may, *suo motu*, issue summons for production of public document or other documents in the custody of a public officer in **Form NCLAT-6**.

75. **Marking of documents.**- (1)The documents when produced shall be marked as follows:

(a) if relied upon by the appellant's or petitioner's side, they shall be numbered as 'A' series.

(b) if relied upon by the respondent's side, they shall be marked as 'B' series.

(c) The Appellate Tribunal exhibits shall be marked as 'C' series.

(2) The Appellate Tribunal may direct the applicant to deposit with Appellate Tribunal by way of Demand Draft or Indian Postal Order drawn in favour of the Pay and Accounts Officer, Ministry of Corporate Affairs, New Delhi, a sum sufficient to defray the expenses for transmission of the records before the summons is issued.

76. Return and transmission of documents.- (1) An application for return of the documents produced shall be numbered and such application shall be entertained after the destruction of the records.

(2) The Appellate Tribunal may, at any time, direct return of documents produced subject to such conditions as it deems fit.

Part XIII

EXAMINATION OF WITNESSES AND ISSUE OF COMMISSIONS

77. Procedure for examination of witnesses, issue of Commissions.- The provisions of section 424 of the Act and relevant provisions of the Orders XVI and XXVI of the Code of Civil Procedure, 1908 (5 of 1908), shall apply in the matter of summoning and enforcing attendance of any person and examining him on oath and issuing commission for the examination of witnesses or for production of documents.

78. Examination in camera.- The Appellate Tribunal may in its discretion examine any witness in camera.

79. Form of oath or affirmation to witness.- Oath shall be administered to a witness in the following form : " I do swear in the name of God/solemnly affirm that what I shall state shall be truth, the whole truth and nothing but the truth".

80. Form of oath or affirmation to interpreter.- Oath or solemn affirmation shall be administered to the Interpreter in the following form before his assistance as taken for examining a witness :

“I do swear in the name of God/solemnly affirm that I will faithfully and truly interpret and explain all questions put to and evidence given by witness and translate correctly and accurately all documents given to me for translation.”

81. Officer to administer oath.- The oath or affirmation shall be administered by the Branch Officer or Court Master.

82. Recording of deposition.- (1) The deposition of a witness shall be recorded in **Form NCLAT-7**.

(2) Each page of the deposition shall be initialed by the Members constituting the Bench.

(3) Corrections, if any, pointed out by the witness may, if the Bench is satisfied, be carried out and duly initialled, and if not satisfied, a note to the effect be appended at the bottom of the deposition.

83. Numbering of witnesses.- The witnesses called by the applicant or petitioner shall be numbered consecutively as ‘PWs’ and those by the respondents as ‘RWs’.

84. Grant of discharge certificate.- Witness discharged by the Appellate Tribunal may be granted a certificate in **Form NCLAT-8** by the Registrar.

85. Witness allowance payable.- (1) Where the Appellate Tribunal issues summons to a Government servant to give evidence or to produce documents, the person so summoned may draw from the Government travelling and daily allowances admissible to him as per rules.

(2) Where there is no provision for payment of Travelling Allowance and Daily Allowance by the employer to the person summoned to give evidence or to produce documents, he shall be entitled to be paid as allowance, (a sum found by the Registrar sufficient to defray the traveling and other expenses), having regard to the status and position of the witness.

(3) The party applying for the summons shall deposit with the Registrar the amount of allowance as estimated by the Registrar well before the summons is issued.

(4) If the witness is summoned as a court witness, the amount estimated by the Registrar shall be paid as per the directions of the Appellate Tribunal.

(5) The aforesaid provisions shall govern the payment of allowance to the interpreter as well.

86. Records to be furnished to the Commissioner.- (1) The Commissioner shall be furnished by the Appellate Tribunal with such of the records of the case as the Appellate Tribunal considers necessary for executing the Commission.

(2) Original documents shall be furnished only if a copy does not serve the purpose or cannot be obtained without unreasonable expense or delay.

(3) Delivery and return of records shall be made under proper acknowledgement.

87. Taking of specimen handwriting, signature etc..-The Commissioner may, if necessary, take specimen of the handwriting, signature or fingerprint of any witness examined before him.

Part XIV

PRONOUNCEMENT OF ORDERS

88. Order.- The final decision of the Appellate Tribunal on an appeal or proceedings before the Appellate Tribunal shall be delivered by way of Judgment.

