

Navigating NCLT: A Practitioner's Guide to Applications, Petitions & Appeals



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The National Company Law Tribunal (NCLT), constituted under Section 408 of the Companies Act, 2013 (CA 2013), serves as the primary statutory forum for adjudicating corporate disputes, enforcing corporate governance, and facilitating insolvency resolution under the Insolvency and Bankruptcy Code, 2016 (IBC). Accessing the NCLT necessitates utilizing distinct procedural mechanisms: Applications, Petitions, and Appeals. Governed primarily by CA 2013, the NCLT Rules, 2016, and the IBC (where applicable), these mechanisms are not interchangeable. Each carries unique procedural mandates, statutory triggers, and legal consequences.

- **Applications** are typically employed for seeking procedural directions, interim relief, approvals, or initiating specific actions mandated under CA 2013 or IBC within an existing or independent proceeding.
- **Petitions** are formal pleadings used to initiate substantive proceedings seeking final relief, often involving core disputes such as oppression & mismanagement, insolvency commencement, or class actions.
- **Appeals** challenge orders or decisions of the NCLT (to the NCLAT) or, in limited cases specified under CA 2013, challenge decisions of other authorities to the NCLT.

Understanding their nuances is critical for effective litigation and compliance. This analysis differentiates these instruments through their definitions, governing provisions (including key sections like 59, 66, 230-232, 241-244 of CA 2013 and Sections 7, 9, 10 of IBC), applicability, and procedural aspects under the NCLT Rules.

Application:

Definition & Purpose: While not exhaustively defined in CA 2013, Rule 2(5) of the NCLT Rules defines an "Application" as 'any application, interlocutory application or proceedings filed under the provisions of the Act, including any transferred application or transferred petition as defined under sub-rule (29).' Its primary function is to seek procedural orders, interim relief (injunction, stay, directions), specific approvals, or to initiate actions prescribed under specific sections of CA 2013 or IBC (e.g., approval of schemes, restoration, specific directions in CIRP). It can be filed independently or within ongoing proceedings.

Applications Before the NCLT: Statutory Basis Under the Companies Act, 2013 Applications to the Tribunal are expressly governed by enabling provisions under CA 2013. The following sections authorize specific applications (illustrative list):

Section	Nature of Application
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of the Act	
Sec 2(41)	Application for change in financial year
Sec 7(7)	Application where company has been fraudulently incorporated by furnishing false or incorrect information
Sec 14(1)	Conversion of public company into private company
Sec 55(3)	Application for issue of further redeemable preference shares
Sec 61(1)	Application for consolidation and division of share capital
Sec 66	Application for reduction of share capital
Sec 71(10)	Application in the event of failure of redeeming of debentures
Sec 73(4)	Application by depositor for repayment of deposit or interest
Sec 74(2)	Application to allow further time as considered reasonable to the company to repay deposits
Sec 90(7)	Application for restrictions of the voting rights etc
Sec 97(1)	Application for calling of Annual General meeting.
Sec 98(1)	Application for calling of general meeting of company other than annual general meeting
Sec 130(1)	Application for re-opening of books of account, if made by any person other than Central Government, Income Tax authorities, SEBI or any other statutory regulatory body or authority
Sec 131(1)	Application by company for voluntary revision of financial statement on Board's report
Sec 140(4)	Application for not sending the copy of representation of auditor to the members
Sec 140(5)	Application by any other person concerned for change of auditors
Sec 169(4)	Application for not sending copies of representation
Sec 213	Application to Tribunal for investigation into company affairs
Sec 218(1)	Application for approval for action proposed against employee
Sec 222(1)	Application for imposition of restrictions on securities
Sec 230(12)	Merger, Amalgamation, Acquisition of Shares
Sec 242(4)	Application for regulating the conduct of a company
Sec 243(1)(b)	Application for appointment as Managing Director
Sec 244(1)	Application for waiver of requirement specified in clause (a) or (b) of Section 244(1)

Petition:

Definition & Purpose: Rule 2(17) of the NCLT Rules defines a "Petition" as 'a petition or an application or an appeal or a complaint in pursuance of which any proceeding is commenced before the Tribunal.' This is the primary mechanism for initiating substantive proceedings seeking final relief. Petitions commence the core adjudicatory process for significant disputes like oppression & mismanagement, class actions, insolvency commencement, and compounding of offences.

