

GOLDEN OPPORTUNITIES OF PRACTISING BEFORE TRIBUNAL

By

CA. (Dr.) Rajkumar Adukia

Author of more than 300 books,

Business Growth and Motivational Coach,

Member IFRS SMEIG London 2018-2020

Ex director - SBI mutual fund, BOI mutual fund

Ph. D , LL.B, LLM (Constitution), FCA,FCS, MBA, MBF , FCMA, Dip Criminology, Dip in

IFR(UK) Justice (Harvard) , CSR, Dip IPR, Dip Criminology ,dip in CG , Dip Cyber, dip

data privacy B. Com , M. Com., Dip LL & LW

Student of – MA (psychology), MA (Economics), IGNOU PGDCR, PGCAP etc

Chairman western region ICAI 1997, Council Member ICAI 1998-2016

Abstract:

There is nothing in this world that didn't happen for a reason even our own existence in this very society. They say life is all about finding reason but we believe once you find reason your life starts truly. Traditionally we tend to have one goal of becoming successful but certainly there is much to do even after you achieve desire success. As success is not just putting yourself in a position which you dream for years to be in but inspiring others and assisting them in achieving theirs.

The author strongly believes that the professional should go beyond their traditional areas by expanding themselves to serve and not settle for less. The article provides you with such goldmines of opportunities in litigation field where in addition to advocates, non-advocate professionals such as the Chartered Accountants, Company Secretary, Cost Accountants also can have their fair share.

Introduction:

With the development in the quasi judicial system, there establish certain forums/platforms in the shape of tribunal, certain other adjudicating authorities that now permits such non-advocates professionals to represent their clients just like an advocates do.

Certain qualities such as excellency in regulatory procedure places them in an advantageous position to perform such work, because matters before regulatory authorities and Tribunals are very technical in nature.

There are certain skill where non-law background professionals have to adopt which are certainly put them in the excellent tribunal practitioner category

- Learn how to prepare advisory opinions on the matters for clients so that they do not fall into unexpected regulatory mishaps
- Learn how to review and draft contracts so that your advice is actually factored into big-ticket transactions and deals (which are highly subject to scrutiny) (refer to the contract drafting diploma course to identify how to get started)
- Learn how to draft legal arguments, responses and legal drafts if your client receives is a show-cause notice or an adverse order.

- Argue before authorities at various regulatory forums

Practicing before tribunal is truly an exercise of mind.

Law is a constant changing process what was restricted for only lawyers 50 years ago is now open to many of the professionals particularly chartered accountant, cost accountant and company secretaries, as certain tribunals permit their legal representation on behalf of the aggrieved person.

Further it is very practical and logical it is thus essential for practitioners to understand the basic principles of logic that can be attained through understanding the “why” in laws. The tribunal in the modern system reinvented with need of reducing the judicial pendency and adding technical specialisation in the process of adjudication of dispute pertaining to specific matter.

Each professional be mindful of certain etiquettes that are to be observed:

1. Duty towards tribunal by acting with dignity and self respect and maintaining respectful attitude
2. Duty towards client
 - ◆ Not withdrawing from the engagement without sufficient cause and arbitrarily
 - ◆ Placing the interest of client as priority
 - ◆ and not conduct or do any act that will certainly jeopardize his client interest
 - ◆ Keeping them in loop
 - ◆ responsibly serving necessary documents
 - ◆ an active role in convincing the presiding members of facts and claim completely
 - ◆ protecting client’s confidentiality
 - ◆ conducting proper study of law and provide expert advice
 - ◆ follow the procedural rules, maintain discipline and adhere to the law, ethics etc.
 - ◆ approach appropriate method that will help in deciding their client matter on merits

Tribunal system in India

The tribunals in India are an institution having judicial and quasi judicial duties established for the purpose of adjudicating a specific matter. Constituted with an object of providing

faster adjudication comparing to traditional courts and having expertise in certain matters, the Tribunal forms a crucial part of judicial mechanism of the country.

In the next 20 years the tribunal system of the country will mark its first century with the first ever tribunal – the Income-Tax Appellate Tribunal set up in 25.01.1941. Since then Tribunals have grown both in number and authority.

Their powers, functions, practice and procedure has become a subject in itself for both applicants/appellants, respondents and interested learners. Apart from Tribunals there may be bodies performing quasi-judicial functions which have been created and are administered by the Central Government and they may be falling in categories of Commissions, Boards or other Authorities. These Tribunals, Commissions, Boards, Authorities provide independent adjudication of disputes and function through prescribed practice and procedure which may vary as per the nature of the function they perform.