89. **Operative portion of the order.**- All orders or directions of the Bench shall be stated in clear and precise terms in the last paragraph of the order.

90. **Corrections.**- The Member of the Bench who has prepared the order shall initial all corrections and affix his initials at the bottom of each page.

91. **Pronouncement of order.**- (1) The Appellate Tribunal shall as far as possible pronounce the order immediately after the hearing is concluded.

(2) When the orders are reserved, the date for pronouncement of order shall be notified in the cause list which shall be a valid notice of intimation of pronouncement.

(3) Reading of the operative portion of the order in the open court shall be deemed to be pronouncement of the order.

92. **Pronouncement of order by any one member of the Bench.**- (1) Any Member of the Appellate Tribunal may pronounce the order for and on behalf of the Bench.

(2) When an order is pronounced under this rule, the Court Master shall make a note in the order sheet, that the order of the Bench consisting of Chairperson and Members was pronounced in open court on behalf of the Bench .

93. **Authorizing any Member to pronounce order.**- (1) If the Members of the Bench who heard the case are not readily available or have ceased to be Members of the Appellate Tribunal, the Chairperson may authorise any other Member to pronounce the order on his behalf after being satisfied that the order has been duly prepared and signed by all the Members who heard the case and the order pronounced by the Member so authorised shall be deemed to be duly pronounced.

(2) The Member so authorised for pronouncement of the Order shall affix his signature in the Order sheet of the case stating that he has pronounced the order as provided in this rule.

(3) If the Order cannot be signed by reason of death, retirement or resignation or for any other reason by any one of the Members of the Appellate Tribunal who heard the case, it shall be deemed to have been released from part-heard and listed afresh for hearing.

94. Making of entries by Court Master.- Immediately on pronouncement of an order by the Appellate Tribunal, the Court Master shall make necessary endorsement on the case file regarding the date of such pronouncement, the nature of disposal and the constitution of the Bench pronouncing the order and he shall also make necessary entries in the court diary maintained by him.

95. Transmission of order by the Court Master.- (1) The Court Master shall immediately on pronouncement of order, transmit the order with the case file to the Deputy Registrar.

(2) On receipt of the order from the Court Master, the Deputy Registrar shall after due scrutiny, satisfy himself that the provisions of these rules have been duly complied with and in token thereof affix his initials with date on the outer cover of the order.

(3) The Deputy Registrar shall thereafter cause to transmit the case file and the order to the Registry for taking steps to prepare copies and their communication to the parties.

96. Format of order.- (1) All orders shall be neatly and fairly typewritten in double space on one side only on durable foolscap folio paper of metric A-4 size (30.5 cm long and 21.5 cm wide) with left side margin of 5 cm and right side margin of 2.5 cm and corrections, if any, in the order shall be carried out neatly and sufficient space may be left both at the bottom and at the top of each page of the order to make its appearance elegant.

(2) Members constituting the Bench shall affix their signatures in the order of their seniority from right to left.

97. Indexing of case files after disposal.- After communication of the order to the parties or legal representative, the official concerned shall arrange the records with pagination and prepare in the Index Sheet in Form no. to be prescribed by the Appellate Tribunal and he shall affix initials and then transmit the records with the Index initials to the records room.

98. Transmission of files or records or orders.- Transmission of files or records of the cases or orders shall be made only after obtaining acknowledgement in the movement register maintained at different sections or levels as per the directions of the Registrar.

99. Copies of Orders in library.- (1) The officer in charge of the Registry shall send copies of every final order to the library.

(2) Copies of all Orders received in each month shall be kept at the library in a separate folder, arranged in the order of date of pronouncement, duly indexed and stitched.

(3) At the end of every year, a consolidated index shall also be prepared and kept in a separate file in the library.

(4) The Order folders and the indices may be made available for reference in the library to the legal practitioners.

Part XV

SUPREME COURT ORDERS

100. Register of Special Leave Petitions/Appeal.- (1) A Register in **Form NCLAT-9** shall be maintained in regard to Special Leave Petitions or Appeals against the orders of the Appellate Tribunal to the Supreme Court and necessary entries therein be promptly made by the Judicial Branch.

(2) The register shall be placed for scrutiny by the Chairperson in the first week of every month.

101. Placing of Supreme Court orders before Appellate Tribunal.- Whenever an interim or final order passed by the Supreme Court of India in an appeal or other proceeding preferred against a decision of the Appellate Tribunal is received, the same shall forthwith be placed before the Chairperson or Members for information and kept in the relevant case file and immediate attention of the Registrar shall be drawn to the directions requiring compliance.

