

NATIONAL GREEN TRIBUNAL

The National Green Tribunal (NGT) was established in the year 2010 under the *National Green Tribunal Act* (2010) for effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources. It also deals with the cases pertaining to the enforcement of any legal right relating to environment and giving relief and compensation for damages to persons and property.

The Tribunal is a specialised body equipped with the necessary expertise to handle environmental disputes involving multi-disciplinary issues. It is not bound by the procedure laid down under the Code of Civil Procedure, 1908, but is guided by principles of natural justice.

Initially, the Tribunal is proposed to be set up at five places of sittings and will follow circuit procedure for making itself more accessible. New Delhi is the Principal Place of sitting of the Tribunal and Bhopal, Pune, Kolkata and Chennai are the other four places of sitting of the Tribunal. In addition to the Chairperson, the Tribunal consists of judicial members and expert members.

The Tribunal's dedicated jurisdiction in environmental matters shall provide speedy environmental justice and help to reduce the burden of litigation in the higher courts. It is mandated to make an endeavour for disposal of applications or appeals finally within six months of filing of the same.

The Tribunal applies the principles of Sustainable Development, the Precautionary Principle and the Polluter Pay Principle.

Any person aggrieved because of the decision of the Tribunal may file an appeal before the Supreme Court within ninety days.

Whoever fails to comply with the order or award or decision of the Tribunal is punishable with imprisonment up to three years, or fine up to ₹10 crore or both. In case failure or contravention continues, the punishment is with additional fine of ₹ 25,000 every day after conviction for first such failure. In case of a company, it is up to ₹25 crore and for continuous contravention, additional fine may extend to ₹1 lakh/day.

COMPETITION APPELLATE TRIBUNAL

The Competition Appellate Tribunal (COMPAT) is a statutory organisation established under the provisions of the *Competition Act*, 2002 to hear and dispose of appeals against any direction issued or decision made or order passed by the Competition Commission of India. The Tribunal also adjudicates on claim for compensation that may arise from the findings of the Competition

Commission of India or the orders of the Tribunal in an appeal against any findings of the Competition Commission of India and pass orders for the recovery of compensation under the Act.

The Government has set up the Tribunal in 2009 having its Headquarter at New Delhi. Besides the Chairperson, the Tribunal consists of two members to be appointed by the Central Government.

Every appeal should be filed within a period of 60 days of the direction or decision or order made by the Competition Commission of India. The Tribunal may entertain an appeal after the expiry of the period of 60 days if it is satisfied that there was sufficient cause for not filing it within that period.

The Tribunal is not bound by the procedure laid down in the Code of Civil Procedure, 1908, but is guided by the principles of natural justice. If any person contravenes, without any reasonable ground, any order of the Tribunal, he shall be liable for a penalty of not exceeding ₹1 crore or imprisonment for a term up to three years or with both.

After the dissolution of the erstwhile MRTP Commission, the Government vested the Tribunal with powers to hear and dispose of pending cases, being dealt with by the then MRTP Commission.

INCOME-TAX APPELLATE TRIBUNAL

The *Income Tax Act*, 1961 provides that the Central Government shall constitute an Appellate Tribunal consisting of as many Judicial Members and Accountant Members as it thinks fit, to exercise the powers and discharge the functions conferred on the Appellate Tribunal by the said Act. The Income Tax Appellate Tribunal (ITAT) was established in 1941, in pursuance of a similar provision contained in the *Indian Income Tax Act*, 1922.

The present sanctioned strength of Members of Tribunal is 126 for 63 benches spread over 27 cities throughout the country.

The Tribunal is presently headed by the President assisted by one Senior Vice-President and nine Vice-Presidents.

Primarily, the Tribunal was set up to dispose of appeals arising from assessments under the Income Tax Act. When other direct taxes, viz., Excess Profits Tax, Business Profits Tax, Wealth Tax Act, Gift Tax Act, Expenditure Tax Act, Super Profits Tax Act were introduced from time to time, orders of the Appellate Assistant Commissioner under all these Acts were made appealable to the Tribunal. Orders passed by the Appellate Controller of Estate Duty are also appealable to the Tribunal. Orders prejudicial to assesses passed by the Commissioner in exercise of his Revisional Jurisdiction also come up in appeal to the Tribunal. The Tribunal is thus functioning at present as the appellate Tribunal for all direct taxes including Estate Duty.

