

CHAPTER – VII

TRIBUNALISATION OF JUSTICE

With the increase in volume of litigation, the system of traditional courts i.e. civil or criminal courts may not be able to cope up with the increase in litigation in specific branches like service matters, excise duties, income tax etc.

Under the Civil Procedure Code, the courts shall have jurisdiction to try all suits of a civil nature excepting suits of which cognizance either expressly or impliedly barred. **1

Where exclusive jurisdiction is created by the legislation the Civil Court evidently can not interfere with such matters. There are special Tribunals set up under certain Acts and those Tribunals have specific and limited jurisdiction. **2.

The Supreme Court has laid down that where the statute gives finality to the orders of the special Tribunals, the Civil Court's jurisdiction must be held to be excluded. **3

The section is declaratory and is a reflection of maximum of law ubi jus ibi remedium **4

I

THE NEED FOR TRIBUNALS

A. DELAY FACTORS

Law must not only speak justice but also do justice. Law must become a source of strength and comfort to the deprived and vulnerable sections of the society. **5

**1 SECTION 9, CIVIL PROCEDURE CODE.

**2 TARAKDAS V/S. SUNIL KUMAR AIR 1980 CAL.53.

**3 DHULABHAI V/S.STATE OF M.P. AIR 1969 SC. 78

**4 WOODROFFE AND AMIRALI, CPC 3RD EDITION VOL.1 PG.111.

**5 JUSTICE BHAGWATI ON PUBLIC INTEREST LITIGATION.

The framers of the Constitution could not have anticipated several problems which may emerge in future and limited themselves only to certain judicial forums to give relief to the citizens of the country. At that time they felt that existing courts of law were sufficient to meet the judicial aspirations of the people and deal with all types of disputes. The traditional systems of courts however have their inbuilt limitations in terms of experience, exposure and expertise in authentically deciding specialized cases under various laws enacted subsequently. That apart there is plethora of rules, notifications and circulars issued by the Government and authorities which virtually make it impossible for ordinary Civil Courts to update themselves with the latest developments. Hence Tribunals have become need of the day.

B. EXCLUSIVE FORUMS

Under part XIV of the Constitution of India, Art.323 A, Parliament may by law provide for adjudication or trial by Administrative Tribunals for disputes and complaints with recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or of any State or Local authority. Such law may specify the jurisdiction, powers and authority which may be exercised by such Tribunals and may exclude the jurisdiction of all Courts except Supreme Court under Art.136. Under this provision Central Administrative Tribunal (CAT) has been constituted. **6

The Constitution of India also provides that the appropriate Legislature may by law provide for adjudication of or trial by Tribunals of any disputes, complaints or offences with respect to all or any of the matters specified below.

- a) Levy, assessment, collection and enforcement of any tax.
- b) Foreign exchange, import and export across customs frontier.
- c) Industrial and labour disputes.
- d) Land Reforms by way of acquisition.
- e) Ceiling on urban property.

**6 ART. 323 A CONSTITUTION OF INDIA.

- f) Elections to house of Parliament or the Legislature
- g) Production of food stuff.

The law so enacted can provide for the jurisdiction and powers and exclude jurisdiction of all Courts except Supreme Court of India. Hence there is constitutional mandate for creation of Tribunals.

C. EXPEDIENCY FACTOR :-

A new trend presently emerging in the country is creation of Tribunals for adjudicating upon disputes between citizen and Government. The Tribunals exist outside the normal judicial hierarchy. Main reason for creation of such Tribunals is delay in proceedings in the High Court because they are overloaded with the work. Tribunals hence endeavor to create additional machinery to dispose off specialised disputes in more expeditious manner. As observed by Law Commission of India diversification of judicial administration is one amongst many methods of achieving the reducing workloads in the High Courts. **7

The Tribunal so created have status equivalent to the High Courts because appeal from them lies in the Supreme Court. Art.323 B has drastically changed the position by vesting authority in Tribunals to try certain categories of criminal offences and impose penal sanctions. This will be an innovations in the Indian legal system because till now criminal punishments were imposed only by courts and not by non-judicial bodies.**8