The following sections expressly authorize substantive petitions:

Section of the Act	Nature of Petition
Sec 71(9)	Petition by debenture-trustees
Sec 119(4)	Petition to pass an order directing immediate inspection of minutes books or directing a copy thereof be sent forthwith to person requiring it
Sec 241(1)	Petition in cases of oppression and mismanagement
Sec 245	Class action suits
Sec 441	Petition for compounding of certain offences

Appeal:

Definition & Purpose: An Appeal is a statutory challenge seeking the reversal, modification, or setting aside of an order or decision. Appeals *from* NCLT orders lie exclusively with the National Company Law Appellate Tribunal (NCLAT) under Section 421 of CA 2013 and Section 61 of IBC. However, CA 2013 also provides for appeals *to* the NCLT against specific orders of other authorities (Registrar, Government). Appeals against NCLAT orders lie with the Supreme Court.

The NCLT exercises limited appellate authority against orders of specified authorities under CA 2013

Section of the Act	Nature of Appeal
Sec 58(3)	Appeal against refusal of registration of shares
Sec 59	Appeal for rectification for register of members
Sec 62(4)	Appeal against order of Govt. fixing terms and conditions for conversion of debentures and shares

Eligibility to File:

Standing to initiate proceedings before the NCLT is strictly governed by enabling statutory provisions and jurisprudential tests for locus standi. For "applications", eligibility derives from specific sections of the Companies Act, 2013 (CA 2013) or Insolvency and Bankruptcy Code, 2016 (IBC), permitting filings by: (i) companies (e.g., scheme approvals under Section 230); (ii) directors/officers (e.g., Section 242 conduct regulation); (iii) stakeholders with direct statutory interest (e.g., depositors under Section 73(4)); or (iv) regulatory authorities like the Registrar of Companies. "Petitions" require stringent statutory standing: oppression/mismanagement claims (Section 241) demand compliance with Section 244 thresholds (not less than 10% shareholding or 100 members for public companies); class actions (Section 245) require not less than 100 members/depositors or 10% total interest; while IBC petitions mandate creditor status (financial/operational) with provable default exceeding Rs. 1 crore and above. "Appeals" bifurcate jurisdiction. Appeals to NCLT (e.g., against Registrar's (RTA) orders under Sections 58(3)/59) require demonstration of direct prejudice by affected shareholders/companies; appeals from NCLT to NCLAT (under Section 421 CA 2013/Section 61 IBC) extend to 'any person aggrieved' – a term judicially interpreted to require substantial legal injury (*Jashbhai Motibhai Desai v. Roshan Kumar*). Critically, non-compliance with statutory thresholds (e.g., shareholding requirements under Rule 81 of NCLT Rules) invalidates petitions at admission, emphasizing that locus standi is a jurisdictional prerequisite (*SP Jain v. Kalinga Tubes*) rather than procedural formality.

Procedure for Filing Application/Petition/Appeal:

1. General Rules [Rule 20]

- Every appeal or petition or application or caveat petition or objection or counter presented to the 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.
- It shall be fairly and legibly type written, lithographed or printed in double spacing on one side of standard petition paper with an inner margin of about 4 cm 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.
- The cause title shall state "Before the National Company Law Tribunal" and shall specify the Bench to which it is presented and also set out the proceedings or order of the authority against which it is preferred.
- Appeal or petition or application or counter or objections 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.
- Full name, parentage, age, description of each party and address and in case a party sues or being sued in a representative character, shall also be set out at the beginning of the appeal or petition or application and need not be repeated in the subsequent proceedings in the same appeal or petition or application.
- The names of parties shall be numbered consecutively, and a separate line should be allotted to the name and description of each party.
- Every proceeding shall state immediately after the cause title the provision of law under which it is preferred.

