

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**PRINCIPAL BENCH, NEW DELHI**

Dated: 22<sup>nd</sup> November, 2024

**ADMINISTRATIVE ORDER**

The Hon'ble Delhi High Court in W.P. (C) 8580 of 2024- ***"Gujarat Operational Creditors Association vs. National Company Law Tribunal, New Delhi and Ors."*** has passed an order dated 03.07.2024 disposing of the Writ Petition. The Petitioner was given liberty to place the writ petition before the Chairperson, NCLAT and the Chairperson NCLAT was requested to examine the viability of the directions sought in the writ petition concerning recordal of proceedings before NCLT Benches and NCLAT which are articulated in the prayer clauses in the writ petition. The last part of the order of the High Court as contained in paragraphs 11 to 13 is as follows:-

*"11. The Petitioner is given liberty to place the writ petition before the Hon'ble Chairperson, NCLAT.*

*11.1. The Hon'ble Chairperson is requested to examine the viability of the directions sought in the writ petition concerning recordal of proceedings before NCLT Benches and NCLAT which are articulated in the prayer clauses extracted hereinabove.*

*12. The writ petition is disposed of in the aforesaid terms.*

*13. The pending application shall stand closed."*

2. A perusal of the order passed by the Delhi High Court indicate that in writ petition several prayers were made by the petitioner, however, order as noted in paragraph 11, the Chairperson is requested to examine the viability of the directions sought in the writ petition concerning recordal of proceedings before NCLT Benches and NCLAT which are articulated in the prayer clauses.

3. The NCLT Rules, 2016 have been framed in exercise of the powers conferred by section 469 of the Companies Act, 2013 by the Central

Government. With regard to recordal of proceedings, Rule 45(6) of the NCLT Rules, 2016 prohibits audio or video recording of the Bench proceedings by the parties or their authorised representatives. Rule 45(6) is as follows:-

**“45. Rights of a party to appear before the Tribunal.-** (6) *There shall be no audio or video recording of the Bench proceedings by the parties or their authorised representatives.”*

4. The NCLT Rules 2016 enumerate power and functions of President in Part-II of the Rules. Under the Companies Act, 2013, Chapter XXVII National Company Law Tribunal and Appellate Tribunal have been constituted. Section 407(d) defines “President” means the President of the Tribunal. Under Section 408, NCLT is constituted to exercise and discharge such powers and functions as are, or may be, conferred on it by or under this Act or any other law for the time being in force. Section 408 is as follows:-

**“408. Constitution of National Company Law Tribunal.-** *The Central Government shall, by notification, constitute, with effect from such date as may be specified therein, a Tribunal to be known as the National Company Law Tribunal consisting of a President and such number of Judicial and Technical members, as the Central Government may deem necessary, to be appointed by it by notification, to exercise and discharge such powers and functions as are, or may be, conferred on it by or under this Act or any other law for the time being in force.”*

5. The NCLT Rules 2016 provides for functions of the President who exercise administrative power with respect to functioning of the NCLT and its Benches. There being prohibition in recording of the video and audio recording of the Bench of the NCLT and the President having been conferred powers under the Act, it is appropriate that consideration in this order may relate only with regard to recordal of the proceedings in the NCLAT, Principal Bench as well as Chennai Bench.

6. In this regard, it is important to first note the recent developments taking place at the NCLAT regarding its functioning.

**Hybrid hearing through Video Conferencing: Directions of the Supreme Court, later sanctioned by the government, & commencement of hybrid hearing in NCLAT.**

7. The Supreme Court (SC) of India has passed an order dated 15.09.2023 in the matter of *Sarvesh Mathur vs. The Registrar General, High Court of Punjab and Haryana, in Writ Pettion (Criminal) No. 351/2023*, wherein it is ordered as under:-

*"4. We also issue notice to the Registrars of the National Company Law Appellate Tribunal, National Consumer Disputes Redressal Commission and the National Green Tribunal.*

*5. The Registrar Generals of the High Courts and the Registrars of the Tribunals shall intimate this Court as to whether hearings in the hybrid mode are being allowed or whether the facilities have been disbanded. They shall also file an affidavit before this Court within a period of two weeks from today. They shall indicate:*

*(i) How many video conferencing hearings have taken place in the last three months; and*

*(ii) Whether any courts are declining to permit video conferencing hearings."*

8. Further, the SC again passed an order in the same matter on 06.10.2023. The relevant part of the Order pertaining to NCLAT is as under: -