The State Governments can not constitute Tribunals to adjudicate on matters coming under Union list. **9

**7 115th REPORT OF LAW COMMISSION OF INDIA

**8 N P JAIN – OUTLINE OF INDIAN LEGAL HISTORY 5TH EDITION PG.316.

**9 KESORAM INDUSTRIES LTD. V/S. UNION OF INDIA AIR 1933 CAL.78

II**STUDY OF VARIOUS EXISTING TRIBUNALS**
AND THEIR POWERS.**A. CENTRAL ADMINISTRATIVE TRIBUNALS :**

Central Administrative Tribunals have been constituted under the Administrative Tribunals Act, 1985, in furtherance of the mandate given under Art.323 A of the Constitution of India.

The Act provides for adjudication or trial by specially constituted Administrative Tribunals of disputes and complaints with respect to recruitment and conditions of services and posts in connection with affairs of the Union.

The need for having such Tribunals was felt since large number of cases relating to service matters were pending before various courts in India. Such Tribunals deal exclusively with service matters and aim at providing speedy relief in respect of grievances and reducing burden of the Courts. The Tribunal may be constituted for one State or by way of a common Tribunal for the all States.

Under the Act, Central Administrative Tribunal and State Administrative Tribunal can be constituted for the purpose of service matters. Service matters in relation to a person means all matters relating to conditions of service in connection with the affairs of the Union or of any State or any local authority as regards:-

1. Remuneration, pension and other retirement benefits
 2. Tenure including confirmation, seniority, promotion, reversion, pre-mature retirement and super annuation.
 3. Leave of any kind.
 4. Disciplinary matter.
 5. Any other matter.
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A person has to be qualified as High Court Judge for appointment as Chairman of Tribunal. The Tribunal shall also have such number of Vice-Chairman and judicial and other administrative members as the appropriate Government may deem fit.

The Central Tribunal exercises jurisdiction on recruitment and matter concerning recruitment to All India Services and also the service matters concerning the member of All India Service. The State Tribunals exercise similar power in respect of posts under the State. To avoid delay and technicalities simplified procedure has been prescribed under the Act. A person aggrieved by any order pertaining to any matter within the jurisdiction of a Tribunal for redress of his grievance shall approach by filing application before Appellate Tribunal. The application shall be in such form and accompanied by such documents alongwith fees as may be prescribed.**10

To avoid multiplicity of proceedings and conflicting decisions, the Act stipulates that the Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed all the remedies available to him under relevant service rules as to redressal of grievances. A person shall be deemed to have availed all the remedies only when final order has been made by authority rejecting application or 6 months have expired since the date when an appeal was preferred or representation was made. The application to the Tribunal be made within one year from the date from which final order has been made. The Tribunal may at its discretion entertain an application during period of three years preceding its constitution. **11

**10 SECTION 19 OF ADMINISTRATIVE TRIBUNAL ACT.

**11 SECTION 21 OF ADMINISTRATIVE TRIBUNAL ACT.

The Act confers exclusive jurisdiction in aforesaid matters on the Tribunals by stipulating that no court except the Supreme Court or Industrial Tribunal, Labour Court or authority under the Industrial Disputes Act shall be entitled to exercise any jurisdiction, power or authority in relation to such service matters. **12

All pending cases before other courts shall stand transferred on the appointed day to the Tribunal.

Three Judge Bench of Supreme Court has held that the words "all Courts" under Article 323 includes the High Courts and Administrative Tribunals, are complete substitutes for High Court and their decisions can not be challenged before High Courts. **13 The position of filing, disposal and pendency in Central Administrative Tribunal (CAT) is given in Table on page 348.

B. CUSTOMS, EXCISE AND GOLD (CONTROL) APPELLATE TRIBUNAL (CEGAT):

Under Section 129 of the Customs Act, the Central Government shall constitute an Appellate Tribunal to be called the Customs, Excise and Gold (Control) Appellate Tribunal. The Tribunal shall consist of judicial and technical members. A judicial member shall be a person who held judicial office in Grade I for atleast 3 years or has been an advocate for last 10 years. The technical member shall be a person who will be a member of Indian Customs and Central Excise Service. An appeal lies to CEGAT from the following orders :-

- a) A decision or order by collector of customs as an adjudicating authority.
- b) Order passed by Board or appellate collector of customs under Section 128 of Customs Act.