102. Registrar to ensure compliance of Supreme Court orders.- It shall be the duty of the Registrar to take expeditious steps to comply with the directions of the Supreme Court.

Part XVI

Miscellaneous

103. Filing through electronic media.- The Appellate Tribunal may allow filing of appeal or proceedings through electronic mode such as online filing and provide for rectification of defects by e-mail or internet and in such filing, these rules shall be adopted as nearly as possible on and from a date to be notified separately and the Central Government may issue instructions in this behalf from time to time.

104. Removal of difficulties and issue of directions.- Notwithstanding anything contained in the rules, wherever the rules are silent or no provision is made, the Chairperson may issue appropriate directions to remove difficulties and issue such orders or circulars to govern the situation or contingency that may arise in the working of the Appellate Tribunal.

SCHEDULE OF FEES			
S.No.	Section of the Companies Act, 2013/ Rule	Nature of Appeal etc	Fees (in Rupees)
1.	Sec. 218(3))	Protection of employee during investigation	1,000/-
2.	Section 421(1)	Appeals to National Company Law Appellate Tribunal	5,000/-

FORM NCLAT- 1

[See Rule 22]

**Memorandum of Appeal Preferred under Section 421 of
The Companies Act, 2013**

IN THE NATIONAL COMPANY LAW APPELLATE TRIBUNAL

AT NEW DELHI

APPELLATE JURISDICTION

APPEAL NO. _____ OF 20---

CAUSE TITLE

Between

A.B.Appellant (s)

And

C.D.Respondent(s)

[including appropriate commission/adjudicating officer]

(with short address)

1. Details of Appeal

[Appeal under section 421 of the Companies Act, 2013 against impugned order of the National Company Law Tribunal Order datedpassed under sectionof the Companies Act, 2013.

2. Date on which the order appealed against is communicated and proof thereof, if any.

3. The address of the appellant for service is as set out hereunder:

i) Postal address including PIN code

ii) Phone number including mobile number.

iii) E-mail

iv) Fax No.

v) Address of Legal Representative with Phone No., Fax No., e-mail

4. The address of the respondents for service of all notices in the appeal are as set out hereunder:

i) Postal address including PIN code

ii) Phone number

iii) E-mail

iv) Fax Number

v) Mobile Number

vi) Address of Counsel with Phone number, Fax number, e-mail and mobile number.

5. Jurisdiction of the Appellate Tribunal

The appellant declares that the subject matter of the appeal is within the jurisdiction of this Tribunal.

6. Limitation

The Appellant/s declare that the appeal is within the period specified in sub-section (3) of section 421 of the Act. (Explain how the appeal is within the period prescribed in case the appeal is preferred after the expiry of 45 days from the date of order/direction/decision against which this appeal is preferred). In case the appeal barred by limitation, the number of days of delay should be given along with interlocutory application for condonation of delay.

7. Facts of the case

The facts of the case are given below:

(Give here a concise statement of facts in a chronological order followed by elaboration of issues including the question of law arising in the appeal. Each paragraph should deal with, as far as possible a separate issue.)

8. Formulate (i) the facts in issue or specify the dispute between the parties and (ii) summarize the questions of law that arise for consideration in the appeal:

(a) Facts in issue

(b) Question of law

9. Grounds raised with legal provisions

10. Matters not previously filed or pending with any other court

The appellant further declares that the appellant had not previously filed any writ petition or suit regarding the matter in respect of which this appeal is preferred before any court or any other authority nor any such writ petition or suit is pending before any of them.

[In case the appellant previously had filed any such writ petition or suit, the stage at which it is pending and, if decided, the outcome of the same should be specified and a copy of the order should also be annexed].

11. Specify below explaining the grounds for such relief (s) and the legal provisions, if any, relied upon.
12. Details of Interim Application, if any, preferred along with appeal.
13. Details of appeal/s, if any preferred before this Appellate Tribunal against the same impugned order/direction, by Respondents with numbers, dates... and interim order, if any passed in that appeal (if known).
14. Details of Index
[An index containing the details of the documents in chronological order relied upon is enclosed].
15. Particulars of fee payable and details of bank draft in favour of Pay and Accounts Officer, Ministry of Corporate Affairs, New Delhi.
In respect of the fee for appeal.
Name of the Bank _____ Branch, _____ payable at Delhi. DD No. _____
_____ Date.
16. List of enclosures:
 - 1.
 - 2.
 - 3.
 - 4.
17. Whether the order appealed as communicated in original is filed? If not, explain the reason for not filing the same.
18. Whether the appellant/s is ready to file written submissions/arguments before the first hearing after serving the copy of the same on Respondents.
19. Whether the copy of memorandum of appeal with all enclosures has been forwarded to all respondents and all interested parties, if so, enclose postal receipt/courier receipt in addition to payment of prescribed process fee.