Although the Income Tax-Appellate Tribunal was established even prior to independence, the tribunal were not officially part of constitution until addition through 42nd amendment in 1976.

The Constitution (Forty-Second Amendment) Act, 1976 effective from 03.01.1977 added Part XIV A consisting of two articles particularly Article 323A and 323B. Where the former provision empowered Parliament to constitute administrative Tribunals (both at central and state level) for adjudication of matters related to recruitment and conditions of service of public servants and latter specified certain subjects (such as taxation and land reforms) for which Parliament or state legislatures may constitute tribunals by enacting a law.

Dual objective of establishment of tribunal:

1. To resolve the dispute in more efficient manner than the courts
2. Having a mechanism which is well equipped and that attains/possess a degree of expertise in a particular field/domain which a court certainly do not

The **First ever modern day tribunal** was established in the form of the General Commissioners of Income Tax under the Income Tax Act 1799. The act had made an appeal provision u/s 64. Likewise the **First International tribunal** was established by the League of Nations that founded on 10th January 1920. The league led for the establishment of the Administrative Tribunal of the League of Nations on 26th September 1927. However when the league dissolved in 20th April 1946 the tribunal went under International Labour Organisation

(1919). It later renamed as The International Labour Organization Administrative Tribunal” which has jurisdiction over Labour-related matters/disputes of 57 international organisations including WHO, WTO, WIPO, FAO etc.

Few tribunals working at the international level:

1. The International Labour Organization Administrative Tribunal
<https://www.ilo.org/tribunal/lang--en/index.htm>
 - having jurisdiction over the complaints from serving and former officials of the International Labour Office; Labour-related decisions of 57 international organisations
2. The United Nations Administrative Tribunal
https://untreaty.un.org/unat/main_page.htm
 - decides applications alleging non-observance of contracts of employment of staff members of the Secretariat of the UN
3. The United Nations Disputes Tribunal <https://www.un.org/en/internaljustice/undt/>
 - Entertains and decides an Application by staff member for violation of their rights

PRESENT TRIBUNALS WORKING IN INDIA

It should be noted that the tribunal are administered by their respective parent ministries that are responsible for their day to day functioning.

Statistics of previous tribunals :

- about 197 tribunals and agencies were set up by the State and Central Governments.
- 95 tribunals under 88 central legislations, of which 78 have been set up by the Central Government and 17 by State Governments.
- between 1996 and July 2013, at least 690 Bills, including Constitutional Amendments and Appropriation bills, have been passed by Parliament, and 18 new tribunals been set up by central govt.

Below is the list of tribunals presently functioning in India:

List of tribunals as per central laws:

Sr. no.	Name of the statute	Name of the tribunal	Parent ministry
1	The Companies Act	I. The National	Ministry of corporate affairs

	2013	II. The National Company Law Appellate Tribunal	https://www.mca.gov.in/
2	The Competition Act, 2002		
3	The Insolvency And Bankruptcy Code, 2016		
4	The Income Tax Act 1961	III. The Income Tax Appellate Tribunal	Ministry of Law and Justice https://lawmin.gov.in/
5	The Customs Act, 1962	IV. The Customs Excise & Service Tax Appellate Tribunal	Ministry of Finance https://finmin.nic.in/
6	The Administrative Tribunal Act 1985	V. The Central Administrative Tribunal	Ministry of Personnel, Public Grievances and Pensions https://persmin.gov.in/
7	The Consumer Protection Act 2019	VI. The District Consumer Dispute Redressal Commission VII. The State Consumer Dispute Redressal Commission VIII. The National Consumer Dispute Redressal Commission IX.	Ministry of Consumer Affairs, Food & Public Distribution https://consumeraffairs.nic.in/
8	The Securities Contracts (Regulation) Act 1956	X. The Securities Appellate Tribunal	Ministry of Finance https://finmin.nic.in/
9	The Depositories Act		

	1996		
10	The Pension Fund Regulatory and Development Authority Act, 2013		
11	The Insurance Act 1938		
12	The Recovery of Debts and Bankruptcy Act, 1993	XI. The Debt Recovery Tribunal	Ministry of Finance https://finmin.nic.in/
13	The Securitization and Reconstruction of Financial Assets and Enforcement of Security Interests Act, 2002	XII. The Debt Recovery Appellate Tribunal	
14	The Railways Act, 1989	XIII. The Railway Claims Tribunal	Ministry of Railways https://indianrailways.gov.in/
15	The Industrial Disputes Act 1947	XIV. The Central Government Industrial Tribunals cum Labour Courts	Ministry of Labour and Employment https://labour.gov.in/
16	The Employees' Provident Funds and Miscellaneous Provisions Act, 1952		
17	The Conservation of Foreign Exchange And Prevention of Smuggling Activities Act, 1974	XV. The Appellate Tribunal for Forfeited Property	Ministry of Finance https://finmin.nic.in/
18	The Narcotic Drugs and Psychotropic Substances Act, 1985		
19	The Prevention of		