2. Forms & Filing[Rule 34(3) and (4)]

Every petition, application or reference shall be filed in form as provided in Form NCLT-1 with attachments thereto accompanied by Form NCLT-2. In case of an Interlocutory Application the same shall be filed in Form NCLT-1 accompanied by attachments in Form NCLT-3. Every petition or application including interlocutory application shall be verified by an affidavit in Form NCLT-6. Notice to be issued by the Tribunal to the opposite party shall be in Form NCLT-5.

3. Presentation [Rule 23]

- Every petition, application, caveat, interlocutory application, documents and appeal shall be presented in triplicate by the appellant or applicant or petitioner or respondent, as the case may be, in person or by his duly authorized representative or by an advocate duly appointed in this behalf in the prescribed form with stipulated fee.
- Every petition or application or appeal may be accompanied by documents duly certified by the authorized representative or advocate filing the petition or application or appeal duly verified from the originals.
- All the documents filed in the Tribunal shall be accompanied by an index in triplicate containing their details and the amount of fee paid thereon.
- Sufficient number of copies of the appeal or petition or application shall also be filed for service on the opposite party as prescribed under these rules.
- In the pending matters, all applications shall be presented after serving copies thereof in advance on the opposite side or his authorized representative.
- The processing fee prescribed by these rules, with the required number of envelopes of sufficient size and notice forms shall be filled along with memorandum of appeal.

4. Advertisement [Rule 35]

Where any application, petition or reference is required to be advertised, it shall, unless the Tribunal otherwise orders, or these rules otherwise provide, be advertised in Form NCLT-3A, not less than fourteen days before the date fixed for hearing, at least once in a vernacular newspaper in the principal vernacular language of the district in which the

registered office of the company is situate, and at least once in English language in an English newspaper circulating in that district.

5. Notice to Opposite Party [Rule 37]

The Tribunal shall issue notice to the respondent to show cause against the application or petition on a date of hearing to be specified in the Notice in Form NCLT-5. It shall be accompanied by the copy of the application with supporting documents.

6. Production of Evidence by Affidavit [Rule 39]

The Tribunal may direct the parties to give evidence, if any, by affidavit. Every affidavit to be filed before the Tribunal shall be in Form NCLT-7.

Petition vs Application vs Appeal - An Overview:

Basis	Application	Petition	Appeal
Purpose	To support proceedings or to request procedural directions.	To seek final relief.	To set aside, modify or reverse earlier order.
Nature of relief	Procedural or interim	Substantive	Appellate or corrective
Jurisdiction	NCLT	NCLT	NCLT (in three cases) NCLAT or Supreme Court
Form	Form NCLT 1	Form NCLT 1	Form NCLAT 1
Example	Application for amalgamation (Sec 230)	Petition for oppression and mismanagement (Sec 24)	Appeal for rectification of register of members (Sec 59)

Conclusion:

It is essential to comprehend the differences between an application, petition, or appeal in order to negotiate the procedural environment of Indian corporate law. The purpose of each is different: applications are usually used for procedural or interim relief, petitions start significant proceedings in search of final relief, and appeals contest the rulings of the Tribunal or associated bodies. These legal instruments have similar forms and presentations, but their goals, scope, and the legal requirements they must satisfy are very distinct. To guarantee procedural compliance and obtain timely and appropriate remedies, familiarity with the relevant provisions of the Companies Act, 2013, and adherence to the NCLT Rules, 2016, are both necessary. These instruments collectively demonstrate the Tribunal's all-encompassing strategy for handling a wide variety of commercial conflicts and administrative concerns. This helps promote legal accountability and corporate governance.

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