INCOME TAX SETTLEMENT COMMISSION

The Income Tax Settlement Commission (ITSC) is an important Alternate Disputes Resolution (ADR) mechanism for resolving tax disputes relating to Direct Taxes. At present, four benches of the Commission are operational at New Delhi, Mumbai, Kolkata and Chennai, respectively.

The Commission was constituted in 1976, on the recommendation of the Wanchoo Committee (1971). The Committee conceived the Commission as a mechanism for providing room for settlement and compromise for one-time tax evaders or unwitting defaulters. One 'Case' settled by the Commission, reduces litigation in respect of an applicant for several years relating to proceedings of

various nature, such as assessment, penalty, prosecution, tax collection, etc. Each such proceeding before an Assessing Officer of the Income Tax Department is appealable before the Commissioner (Appeals) and later before the Income Tax Appellate Tribunal and where it involves question of law, even up to High Courts and the Supreme Court.

Later in 1996, a review of the mechanism of the Commission was done by a committee led by Justice Duggal, which found that the Commission has been substantially successful in achieving the objects for which it was set up. It also acknowledged that in the revenue matters, the Commission has contributed in moving from conflict to consensus approach.

In 2009, the Supreme Court observed the advantages of the Commission in settling liabilities across the board in complicated cases having doubtful benefits to revenue.

Each Bench comprises of one Presiding Officer (Chairman/ Vice-chairman) and two members, who are retired IRS officers. Each bench of the Commission is supported by two senior IRS officers of the level of Joint Secretary, i.e., a Secretary and a Director (Investigation). The Secretary provides administrative support, while the Director (Investigation) and the Additional Directors (Investigation) provide technical support to the Commission in deciding the settlement applications.

CYBER APPELLATE TRIBUNAL

The Cyber Appellate Tribunal has been established under the Information Technology Act (2000) under the aegis of Controller of Certifying Authorities (C.C.A.). The Tribunal, initially known as the Cyber Regulations Appellate Tribunal (C.R.A.T.), started functioning from 2006.

The Tribunal has, for the purposes of discharging its functions under the I.T. Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908. However, the procedure laid down by the Code of Civil Procedure, 1908 applies but at the same time the Tribunal is guided by the principles of natural justice.

The Tribunal has powers to regulate its own procedure including the place at which it has its sittings. Every proceeding before the Tribunal is deemed to be a judicial proceeding within the meaning of the Indian Penal Code.

The Tribunal is headed by a President Officer who is qualified to be a Judge of a High Court.

Any person aggrieved by an order made by the Controller or by an Adjudicating Officer appointed under the Information Technology Act, 2000 can prefer an appeal before the Tribunal within forty-five days of receiving a copy of the order of the Controller or the Adjudicating Officer.

The Central Government may appoint a Controller of Certifying Authorities for discharging the functions provided under the Act. The Act empowers the Central Government to appoint an adjudicating officer to hold an enquiry as to whether any person has contravened any provisions of the Act or any rule, regulation or direction or order made thereunder which renders him liable to pay penalty or compensation.

INTELLECTUAL PROPERTY APPELLATE BOARD

The Intellectual Property Appellate Board (IPAB) has been constituted in 2003 to hear appeals against the decisions of the Registrar of trade marks, geographical indications and the controller of

patents.

The Board has its headquarters at Chennai and shall have sittings at Chennai, Mumbai, Delhi, Kolkata and Ahmedabad.

The *Trade Marks Act*, 1999 provides for the establishment of the Board. The objective of setting up of the Board is to hear and decide appeals from the order or decision of the Registrar of Trade Marks which till now were under the jurisdiction of the High Courts.

The Board can also entertain original applications for rectifications of the Registrar of Trade Marks under the above Act.

Appeals from an order or decision of the Registrar under the Trade Marks Rules, 2002 shall also be heard by the IPAB.

It is provided that similar matters arising under the Geographical Indications of Goods (Registration and Protection) Act, 1999 shall also be heard and decided by IPAB.

In 2007, the provisions of the Patent Amendment Act, 2002 and the Patents Amendment Act, 2005, relating to the Intellectual Property Appellate Board have been brought into force. Thus, all the Appeals pending before the various High Courts, will stand transferred to the IPAB. Likewise, fresh rectification applications under the Patents Act, 1970, will have to be filed before the IPAB.

EMPLOYEES' PROVIDENT FUNDS APPELLATE TRIBUNAL

The Employees' Provident Funds Appellate Tribunal, Delhi, is a government organisation that handles issues related to Provident Fund Scheme, Pension Scheme and Insurance Scheme. It is a part of the Ministry of Labour and Employment, Government of India. It comes under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.