20. Any other relevant or material particulars / details which the appellant(s) deems necessary to set out:

21. Reliefs Sought

In view of the facts mentioned in para 7 above, points in dispute and questions of law set out in Para 8, the appellant prays for the following relief (s) :

a)

b)

c)

Dated at _____ this _____ day of _____ 200 .

Counsel for Appellant(s) Appellant (s)

DECLARATION BY APPELLANT

The appellant(s) above named hereby solemnly declare (s) that nothing material has been concealed or suppressed and further declare(s) that the enclosures and typed set of material papers relied upon and filed herewith are true copies of the original(s)/fair reproduction of the originals / true translation thereof.

Verified at _____ on this at _____ day of _____ 20---.

Counsel for Appellant (s)

APPELLANT(S)

Verification

I _____ (Name of the appellant) S/o. W/o. D/o. [indicate any one, as the case may be] _____ age _____ working as _____ in the office of _____ resident of _____ do hereby verify that the contents of the paras _____ to _____ are true to my personal knowledge/derived from official record) and para _____ to _____ are believed to be true on legal advice and that I have not suppressed any material facts.

Date :

Place :

Signature of the appellant or authorized officer

FORM NCLAT-2

[See Rule 31]

INTERLOCUTORY APPLICATION

IN THE NATIONAL COMPANY LAW APPELLATE TRIBUNAL

IA NO. _____ OF 20

In

Appeal Petition No. _____ of 20 .

CAUSE TITLE

Set out the Appeal No. _____ of 20

Appeal Petition short cause title

Set out the 1. Appeal No. _____ 20

Cause Title – Interlocutory Application

Petition for stay/direction/dispense with/condone delay/calling records

The applicant above named state/s as follows :

1. Set out the relief (s)
2. Brief facts
3. Basis on which interim orders prayed for
4. Balance of convenience, if any :

(All interlocutory applications shall be supported by an affidavit sworn by the Applicant/on its behalf and attested by a Notary Public).

DECLARATION

The applicant above named hereby solemnly declare that nothing material has been concealed or suppressed and further declare that the enclosures and typed set of material papers relied upon and filed herewith are true copies of the originals or fair reproduction of the originals or true translation thereof.

Verified at _____ dated at _____ this day _____ of _____ 20 .

Counsel for Applicant

Applicant

VERIFICATION

I _____ (Name of the applicant) S/o.W/o.D/o. (indicate any one, as the case may be) _____ age _____ working as _____ in the office of _____ resident of _____ do hereby verify that the contents of the paras _____ to _____ are true to my personal knowledge / derived from official record) and para _____ to _____ are believed to be true on legal advice and that I have not suppressed any material facts.

Date :

Place :

Signature of the Appellant/Petitioner or authorised officer

FORM NCLAT-3

[See Rule 59]

Pending/Disposed of

IN THE NATIONAL COMPANY LAW APPELLATE TRIBUNAL

New Delhi

Application No. in of 20 _____

Applicant/s/3rd party/Appellant/Petitioner

vs

Respondent/s

Application for Inspection of Documents/Records under Rule 60

I hereby apply for grant of permission to inspect the documents/records in the above case. The details are as follows :-

1. Name and address of the person seeking inspection: _____
2. Whether he is a party to the case/his Legal Practitioner and if so, his rank therein. -----
-
3. Details of the papers/documents sought to be inspected.....
4. Reasons for seeking the Inspection
5. The date and duration of the inspection sought for
6. Whether fee is paid and if so, the mode of payment.....
7. If a third party, whether a vakalat has been filed with Court Fee Stamp

Verification:

I.....state that the above facts are true and correct.

Place :

Date :

Applicant

Office Use :

Granted inspection for _____ hours on _____/rejected.

Registrar

APTEL

Endorsement after inspection:

I....., the applicant above named inspected the documents/records onin the presence of Mr.....betweentoHrs onand inspection is completed/concluded.