	Money-Laundering Act, 2002		
20	The Prohibition of Benami Property Transactions Act, 1988		
21	The Information Technology Act, 2000	XVI. The Telecom Dispute Settlement & Appellate Tribunal	Ministry of Communication https://dot.gov.in/
22	The Indian Telegraph Act 1885		
23	The Central Goods and Services Tax Act, 2017	XVII. The Goods and Services Tax Appellate Tribunal	Ministry of Finance https://finmin.nic.in/
24	The Electricity Act 2003	XVIII. The Appellate Tribunal For Electricity	Ministry of Power https://powermin.gov.in/
25	The Petroleum Act, 1934		
26	The Army Act, 1950	XIX. The Armed Forces Tribunal	Ministry of Defence https://www.mod.gov.in/
27	The Navy Act, 1957		
28	The Air Force Act, 1950		
29	The Environment (Protection) Act, 1986	XX. The National Green Tribunal	Ministry of Environment, Forest and Climate Change https://moef.gov.in/en/
30	The Air (Prevention and Control of Pollution) Act, 1981		
31	The Water (Prevention and Control of Pollution) Act, 1974		
32	The Forest (Conservation) Act, 1980		
33	The Biological		

	Diversity Act, 2002		
34	The Public Liability Insurance Act, 1991		
35	The Inter-State River Water Disputes (ISRWD) Act, 1956	XXI. The inter-state water disputes tribunal	Ministry of Jal Shakti, department of Water Resources http://jalshakti-dowr.gov.in/
36	The Real Estate (Regulation and Development) Act, 2016	XXII. State real estate regulatory authorities and appellate tribunal established	Ministry of Housing and Urban Affairs http://mohua.gov.in/
37	The Foreigners Tribunal Act, 1941	XXIII. The Foreigners Tribunal for State of Assam	Ministry of Home Affairs https://www.mha.gov.in/
38	The food Safety and Standards Act, 2006	XXIV. The Food Safety Appellate Tribunal (of respective states)	Ministry of Consumer Affairs, Food & Public Distribution https://consumeraffairs.nic.in/
39	The Arbitration and Conciliation Act 1996	XXV. Arbitration Tribunal	
40	The Motor Vehicles Act, 1988	XXVI. The Motor Accident Claims Tribunal (of respective states)	

List of some state tribunals:

Sr.no.	State legislation	Tribunal
1	State cooperative acts: The Karnataka Co-operative Societies Act, 1959	The Karnataka Appellate Tribunal
2	Land revenue legislation: The West Bengal Land Reforms Act , 1956.	The WEST BENGAL LAND REFORMS AND

		TENANCY TRIBUNAL
3	The Bihar Land Reforms Act, 1950	The Bihar Land Tribunal
4	The Maharashtra Land Revenue Code	The Maharashtra Revenue Tribunal
5	Local self government legislation: The Kerala Panchayat Raj Act 1994	The Tribunal for Local Self Government Institution of Kerala
6	The Uttar Pradesh Public Services (Tribunal) Act, 1976	The Uttarakhand Public Services Tribunal
7	Private school legislation: The Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977	The School Tribunals
8	State administrative tribunal For instance The Maharashtra Administrative Tribunal Total 9 State administrative tribunal are there	nine states of Andhra Pradesh, Himachal Pradesh, Odisha, Karnataka, Madhya Pradesh, Maharashtra, Tamil Nadu, West Bengal and Kerala. However, the Madhya Pradesh, Tamil Nadu and Himachal Pradesh Tribunals have been abolished

List of tribunals where professional other than Advocates such as CA, CS, CMA are allowed to appear/represent their client/practice

1. The Appellate Tribunal Forfeited Property for Chartered Accountant and Cost Management Accountant
2. The Appellate Tribunal for Electricity
3. The Income Tax Appellate Tribunal for Chartered Accountant
4. The Securities Appellate Tribunal
5. The Telecom Dispute Settlement Appellate Tribunal
6. The National Company Law Tribunal / National Company Law Appellate Tribunal

7. The Customs Excise and Service Tax Appellate Tribunal
8. The Real Estate Regulatory Authority/ Real Estate Appellate Tribunal
9. The Goods and Services Tax Appellate Tribunal