The Act makes the following provisions with respect to the Tribunal:

1. The Central Government may constitute one or more Appellate Tribunals to be known as the Employees' Provident Funds Appellate Tribunal to exercise the powers and discharge the functions conferred on such Tribunal by this Act. Every such Tribunal shall have jurisdiction in respect of establishments situated in such area as may be specified in the notification constituting the Tribunal.
2. A Tribunal shall consist of one person only to be appointed by the Central Government. A person shall not be qualified for appointment as a Presiding Officer of a Tribunal unless he is, or has been, or is qualified to be,
 - (i) a Judge of a High Court; or
 - (ii) a District Judge.
3. The Central Government shall determine the nature and categories of the officers and other employees required to assist a Tribunal in the discharge of its functions and provide the Tribunal with such officers and other employees as it may think fit. The officers and other employees of a Tribunal shall discharge their functions under the general superintendence of the Presiding Officer.
4. Any person aggrieved by a notification issued by the Central Government, or an order passed by the Central Government, or any authority, under the provisions of the Act may prefer an appeal to a Tribunal against such order.
5. A Tribunal shall have power to regulate its own procedure in all matters arising out of the

exercise of its powers or of the discharge of its functions including the places at which the Tribunal shall have its sittings.

6. A Tribunal shall, for the purpose of discharging its functions, have all the powers which are vested in the officers referred to in the Act. Any proceeding before the Tribunal shall be deemed to be a judicial proceeding within the meaning of the Indian Penal Code (1860). The Tribunal shall be deemed to be a civil court for all the purposes of the Code of Criminal Procedure, 1973.
7. A Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or annulling the order appealed against or may refer the case back to the authority which passed such order with such directions as the tribunal may think fit, for a fresh adjudication or order.

CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL

The Customs, Excise and Service Tax Appellate Tribunal (CESTAT) was earlier known as Customs, Excise & Gold (Control) Appellate Tribunal. It was created in 1982 to provide an independent forum to hear the appeals against orders and decisions passed by the Commissioners of Customs & Excise under the Customs Act, 1962, Central Excise Act, 1944 and Gold (Control) Act, 1968. The Gold (Control) Act, 1968 has now been repealed. Presently, Service Tax appeals have been included.

The Tribunal is also having appellate jurisdiction in anti-dumping matters and the special bench headed by the President, CESTAT, hears the appeals against the orders passed by the designated authority in the Ministry of Commerce.

The Head Quarter as well as the Principal Bench of the Tribunal is situated at Delhi and other regional benches are situated at Mumbai, Kolkata, Chennai, Bangalore and Ahmedabad. Each bench consists of a Judicial Member and a Technical Member.

To expedite the disposal of small cases with financial stake involving upto ₹10,00,000 (ten lakh), a single member bench is also constituted.

The Tribunal is the appellate authority in the cases of classification and valuation. An appeal against the Tribunal's order lies before the Supreme Court.

As a result of an amendment by the Finance Act, 1995 the distinction between the special benches and other benches was done away with and now any bench of two or more members is competent to hear all the matters which were earlier being heard at Delhi except anti-dumping matters.

The Tribunal is headed by the President. There are two posts of Vice-Presidents and 18 posts of Members (Judicial) and Members (Technical).

APPELLATE TRIBUNAL FOR ELECTRICITY

Under the provisions of the Electricity Act, 2003, an Appellate Tribunal for Electricity having jurisdiction through out India has been set up to hear appeals or original petitions against the orders of the Adjudicating Officer or the Central Regulatory Commission or State Regulatory Commission or Joint Commission constituted under the Act.

The Tribunal is conferred with original jurisdiction to hear petitions under the Act and issue directions to any Appropriate Commission for the performance of its statutory functions.

The Tribunal has been established by the Ministry of Power, Govt. of India in 2004. This Tribunal shall ordinary sit at Delhi.

The Tribunal shall consist of a Chairperson and three other members. Every Bench constituted by the Chairperson shall consist of at least one Judicial Member and one Technical Member.

The *Electricity Act* (2003) seeks to consolidate the laws relating to generation, transmission, distribution, trading and use of electricity. It contains measures conducive to development of electricity industry, promoting competition therein, protecting interest of consumers and supply of electricity to all areas, rationalisation of electricity tariff, ensuring transparent policies regarding subsidies, promotion of efficient and environmentally benign polices. It also provides for the constitution of Central Electricity Authority, Regulatory Commissions and establishment of Appellate Tribunal.