*"14(ix). The Union of India shall ensure that on or before 15 November 2023, all tribunals are provided with requisite infrastructure for hybrid hearings. All Tribunals shall ensure the commencement of hybrid hearings no later than 15 November 2023. The directions governing the High Courts shall also apply to the Tribunals functioning under all the Ministries of the Union Government including CESTAT, ITAT, NCLAT, NCLT, AFT, NCDRC, NGT, SAT, CAT, DRATs and DRTs."*

9. As per the above directions of the Hon'ble SC, after due consultation with the Ministry of Corporate Affairs (MCA), all arrangements for commencement of hybrid hearings through video

conferencing have already been put in place at the NCLAT. As such, at present all the five Courts in NCLAT, including the Court at Chennai Bench, are running through hybrid mode, in accordance with the directions of the Hon'ble SC.

10. Further, it may be noted that **Revised Standard Operating Procedure (Revised SOP) for Ld. Advocate/ Authorized Representatives/ Party-in-Person for hearing/ Mentoring the matter through virtual mode** (Hybrid Hearing), has already been set in place by the NCLAT, as available on the official link: <https://nclat.nic.in/download/revised-SOP-for-VC-Cisco%20Webex>.

Detailed instructions for joining video conferencing is already available on the website <https://nclat.nic.in>. Further, the links for joining video conferencing are also made available on the daily cause list along with the instructions for smooth VC hearings.

11. With regard to the above, various standard operating procedures have been uploaded by the NCLAT through the Revised SOP, such as:-

*“4. The mentioning application must contain a separate paragraph giving consent for taking up the matter through virtual mode”.*

*5. In the mentioning application, the Learned Advocate/Authorised Representative/ Party-in-Person must specify as to how he/she would link to the Hon'ble Bench in video-conferencing mode, i.e. whether through desktop/laptop/mobile phone...”*

*6. Link to enable the Ld. Advocate/Representative/Party-in-Person to join the Video Conference shall be sent to the email provided in the mentioning application...”*

12. Notably, Para 11 of the **Revised SOP** already prohibits recording of hearing through video conferencing:

**“11. Any recording and use in any manner of the proceedings of the hearing through VC is strictly**

**prohibited. Infringement may invite stringent action against the erring party”.**

13. NCLAT Rules, 2016 have also been framed in exercise of powers conferred under Section 469 of the Companies Act, 2013. In the NCLAT Rules 2016, there is no rule akin to Rule 45(6) of the NCLT Rules, 2016. Rule 104 confers power on the Chairperson to 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.

14. As noted above, all courts in the Appellate Tribunal including Chennai Bench are functioning in Hybrid Mode and all proceedings of the NCLAT are in public domain. Recordal of proceedings in a case which is pending consideration before the NCLAT may be allowed only exceptionally on valid reasons and grounds. For recordal of proceedings in a case or of a particular date of proceedings can be permitted by the Court concerned where Appeal/Application is listed. Any party to the proceeding may make an appropriate application giving reasons for recording of the proceeding which application may be heard after given opportunity to other side by the Court and in event, the order is passed by the Court, registry may take appropriate steps for recording of the proceedings which proceedings may be kept on record and use of which may be permitted only as per the direction of the Court.

15. We have already noticed Revised SOP issued by the NCLAT where recording and use in any manner of the proceedings of the hearing through VC is strictly prohibited. In view of what has been noted above, on viability of the directions sought in the writ petition concerning recordal of proceedings, following is directed:-

- (i) The recordal of proceedings in an Appeal/Application pending before the NCLAT is permissible only on prior order obtained by any of the parties to the proceedings from the Court concerned.
- (ii) The permission for recording of the proceedings can be granted by Court concerned after looking into the special reason for recording as claimed by Applicant after giving an opportunity to other side.

(iii) On direction issued by the Court, as made above, Registry shall make all necessary arrangements for recording of the proceedings which shall confine to the recording of the proceedings in the nature and manner as directed by the Court.

(iv) The proceedings recorded by the Registry as per the direction of the Court shall be separately kept and shall be used and provided to the parties in the manner as directed by the Court.

16. The Registry is directed to upload this order and communicate the same to the parties to W.P.(C) 8580 of 2024.

**(Justice Ashok Bhushan)  
Chairperson**

**Copy Forwarded to: -**

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