Relevant websites

Tribunals

1. The Appellate Tribunal for forfeited property : <http://atfp.gov.in/>
2. The Customs, Excise and Service Tax Appellate Tribunal: <http://www.cestatnew.gov.in/>
3. The Income Tax Appellate Tribunal: <http://itat.nic.in/>, <http://itatonline.org/>
4. The Insolvency and Bankruptcy Board of India: <http://www.ibbi.gov.in/>
5. The National Company Law Appellate Tribunal (NCLAT): <http://www.nclat.nic.in/>
6. The National Company Law Tribunal (NCLT): <http://nclt.gov.in/>
7. The National Consumer Dispute Redressal Commission: <http://ncdrc.nic.in/>
8. The Securities Appellate Tribunal: <http://sat.gov.in/>
9. The Central Government Industrial Tribunal : <https://cgit.labour.gov.in/>
10. The Telecom Disputes Settlement & Appellate Tribunal : <https://tdsat.gov.in/Delhi/Delhi.php>
11. E-daakhil <https://edaakhil.nic.in/edaakhil/faces/index.xhtml>
12. state real estate regulatory authority
13. <https://rera.ap.gov.in/RERA/Views/Home.aspx>
14. <https://rera.ap.gov.in/>
15. <http://123.63.38.197/>
16. <https://rera.cgstate.gov.in/>
17. <https://rera.goa.gov.in/reraApp/home>
18. <https://gujrera.gujarat.gov.in/>
19. www.harayanarera.gov.in
20. www.harayanarera.gov.in
21. <http://www.hprera.in/WebSite/Home>
22. <https://jharera.jharkhand.gov.in/>
23. <https://rera.karnataka.gov.in/home?language=en>
24. <https://rera.kerala.gov.in/>
25. <http://www.reat.mp.gov.in/contact-us>

26. <https://maharera.mahaonline.gov.in/>
27. <http://udpamizoram.nic.in/RERA.html>
28. <https://rera.odisha.gov.in/>
29. <https://www.rera.punjab.gov.in/index.html>
30. <https://rera.rajasthan.gov.in/>
31. <https://rera.rajasthan.gov.in/Tribunal>
32. <https://www.rera.tn.gov.in/>
33. <http://rera.telangana.gov.in/>
34. <https://rera.tripura.gov.in/>
35. <http://www.uhuda.org.in/>
36. <https://www.up-rera.in/index.aspx>
37. <http://rera.chbonline.in/>
38. <https://rera.delhi.gov.in/>
39. <http://prera.py.gov.in/>
40. The Supreme court of India <https://main.sci.gov.in/>
41. The ILO Administrative Tribunal <https://www.ilo.org/tribunal/lang--en/index.htm>
42. The UN Administrative Tribunal : https://untreaty.un.org/unat/main_page.htm
43. The UN Appeals Tribunal <https://www.un.org/en/internaljustice/unat/>
44. The UN Disputes Tribunal <https://www.un.org/en/internaljustice/undt/>

Regulatory Bodies

1. The Airport Economic Regulatory Authority of India <http://www.aera.gov.in/>
2. The Association of Mutual Funds in India <https://www.amfiindia.com/>
3. The Board of Control for Cricket in India <https://www.bcci.tv/>
4. The Central Electricity Regulatory Commission of India <https://cercind.gov.in/>
5. The Competition Commission of India <https://www.cci.gov.in/>
6. The Central pollution control board <https://cpcb.nic.in/>
7. The Directorate General of Civil Aviation <https://www.dgca.gov.in/>
8. The Federation of Indian Export Organisation <https://www.fieo.org/>
9. The Food Safety and Standards Authority of India (FSSAI) <https://www.fssai.gov.in/>
10. The Financial Stability and Development Council
<https://www.finmin.nic.in/financial-stability-and-development-council>
11. The Insurance Regulatory and Development Authority <https://www.irdai.gov.in/>
12. The Inland Waterways Authority of India <http://www.iwai.nic.in/>

13. The Insolvency and Bankruptcy Board of India <https://www.ibbi.gov.in/>
14. The Indian Chemical Council <https://www.indianchemicalcouncil.com/>
15. The National Biodiversity authority <http://nbaindia.org/>
16. The national Medical Commission <https://www.nmc.org.in/>
17. The Pension fund regulatory and development authority <https://www.pfrda.org.in/>
18. The Petroleum and Natural Gas Authority of India <https://www.pngrb.gov.in/>
19. The Reserve Bank of India <https://www.rbi.org.in/>
20. The Securities and Exchange Board of India <https://www.sebi.gov.in/>
21. The State Electricity Regulatory Commission <http://www.derc.gov.in/> (total 26 commission for states and joint commission for union territories and other for states of Manipur & Mizoram)

Quasi Judicial bodies: The Quasi-judicial bodies are institutes which have powers analogous to that of the law imposing bodies but these are not courts.