AIRPORTS ECONOMIC REGULATORY AUTHORITY APPELLATE TRIBUNAL

The Airports Economic Regulatory Authority Appellate Tribunal (AERAAT) was established under the Airports Economic Regulatory Authority of India Act, 2008 to adjudicate any dispute between two or more service providers, between a service provider and a group of consumers and to hear and dispose appeal against any direction/decision/order of the Airports Economic Regulatory Authority.

The Central Government or State Government or Local Authority or any person may make an application to the Tribunal for adjudication of any dispute and/or appeal to the Tribunal against any direction, decision or order made by the Authority, under the Act. The Tribunal may after giving the parties to the dispute or the appeal an opportunity of being heard, pass such orders as it may think fit.

Any person who willfully fails to comply with the Tribunal shall be punishable with fine which may extend to one lakh rupees and in case of second or subsequent offence with fine which may extend to two lakh rupees and in the case of continued contravention with additional fine which may extend to two lakh rupees for every day during which such default continues.

The appeals against the orders of the Tribunal lie before the Supreme Court. No Civil Court shall have the jurisdiction to entertain any suit or proceedings in respect of any matter which the Tribunal is empowered by or under the Act and no injunction shall be granted by any court or other authority in respect of any action taken in pursuance of any power conferred under the Act.

The Airports Economic Regulatory Authority (AERA) was established in 2009 with the prime objective to create a level playing field and foster healthy competition among all major airports (Government owned, Public partnership based, Private), encourage investment in airport facilities, regulate tariffs of aeronautical services, protection of reasonable interest of users, operate efficient, economic and viable airports.

RAILWAY CLAIMS TRIBUNAL

In the year 1890, an enactment known as the *Indian Railway Act* was legislated and passed by British

Parliament. This piece of legislation was aimed at various matters concerning railways. After independence, it was felt that some changes be brought in the Act to fulfill needs of people in the present day. So maintaining some provisions of Act of 1890, rendering some provisions redundant and replacing new provisions, a new legislation named the *Railways Act*, 1989 was enacted.

The broad features of this Act are that Railways were re-constituted in zones with a General Manager for each zone. The Central Government had power to fix the rates of carriage of passengers and goods. The provision for compensation by Railways on account of loss, damage of goods etc. and also due to accidental deaths and injury was maintained. The special provisions were introduced regarding monetary liability of railways as carriers of goods etc.

The *Railway Claims Tribunal Act*, 1987 was enacted to provide speedy disposal of claims against the Railway Administration. Although Railway Administration made a way to compensate the consignor/consignee of goods etc. and also for compensation for loss of lives yet people were not often satisfied and they went to Courts, which took very long time to decide the claims and litigation was protracted for indefinite period. Therefore, the necessity was felt to expedite the disposal of claims at the earliest, which resulted in establishment of the Claims Tribunal, which would exclusively deal with such claims and speedily dispose of the same. As a result, the burden of Courts was reduced and speedy relief was made available. Even the refund of fares and freights was also brought within the purview of Tribunal.

The RCT Act is to provide for the establishment of a Railway Claims Tribunal for inquiring into and determining claims against a Railway Administration for loss, destruction, damage, deterioration or non-delivery of animals or goods entrusted to it to be carried by railway or for the refund of fares or freight or for compensation for death or injury to passengers occurring as a result of railway accidents or untoward incidents.

The scheme of the Act shows that it made provisions for establishment of Tribunal, its Benches, officers and staff, their term, eligibility, the jurisdiction, powers and authority of Tribunal, its procedure, execution of its orders and appeals. In this way, the Act is a self-contained Act.

PRESS COUNCIL OF INDIA

The Press Council of India (PCI) was first set up in the year 1966 by the Parliament on the recommendations of the First Press Commission with the object of preserving the freedom of the press and of maintaining and improving the standards of press in India.

The present Council functions under the *Press Council Act*, 1978. It is a statutory, quasi-judicial body which acts as a watchdog of the press. It adjudicates the complaints against and by the press for violation of ethics and for violation of the freedom of the press respectively.

The Council is headed by a Chairman, who has by convention, been a retired judge of the Supreme Court of India. The Council consists of 28 other members of whom 20 represent the press and are nominated by the press organisations/news agencies recognised and notified by the Council as all India bodies of categories such as editors, working journalists and owners and managers of newspaper and news agencies, five members are nominated from the two Houses of Parliament and three represent cultural, literary and legal fields as nominees of the Sahitya Academy, University Grants Commission and the Bar Council of India.

