



May 15, 2015

CHIEF OF BUSINESS BUREAU

## **PRESS RELEASE**

### **SUPREME COURT UPHOLDS THE CONSTITUTIONAL VALIDITY OF NATIONAL COMPANY LAW TRIBUNAL AND NATIONAL COMPANY LAW APPELLATE TRIBUNAL**

The Supreme Court in a historic decision upheld the constitutional validity of NCLT and NCLAT while deciding on the writ petition filed against the Madras High Court subject to certain conditions.

The highlights of the decision are as under:

(i) Validity of the constitution of NCLT and NCLAT - The Supreme Court has held that the creation of National Company Law Tribunal and National Company Law Appellate Tribunal are not unconstitutional.

(ii) The Technical Members of the NCLT/NCLAT should be selected from amongst only those officers who hold rank of Secretaries or Additional Secretaries and have technical expertise; Section 409 (3) needs to be amended.

(iii) Provisions of Section 412(2) of the Act, 2013 are not valid and issued direction that the Chief Justice of India or his nominee is to act as Chairperson, he should be given the power of a casting vote; instead of 5 members Selection Committee, it should be 4 members Selection Committee;

The operationalization of the NCLT and NCLAT will enable regulation of insolvency, including rehabilitation, winding up and liquidation of companies in time bound manner.

The powers and jurisdiction of Company Law Board, Board of Industrial and Financial Reconstruction and High Court in this regard, will now be exercised by National Company Law Tribunal and appellate tribunal.

The tribunalization also provides for larger role for professionals like Company Secretaries in the area of corporate restructuring including mergers, amalgamations, takeovers and to act as interim administrator/Company administrator and Company liquidators in the process of revival and rehabilitation of Sick Companies and Winding up of Companies, **said CS Atul H. Mehta, President, ICSI.**

Arti J Shailendar  
Deputy Director  
Corporate Communication  
The Institute of Company Secretaries of India  
ICSI House, 22 Institutional Area,  
Lodi Road, New Delhi-110 003  
Tel: 011-45341077;9811263471  
Email: [arti.shailendar@icsi.edu](mailto:arti.shailendar@icsi.edu)