1. The National Human Rights Commission <https://nhrc.nic.in/>
2. The State Human Rights Commission <http://www.shrc.tn.gov.in/>
3. The Central Information Commission <https://cic.gov.in/>
4. The State Information Commission <https://sic.maharashtra.gov.in/>
5. The Competition Commission of India <https://www.cci.gov.in/>
6. The State Electricity Regulatory Commission <https://cercind.gov.in/serc.html>
7. The Banking Ombudsman
8. The Insurance Ombudsman <https://www.policyholder.gov.in/ombudsman.aspx>
9. The Income tax Ombudsman
<https://www.incometaxindia.gov.in/pages/ombudsman.aspx>
10. The Electricity Ombudsman <http://www.mercombudsman.org.in/>

Associations

1. The Automotive Component Manufacturers Association of India (ACMA)
<http://www.acmainfo.com/>
2. The Association of Biotechnology Led Enterprises (ABLE) <https://ableindia.in/>
3. The All India Industrial Gases Manufacturers' Association (AIIGMA)
<https://aiigma.org/>
4. The All India Airconditioning & Refrigeration Association (AIACRA)
<http://www.aiacra.com/>

5. The Confederation of Indian Industry (CII) <https://www.cii.in/>
6. The Cellular Operators Association of India (COAI) <https://www.coai.com/>
7. The Cement Manufacturers' Association (CMA) <https://www.cmaindia.org/>
8. The Diamond Tools Association of India <http://www.dtai.in/index.htm>
9. The Engineering Export Promotional Council (EEPC) <https://www.eepcindia.org/>
10. The Electronic Industries Association of India (ELCINA) <http://www.elcina.com/>
11. The Electronic and Computer Software Export Promotion Council (ECSEPC) <https://www.escindia.in/>
12. The Electric Lamp and Component Manufacturers' Association of India (ELCOMA) <http://www.elcomaindia.com/>
13. The Express Industry Council of India (EICI) <https://www.eiciindia.org/>
14. The Electrical & Electronics Manufacturers Association (IEEMA) <https://ieema.org/>
15. The Federation of Hotel & Restaurant Associations of India (FHRAI) <https://www.fhrai.com/>
16. The Hologram Manufacturers Association of India (HOMAI) <http://homai.org/>
17. The Hotel Association of India (HAI) <http://www.hotelassociationofindia.com/>
18. The Indian Printing, Packaging and Allied Machinery Manufacturers' Association (IPAMA) <https://www.printpackipama.com/>
19. The Indian Refractory Makers Association (IRMA) <http://www.irmaindia.org/>
20. The Indian Machine Tools India Manufacturers Association (IMTMA) <https://www.imtma.in/>
21. The Indian Chemical Council (ICC) <https://www.indianchemicalcouncil.com/>
22. The Indian Stainless Steel Development Association (ISSDA) <https://www.stainlessindia.org/>
23. The Indian Tea Association <https://www.indiatea.org/>
24. The Indian Drug Manufacturers' Association (IDMA) <http://www.idma-assn.org/>
25. The Indian Polyurethane Association (IPUA) <http://www.ipua.in/>
26. The Manufacturers Association of Information Technology (MAIT) <https://www.mait.com/>
27. The National Shipowners' Association (INSA) <https://insa.in/>
28. The National Association of Software and Services Companies (NASSCOM) <https://nasscom.in/>
29. The Organisation of Pharmaceutical Producers of India (OPPI) <https://www.indiaoppi.com/>

30. The Organization of Plastics Processors of India (OPP) <http://www.oppindia.org/>
31. The Project Exports Promotion Council of India (PEPC) <http://www.projectexports.com/>
32. The Society of Indian Automobile Manufacturers (SIAM) <http://www.siamindia.com/Default.aspx>
33. The Sugar Mill Association (ISMA) <http://www.indiansugar.com/>
34. The Software Technology Parks of India (STPI) <https://stpi.in/index.html>
35. The Soybean Processors Association of India (SOPA) <http://www.sopa.org/>
36. The Telecom Equipment Manufacturers Association of India (TEMA) <http://www.tematelecom.net/>
37. The Textile Machinery Manufacturers Association (India) (TMMA) <http://www.tmmaindia.net/>