The Council discharges its functions primarily through adjudications on complaint cases received by it, either against the Press for violation of journalistic ethics or by the Press for interference with

its freedom. Where the Council is satisfied, after inquiry, that a newspaper or a news agency has offended against the standards of journalistic ethics or public taste or that an editor or working journalist has committed any professional misconduct, the Council may warn, admonish or censure them or disapprove of their conduct.

The Council is also empowered to make such observations as it may deem fit in respect of the conduct of any authority, including Government, for interfering with the freedom of the press. The decisions of the Council are final and cannot be questioned in any court of law.

The Council has been entrusted by the Parliament with the additional responsibility of functioning as Appellate Authority under the Press and Registration of Books Act, 1867 and the Appellate Board comprises of the Chairman of the Council and a member of the Council. The Board meets regularly and decides the Appeals placed before it.

The Council rendered its opinion on the references received from Law Commission regarding astrology advertisement. Election Commission of India also approached the Council for providing some concrete parameters to adjudge Paid News.

TELECOM DISPUTES SETTLEMENT AND APPELLATE TRIBUNAL

The *Telecom Regulatory Authority of India (TRAI) Act*, 1997 (as amended) provides for the establishment of the TRAI and the Telecom Disputes Settlement and Appellate Tribunal (TDSAT) to regulate the telecommunication services, adjudicate disputes, dispose appeals and to protect the interests of service providers and consumers of the telecom sector, to promote and ensure orderly growth of the telecom sector.

The TDSAT was created in 2000 under the TRAI Act, 1997 to settle and adjudicate disputes involving licensor and licensee, between service providers and between a group of consumers and service providers. In 2004, the jurisdiction of the TDSAT was extended to include broadcasting and cable services besides telecommunication services. The TDSAT exercises appellate jurisdiction over regulations, determinations, orders and directions of the TRAI.

The jurisdiction of TDSAT is exclusive and its orders can be challenged before Supreme Court of India on points of law only. The statutory appeal does not lie against the interim orders of TDSAT. The TDSAT is an expert body and comprises of a Chairperson and two Members. The Chairperson is a retired Judge of the Supreme Court of India while two Members are experts in the field of administration/telecommunications.

The TDSAT is not bound by the provisions of Civil Procedure Code. It has formulated its own Procedure (TDSAT Procedure 2005) which is simple and is based on the principles of natural justice.

World over the disputes in telecom and broadcasting sector are resolved by the regulator or normal courts. However, in India the unique Institution in the form of TDSAT exists for speedy settlement and adjudication of disputes on telecom and broadcasting sector. As such, dispute resolution in India is outside the purview of the telecom regulator.

APPELLATE TRIBUNAL FOR FOREIGN EXCHANGE

The Appellate Tribunal for Foreign Exchange was established in 2000 under the Foreign Exchange Management Act (FEMA), 1999. Under the FEMA, the Central Government or any person aggrieved by an order made by Special Director (Appeals), or made by an Adjudicating Authority may prefer an appeal to the Tribunal that may be filed within 45 days from the date of receiving the order by the aggrieved person or the Central Government.

The FEMA provides that the Tribunal shall consist of a Chairperson and such number of members as the Central Government may deem fit. The jurisdiction of the Tribunal may be exercised by the Benches. The Bench may be constituted by the Chairperson, with one or more Members as the Chairperson deems fit.

The Benches of the Tribunal shall ordinarily sit at New Delhi and at such other places as the Central Government may, in consultation with the Chairperson, notify. The Chairperson may transfer a Member from one Bench to another Bench. If at any stage it appears that the matter should be heard by a Bench of two Members, the Chairperson may transfer the matter to such Bench as he deems fit.

A person who is qualified to be a Judge of a High Court or is or has been a Judge of High Court can be appointed as Chairperson of the Tribunal and a person who has been or is qualified to be a District Judge can be appointed as a Member of the Tribunal.

The Tribunal is a successor to the Foreign Exchange Regulation Appellate Board, which ceased to exist with the repealing of the Foreign Exchange Regulation Act (FERA), 1973, with effect from 2000. Accordingly, all appeals which were pending before the FERA Board stood transferred under the FEMA with effect from 2000.

The Tribunal hears appeals from the orders of Enforcement Directorate under the defunct FERA and its successor FEMA.