The appeal has to be filed within 3 months of the date on which order is passed. The relevant records of customs house had been misplaced and were not available, the Tribunal did not accept this as valid ground for condonation of

**12 SECTION 28 OF ADMINISTRATIVE TRIBUNAL ACT.

**13 SAMPAT V/S. UNION OF INDIA, 1987, 1 SCC 124

delay.**14 CEGAT after giving opportunity of being heard to the parties, may pass such orders confirming, modifying or annulling the decision or order appealed against. If a remedy under the Customs Act is exhausted, no writ will lie. However Supreme Court may admit the matter on basis of special leave petition. Alongwith regular appeal, stay application for interim stay on the orders is also filed. The Supreme Court has held that CEGAT is a Tribunal established under Art.323 B and discussed scope of judicial review. **15 CEGAT itself is having substantial back log of cases and the present position is that hearing of stay application also involves time of several weeks. At times, the aggrieved party approaches High Court for appropriate directives in respect of interim period. High Courts to prevent the department from taking coercive recovery measures, grants such stay. **16

C. THE LAND REVENUE TRIBUNAL

was constituted for the first time under Section 296 of Government of India Act, 1935. Subsequently Revenue Tribunal Act was passed in 1939. The Tribunal is empowered to decide disputes regarding ownership or title to the property between private individuals and the Government and connected issues like assessment of land revenue etc. The Tribunal also has powers of deciding revision applications under Gujarat Agriculture Tenancy Act. The decisions of the Tribunal are binding to all courts and officers whose orders comes within the revisional powers of the Tribunal. **17 Revenue Tribunal is like other quasi-judicial bodies and it is not a court in strict sense of the term but it has the trappings of the court and shares some of the characteristics and attributes of the court. A court is a court of Civil judicature and Tribunal is a body of men appointed to decide contraversies arising under certain special laws. **18

**14 COLLECTOR OF CUSTOMS V/S. IPCL 1990 (47) ELT 428

**15 R. K. JAIN V/s. UNION OF INDIA (1993), 4 SCC 119.

**16 STEELCO GUJARAT LTD. V/s. UNION OF INDIA.

**17 TENANCY CASE NO.65 OF 1961 SATYAVAN MARGHABHAI PATEL
V/S.MOTIBHAI HARIBHAI

The Government of Gujarat has proposed amendments in Bombay Revenue Tribunal Act, 1957 but the amendments are yet to be approved by the State Legislature.

D. JURISDICTION OF TRIBUNAL MAINLY EXTENDS IN FOLLOWING

MATTERS:

- (a) An appeal lies to the Tribunal from original order or decisions made or passed by the collector.
- (b) A revision application lies to the Tribunal from order or decision taken by collector in appeal against order or decision of subordinate officer.
- (c) Any other application for revision on the ground that order was contrary to law or collector has failed to determine some material issue of law or there was substantial defect in following the procedure, a revision application can be entertained on the grounds which are analogous to the ground in 2nd appeal under Section 100 of Civil Procedure Code. There can be no interference or reappraisal by a revisional court because their powers are no better than that of 2nd appellate court unless findings are perverse or based on no evidence. **19

Where any matter is otherwise sub-judice, the Tribunal will have no jurisdiction to decide appeal or revision. The Tribunal is created under the statute and has no jurisdiction to decide upon the validity of Act, ordinance or provision for which only High Court is competent. The position with land revenue Tribunal at Ahmedabad in terms of pendency of matters shows that after the initial hearing, where ex-parte orders are obtained the matters are dragged on for years. That apart there is tendency on part of litigants to approach the High Court and seek interference in the orders.