Datedday.....20.

Applicant/authorised Representative

Form NCLAT-4

[See Rule 68]

IN THE NATIONAL COMPANY LAW APPELLATE TRIBUNAL

_____ **BENCH**

Appeal/Petition/ /No. of 20_____

Appellant/Applicant

vs

Respondent/s

AFFIDAVIT

I,aged.....years, son/daughter/wife of

.....(name and occupation of the deponent).....

residing at (Full address)do hereby swear in the name of God/solemnly
affirm and state as follows :

Para. 1

Para. 2

Para. 3

.....

Contents of Paragraphs Nos.are within my personal knowledge and contents of
Paragraphs Nos.....are based on information received by me which I believe the same to be
true (state the source of information wherever possible and the grounds for belief, if any).

Place :

Signature of the Deponent

Date :

Name in Block Letters

No. of corrections on page nos.

Identified by :

Before me

*

Sworn/solemnly affirmed before me on this theday of ...200.....

Signature

(Name and Designation of the
Attesting Authority with Seal)

*To add endorsement in Form No. when necessary

FORM NCLAT-5
IN THE NATIONAL COMPANY LAW APPELLATE TRIBUNAL
[See Rule 70]

Certification when deponent is unacquainted with the language of the affidavit or is blind or illiterate.

Contents of the affidavit were truly and audibly read over/translated intolanguage known to the deponent and he seems to have understood the same and affixed his LTI/Signature/Mark.

(Signature)

Name and designation with date.

Form NCLAT-6

[See Rule 74]

IN THE NATIONAL COMPANY LAW APPELLATE TRIBUNAL

New Delhi

Appeal No..... OF 20.....

Between

.....

Appellant/Petitioner

(By Legal Representative Shri.....)

and

.....

Respondent/s

(By Legal Representative Shri)

**Under Section 424 of the Companies Act, 2013 r/w corresponding power
vested under C.P.C.**

Whereas the Tribunal *suo motu* or on consideration of the request made by Shri/ Smt/M/s(Appellant) having been satisfied that production of the following documents or records under your control or custody is necessary for proper decision of the above case, you are hereby directed to cause production of the said documents/records before this Tribunal /forward duly authenticated copies thereof on or before theday of.....20.....

(Enter description of documents requisitioned)

“By Order of Tribunal “

Registrar

Date :

FORM NCLAT-7

[See Rule 82]

IN THE NATIONAL COMPANY LAW APPELLATE TRIBUNAL

NEW DELHI

Appeal/Petition No..... of 20.....

Deposition of PW/RW

- 1. Name :
- 2. Father's/Mother's/Husband's Name :
- 3. Age :
- 4. Occupation :
- 5. Place of Residence and address :
- 6. Name of the Officer administering the
Oath / affirmation :
- 7. Name of the Interpreter if any, duly
Sworn/ solemnly affirmed :
- Duly sworn/ solemnly/ affirmed
- Examination-in-chief: By

Date:

.....
.....

Cross examination: By

.....
.....

Re-examination, if any:

.....

(Signature of the witness on each page)

Statement of witness as recorded was read over/translated to the witness, who admitted it to be correct.

Signature of the Member of the Appellate Tribunal with date

FORM NCLAT-8

[See Rule 84]

CERTIFICATE OF DISCHARGE

Certified thatappeared before this Appellate Tribunal as a witness/in/ No.of 20....., on behalf of the appellant or respondent as Court witness on thisday of20..... and that he was relieved aton..... He was paid/not paid any T.A. and D.A. or allowance of Rs.....

Date :

(Seal of the Tribunal)

Signature of the Registrar

FORM NCLAT -9

[See Rule 100]

IN THE NATIONAL COMPANY LAW APPELLATE TRIBUNAL

REGISTER OF SLPs/ APPEALS TO SUPREME COURT Sl. No	No. of SLP/ appeal Before the Supreme Court	No. of the case appealed against	Name of the Applicant/ Respondent	Date of dispatch Of records to SC	Date of receipt of records from SC	SLP dismissed allowed with date	Interim Direction If any, with date	Final order In the appeal with date	Direction If any, for compliance by the Tribunal	Steps Taken for compliance	Remarks

[F No. 1/30/NCLAT/CL-V/2013]

Amardeep Singh Bhatia
21/07/2016

Amardeep Singh Bhatia

Joint Secretary to the Government of India