Adjudication, Special Court, NCLT & NCLAT

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Civil Court
- Company → Reg office
- Person → Resides/works
- T/AT → Deemed Civil Court

- deemed Public Servant
  - President
  - chairperson
  - Judicial member
  - Tech member

Dispute form / Offence

Appeal

- Tribunal → NCLT (order) → Appeal 45+45 days → NCLAT (order) → Appellate Tribunal → 60 (60 days) → SC
  - only Due of Law
- order → after giving OOBH to Parties
- Amendment
  - → within 2 yrs from DOO
  - → why? → To Rectify any mistake Appearing from Record (If Appeal is Already file → No Amendment made)
- NCLT/NCLT order → Speedy Disposal → Completed within 3 month + Extended 90 days
- NCLAT (order) → Give → OOBH → Confirm / modify / Set aside order
  - Copy → NCLT, Parties concerned
- T/AT order = Decree of Civil Court

Special Court = Power of Magistrate

- Arrest w/o warrant ← Cognizable
- Court arrest w/o warrant ← Non-Cognizable (Except SFIO)
- only CG
- → for Speedy Trial
- → for Offence under Co. Act → where?
  - Imprison > 2 yrs → Single Judge (Session or Add Judge) → Appoint by CG
  - Other < 2 yrs → MM or Judicial magistrate (First class)
  - SPC
    - Reg office of Co. located
    - > 1 SPC → Concerned HC specify

Summary Trial

- Fast track Trial
- Appl → SPC offence → Punishable upto 3 yrs only
- Cond → If
  - most sentence = 1 yrs
  - During Trial SPC
    - Sentence Not exceed 1 yrs or
    - ST is not suitable / Desirable

Mediation & Conciliation Panel

- Authority (suo motu) / Request of party → Settlement out of court
- CG → Permitted → Judicial expert
- During on-going Proceedings before → CG / Tribunal → Appellate Tribunal
- Must Dispose of Matter in 3 month

Adjudication of penalties

- If offence ← Detention forwarded to magistrate order
  - JM → detention upto 15 days
  - Executive magistrate → upto 7 days
  - If detention Not Needed → forward to SPC
- Co → many Laundry case
  - SPC
  - civil court / criminal
  - Joint Trial by SPC

CG → AO (Not below Rank of ...)

- No penalty
- Penalty (after OOBH) → AO → Co → Appeal (< 60 of AO order) → RD → OOBH
- Co. → Reply (15 – 30 days) → Extend → Max 30 days
- Default as 137 & Rectified within 30 days of AO notice
- Within 10 d
- Physical Appearance
  - Personal Attendance Req → 90 days from SCN
  - No personal attendance → 30 d from Reply deline

Penalty Non compl AO / RD → Not compl within 90 days
- Co → 25K – 5L
- Jail – or fine 25

(*) Collection of custody of Property/A during IBC / WUP
- Custody
  - BoA
  - Papers of Co.
  - other Docum
- written Request
  - chief metro magistrate
  - CJM
  - District collector

Sec 446B – lesser Penalty for Small Co / OPC / Startup / Producer Co

Co → Non-compliance Done by
- OPC
- Small Co
- Startup Co
- Producer Co

Penalty
- Co → Max 2 lakh
- OID → Max 1 lakh

Sec 454A – Penalty for Repeated Default

- Someone Commit Same Default again
  - → within 3 yrs of the
  - → first Penalty order (AO or RD)
- Penalty → Little for Second / Subsequent default
  - → Amt = Twice Amt of penalty provide for such default

offence to be Non-Cognizable
- all offence Co Act except except SFIO
- Roc / PCS / Investigator / SEBI → Court
- → Non-payment of dividend
- Compliance Not Repeated
- 1) Co. Prosecuting its own offence
- 2) Action taken by Compliance Wing
- (*) Employee Cost Compulsorily to Court

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