**18 AIR 1961 SC 1669.

**19 D. M. PARULKER PG.1102 IN BOOK ON BOMBAY TENANCY ACT 6TH EDITION.

E. THE INCOME TAX APPELLATE TRIBUNAL (ITAT)

It has been constituted under Section 252 of the Income Tax Act. It consists of as many judicial and accountant members as thought fit by the Government. The judicial member should have atleast 3 years experience in legal service or 10 years practice as an advocate. An accountant member should be a chartered accountant with practice of 10 years. The ITAT exercises jurisdiction on the following matters:-

- (a) Order passed by Deputy Commissioner (Appeals)
- (b) Order passed by an assessing officer in respect of search initiated Under Section 132 of Book of Accounts, other documents, etc.
- (c) An order passed by Commissioner under Section 263 and revisional powers is also appealable.
- (d) The department also can prefer an appeal if Commissioner objects to the decision of deputy commissioner (Appeals).

The appeal has to be filed within 60 days from the date of communication of the order. The fees prescribed for appeal varies from Rs.500/- to Rs.10,000/- depending upon the subject matter. The tribunal after giving both the parties an opportunity of being heard is empowered to pass such order as deem fit.

As far as the normal time period involved with ITAT, Ahmedabad is concerned it is more than four years and in some cases even longer. When there are large number of cases a separate bench can be constituted. With effect from 1997 separate ITAT bench at Rajkot has started functioning recently.

The latest position of pending cases and disposal of the matters with ITAT Ahmedabad is given in the tables below :

TABLE
INCOME TAX APPELLETE TRIBUNAL
YEARWISE PENDENCY FOR 7 YEARS

AS ON PENDING CASES

01/04/1993	30872
01/04/1994	34215
01/04/1995	38705
01/04/1996	40619
01/04/1997	42561*
01/04/1998	40354
01/01/1999	43394

- INCLUDES THE CASES OF RAJKOT DIVISION WHERE SEPARATE ITAT HAS BEEN ESTABLISHED SINCE 1997.

TABLE
SHOWING MONTHWISE DISPOSAL BY ITAT – AHMEDABAD FOR 1998

<u>MONTH</u>	<u>OPENING</u>	<u>INSTITUTION</u>	<u>DISPOSAL</u>	<u>PENDING</u>
January'98	40640	324	447	40517
February'98	40517	378	381	40514
March'98	40514	325	485	40354
April'98	27035	297	445	26887*
May'98	43116	344	415	43045
June'98	43045	341	368	43027
July'98	42951	537	377	43111
August'98	43111	244	312	43043
Sept'98	43043	354	422	42975
October'98	42975	286	346	42915
Nov'98	42915	673	316	43272
Dec'98	43272	648	526	43394

- THE REDUCTION WAS DUE TO TRANSFER OF CASES TO RAJKOT

F. CO-OPERATIVE TRIBUNAL

Section 150 of Gujarat Co-Operative Societies Act, 1961 provides that the Govt. shall constitute a Tribunal called the Gujarat Co-Operative Tribunal to exercise the functions conferred under the Act. The Tribunal shall consist of a President and not more than 3 other members possessing such qualifications as may be prescribed.

The powers and functions of such Tribunal may be exercised by Benches constituted by the President from members of Tribunal.

- JURISDICTION AND POWERS OF CO-OPERATIVE TRIBUNAL

1. The Tribunal may call for and examine the record of any proceeding in which an appeal lies to it, for the purpose of satisfying itself as to the legality or propriety of any decision or order passed. If in any case it appears to the Tribunal that such order should be modified annulled or reversed, the tribunal may pass such order thereon as it may deem fit. **20
2. The Tribunal in exercising functions conferred on it by or under this Act, shall have the same powers as vested in the Court in respect of:-
 - (a) Proof of facts by Affidavit.
 - (b) Summoning and enforcing attendance of any person.
 - (c) Compelling production of documents.
 - (d) Issuing commissioning for examination of witnesses. **21
3. The Tribunal under Section 102 may in order to prevent ends of justice being defeated make such interlocutory orders pending decision on appeal as it may appear just and expedient or as may be necessary for ends of justice or to prevent abuse of process of Tribunal.
4. The Tribunal may review its own orders, if satisfied that there has been discovery of new and important matter of evidence, which after exercise of due diligence was not within the knowledge of applicant and could not be produced.

**20 SECTION 150(9), GUJARAT CO-OPERATIVE SOCIETIES ACT 1961.

**21 SECTION 152 OF GUJ. CO-OP. SOCIETIES ACT.

5. An order passed by Tribunal in appeal or Revision shall be final and conclusive and shall not be called in question in Civil or Revenue Court.

The Supreme Court has held that sub Section 150 confers jurisdiction on the Tribunal to call for and examine record of any proceeding. Therefore revision lies against an order of Registrar passed under Sub Section (2) of Section 96 of Co-operative Societies Act. **22

G. PROCEDURE OF TRIBUNAL

Detailed procedure of Co-operative Tribunal is prescribed under Gujarat State Co-operative Tribunal Regulations, 1964.

Any appeal or revision application attracts court fee of Rs.5 irrespective of the subject matter and has to be accompanied by certified copy of Judgement or order. It should also state precisely the relief which the applicant claims. **23

Registrar looks after the administrative work of the Tribunal and registers the appeal or revision after initial scrutiny. Separate Registers are maintained by Registrar as follows :-

Form A	Appeals
Form B	Revision Applications
Form C	Application for restoration

When an appeal or application has been made the Registrar sends intimation of it to respondent or opponent as the case may be. The President has power to admit the appeal or application and after such admission notice is sent to parties to appear before Tribunal.

The Tribunal has power to adjourn the hearing for a sufficient cause.

When hearing is complete, Tribunal pronounces the judgement. Tribunal also has the power to award costs.

**22 JAIN MAHAVIR SOCIETY V/S. KESHAVLAL AIR 1987 SC 1513

**23 RULES, GUJARAT STATE CO-OPERATIVE TRIBUNAL REGULATIONS, 1964.

The Gujarat State Co-operative Tribunal functioning at Ahmedabad is having substantial backlog of cases both in terms of interlocutory orders, pending for final hearing and disposal. The main reasons are delay in prompt appointment/filling of vacancy of members of Tribunal, inadequate infrastructure, frequent adjournments of the matters etc.

It is necessary to lay down a timeframe in statute itself within which the Tribunal shall endeavor to decide the matter.

The Tribunal are bound to follow the rules and afford opportunity to the parties. When without waiting for date of hearing and without hearing the appellant the appeal was dismissed the tribunal's decision was set aside by Gujarat High Court. **24

The position of pending cases with Co-operative Tribunal Ahmedabad for last 8 years is as given below:-

TABLE
SHOWING POSITION OF INSTITUTION AND DISPOSAL OF
CASES IN CO-OPERATIVE TRIBUNAL AHMEDABAD

<u>YEAR</u>	<u>FILING</u>	<u>DISPOSAL</u>	<u>PENDENCY</u>
1991	682	738	294
1992	749	634	409
1993	898	863	434
1994	815	825	424
1995	841	443	822
1996	742	414	1150
1997	850	600	1400
1998(Nov)	1331	781	1950

**24 B. R. MEHTA V/s. REGISTRAR (CO-OPERATIVES), 1991© GLH(UJ)-5

H. FAMILY COURTS

The family courts have been constituted under Family Court Act, 1984.

The Act has been enacted to provide for the establishment of Family Courts with a view to promote conciliation in, and secure speedy settlement of disputes relating to marriage and family affairs and matters connected therewith. **25

Under the Act for the purpose of exercising jurisdiction and powers conferred on a Family Court the State Government in consultation with the High Court can constitute Family Courts and notify the local limits or area to which jurisdiction of family courts shall extend.

A person for his appointment as a judge in Family Court should have held judicial office for 7 years or should be an Advocate for 7 years.

The innovative feature of the Act is the provision for association of social welfare Agencies etc. and

- (a) Institutions or organisations engaged in Social Welfare or the representatives thereof.
- (b) Persons professionally engaged in promoting the welfare of family.
- (c) Persons working in field of Social Welfare.
- (d) Any other person whose association with Family Court will enable it to exercise its jurisdiction more effectively. **26

It also provides for appointing counselors, officers and other employees who are required to assist a Family Court.

**25 PREMABLE OF FAMILY COURTS ACT, 1984.

**26 SECTION 5 OF FAMILY COURTS ACT, 1984

JURISDICTION OF FAMILY COURTS

The Family Courts are deemed for the purpose of exercising jurisdiction, District Courts and Subordinate Civil Courts.

The following suits and Proceedings are covered under exclusive jurisdiction of Family Courts :-

- (a) A suit or proceeding between the parties to a marriage for a decree of nullity of marriage (declaring the marriage to be null and void or as the case may be, annulling the marriage) or restitution of conjugal rights or dissolution of marriage.
- (b) A suit or proceeding for a declaration as to the validity of a marriage or as to the matrimonial status of a person.
- (c) A suit or proceeding between the parties to a marriage with respect to property of parties or either of them.
- (d) A suit or proceeding for an order or injunction in circumstances arising out of a marital relationship.
- (e) A suit or proceeding for a declaration as to legitimacy of any person.
- (f) A suit or proceeding for maintenance.
- (g) A suit or proceedings in relation to guardianship of person or custody of any minor.

Apart from this, the jurisdiction exercisable by Magistrate of First class under Criminal Procedure Code can also be exercised by a Family Court. **27 Where a Family Court is constituted for any area, no District Court, Subordinate Civil Court or Court of Judicial Magistrate shall exercise jurisdiction in respect of the matters covered under the jurisdiction of Family Courts. The Family Courts have a duty to endeavor, in first instance, where possible to assist and persuade the parties in arriving at a settlement in respect of subject matter of the suit. If at any stage, if it appears to the Family Court that there is reasonable possibility of settlement, it may adjourn the proceedings. If so desired by the Court the proceedings may be held in camera.

****27 SECTION 7 FAMILY COURT ACT.**

The Court may also take services of medical or welfare experts in the matter. An appeal lies to the High Court from the order passed by Family Court.

The Family Courts have been constituted initially in Metropolitan cities like Bombay. The initial experience in respect of functioning of such courts is found to be encouraging. The time taken in arriving at amicable settlement results in disadvantage to the other party and hence the courts can achieve their goal of providing speedy justice by only allowing optimum time to explore the possibility of a settlement so that unscrupulous litigants do not succeed in prolonging the matters without any bonafide intention to amicably resolve the issue.

The Family Courts Act, 1984, aims at promoting conciliation and securing speedy settlement of disputes relating to marriage and family affairs and related matters. It envisages that courts shall be set up in a city or town with population of more than 10 lakh and at such other places as the State Govt. may deem necessary.

Upto 1993, 29 courts have been setup with statewise break up as under :-

<u>STATE</u>	<u>NO.OF FAMILY COURTS.</u>
UTTAR PRADESH	10
RAJASTHAN	5
KERALA	3
KARNATAKA	2
MAHARASHTRA	2
ORISSA	1
ASSAM	1
BIHAR	1
MANIPUR	1
TAMILNADU	1
PONDICHERY	1

In other state also it is likely to commence shortly.**98

**98 INDIA 1993, PUBLICATIONS DIVISION, AT PAGE 667 GOVT. OF INDIA.

III

FUNCTIONING OF TRIBUNALS

A. TRIBUNALS CAN HAVE THEIR OWN PROCEDURES

As can be seen from the preamble and provisions of various Acts relating to Tribunals the very purpose of creating the Tribunals is to constitute special forums which can provide speedy trials in respect of the specific Acts discussed above. Each of the legislation operates in different spheres. The disputes involving classification or quantum of Excise Duty or eligibility for exemptions may have vital bearing on the collection of revenue and also the financial planning of manufacturer. Similarly in the cases coming under Family Courts Act the very purpose of the Act is to constitute exclusive forum which have more humanitarian and social touch for the specific problems to be dealt with.

Keeping in view the broad objectives for which such tribunals have been formed, It is necessary that the procedure to be followed is conducive for speedy disposal of cases. Hence under some of the statutes a time limit has been prescribed within which the Tribunal/forum shall endeavor to decide the matter.

The length and variation of pleadings also has been a major constraint and hence in some of the Tribunals simplified forms have been prescribed and appeal/application has to be made only in such forms.

In terms of the cost aspects like fees etc. payable in Tribunals vary to a great extent, as can be seen from the following :-

<u>TRIBUNAL</u>	<u>FEES CHARGED</u>
a) Co-Operative Tribunal	Rs.5/-
b) Income Tax Tribunal	Rs.250 to Rs.10000/-
c) Debt Recovery Tribunal	Rs.12000 to Rs.150000/-

The Debt Recovery Tribunal thus is having highest slab of Rs.1.50 lacs, if the amount to be recovered is more than Rs.1.50 Crores.

As against this, the highest court fees on suit of any amount (say in State of Gujarat) is Rs.15000/-. There is substantial scope for rationalisation of fee structure in respect of some of the Tribunals.

B. PROVISIONS OF NATURAL JUSTICE

Provisions of Natural Justice enunciate the principle of law that "Justice must not only be done but it must appear to have been done"

The Tribunals while discharging their functions have to comply provisions of Natural Justice. Such provisions are in-built in their procedures. Rules of Natural Justice require that a party should have the opportunity of adducing all relevant evidence on which he relies, that the evidence of opponent should be taken in his presence and that he should be given the opportunity of cross examining the witnesses examined by that party, and that no materials should be relied on against him without his being given an opportunity of explaining them. **28

Lord Loreburn commenting on compliance of provisions of Natural Justice by Tribunals observed :- **29

"Comparatively recent statutes have extended, if they have not originated, the practice of imposing upon the departments or officers of the state the duty of deciding or determining questions of various kinds. It will sometimes involve matter of law as well as fact or even depend upon matter of law alone. In such cases the board will have to ascertain the law and also to ascertain the facts. I need not add that in doing so either they must act in good faith and fairly listen to both sides, for that is a duty lying upon everyone who decides anything. If the board have not acted judicially in the way I have described or have not determined the question which they are required by the Act to determine, the remedy is mandamus or certiorari".

**28 UNION OF INDIA V/s.T.R.VERMA (AIR 1957, SC 882)

**29 IN BOARD OF EDUCATION V/s.RICE, 1911(AC), PAGE 179.

Lord Selbourne observed that the essence of justice consisted in requiring that all parties should have an opportunity of submitting to the person by whose decision they are to be bound such considerations as in their judgement ought to have been brought before him. **30

D. AVAILABILITY OF APPELLATE JUDICIAL FORUMS

The Acts which constitute Tribunals, make in-built provisions for remedy available to the aggrieved party not satisfied with the decision of Tribunals.

Summarised position of appeals/remedies available against decision of tribunals is as given below :-

<u>TRIBUNAL</u>	<u>APPEAL/REMEDY</u>
a) Central Administrative Tribunal	Supreme Court
b) CEGAT (Excise Tribunal)	Supreme Court
c) Debt Recovery Tribunal	Appellate Tribunal under the Act.
d) Co-operative Tribunal	Limited scope for writ to High Court.
e) Family Court	High Court.

The appeal may involve further time for admission, final hearing and decision. In such cases, the party in whose favour the matter is decided by Tribunal need not wait till final outcome. As a result, the Act constituting Debt Recovery Tribunals for the banks stipulates that, 75% of the amount adjudicated should first be deposited. Similar provisions are there in other Tribunals like Income Tax Tribunal and CEGAT. The appellate forum, in case satisfied on merits may, permit filing of appeal without, making such payment as Precondition.

**30 S.T CO.LTD. V/s. APPELLATE AUTHORITY, AIR 1956 NG.235.

TABLE

DISPOSAL AND PENDENCY OF CASES IN
CENTRAL ADMINISTRATIVE TRIBUNAL
(CAT)

<u>YEAR</u>	<u>FILING</u>	<u>TRANSFER</u> <u>(FROM HC)</u>	<u>DISPOSAL</u>	<u>PENDENCY</u>
1986	768	1412	678	-
1987	472	276	472	-
1988	788	37	788	-
1989	604	18	602	2
1990	453	13	440	13
1991	430	3	381	49
1992	521	19	487	83
1993	731		604	210
1994	837		866	181
1995	1022		847	356
1996	912		808	460
1997	760		847	373
1998	874		657	590

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