

# The Competition Appellate Tribunal (Procedure for Appeals and Applications) Regulations, 2010

## CONTENTS

### CHAPTER I GENERAL

#### *Regulations*

	<i>Pages</i>
1. Short title and commencement .....	183
2. Definitions .....	183
3. Procedure of the Tribunal .....	184
4. Language of the Tribunal .....	184
5. Sittings of the Tribunal .....	184
6. Official seal of the Tribunal .....	184
7. Functions of the Registrar .....	184
8. Fee .....	184
9. Registration of appeal/application .....	184
10. Pleadings before the Tribunal .....	185
11. Signing of the pleading, etc. to be filed before the Tribunal .....	185
12. Service of notice or other documents .....	185
13. Adjournment of hearings .....	185
14. Ex-parte hearings .....	185
15. Custody of Records .....	185
16. Inspection and certified copies of documents, papers, etc .....	185
17. Orders or judgments of the Tribunal .....	186
18. Rectification of errors .....	186

### CHAPTER II APPEALS

19. Appeal to the Appellate Tribunal .....	186
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*Regulations*

CHAPTER III  
APPLICATIONS

*Pages*

20. Application for claim for compensation .....	187
21. Interpretation .....	187
FORM .....	188

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# The Competition Appellate Tribunal (Procedure for Appeals and Applications) Regulations, 2010<sup>1</sup>

In exercise of the powers conferred under sub-section (1) of Section 53-O of the Competition Act, 2002 (12 of 2003), the Competition Appellate Tribunal makes the following regulations, namely—

## CHAPTER I GENERAL

**1. Short title and commencement.**—(1) These regulations shall be called the Competition Appellate Tribunal (Procedure for Appeals and Applications) Regulations, 2010.

(2) They shall come into force on the date of their publication in the Official Gazette.

**2. Definitions.**—(1) In these regulations, unless the context otherwise requires—

- (a) “Act” means the Competition Act, 2002 (12 of 2003).
- (b) “Appeal” means an appeal filed under sub-section (1) of Section 53-B of the Act.
- (c) “Appellant” means a person who has filed an appeal under sub-section (1) of Section 53-B of the Act.
- (d) “Application” means an application for claim for compensation filed under Section 42-A or sub-section (1) of Section 53-N or sub-section (2) of Section 53-Q of the Act.
- (e) “Authorized representative” means an individual in case of an individual complaint, sole proprietor of a proprietorship firm, Karta in case of Hindu Undivided Family, Managing Director or Director, duly authorized by Board of Directors in case of a company, President or Secretary in case of an association or society, a partner in case of a partnership firm, Chief Executive Officer of a co-operative society or local authority, Joint Secretary of the Government of India or State Government or Chief Executive Officer in case of a statutory authority.
- (f) “Chairperson” means the Chairperson of the Tribunal appointed under sub-section (1) of Section 53-D of the Act.
- (g) “Commission” means the Competition Commission of India established under sub-section (1) of Section 7 of the Act.
- (h) “Inquiry” means an inquiry into anti-competitive agreements, abuse of dominant position and combinations.

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1. Competition Appellate Tribunal (Procedure for Appeals and Applications) Regulations, 2010, dated June 25, 2011, published in the Gazette of India, Part III, Section 4, dated 25th June to 1st July, 2011, pp. 4431-4443, No. 26.



- (i) "Member" means a member of the Competition Appellate Tribunal appointed under sub-section (2) of Section 53-D of the Act.
- (j) "Party" means a person who files an application or who prefers an appeal before the Tribunal and includes respondent(s).
- (k) "Registrar" means Registrar of the Tribunal and includes the Deputy Registrar of the Tribunal.
- (l) "Registry" means the registry of the Competition Appellate Tribunal.
- (m) "Rules" means the Competition Appellate Tribunal (Form and Fee for filing an appeal and fee for filing compensation applications) Rules, 2009.
- (n) "Tribunal" means the Competition Appellate Tribunal established under sub-section (1) of (*sic* Section) 53-A of the Act.

(2) All words and expressions used herein and not defined in these regulations but defined in the Competition Act, 2002 (12 of 2003) shall have the meanings assigned to them in that Act.

**3. Procedure of the Tribunal.**—The Tribunal shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908, but it will be subject to the provisions of the Act and of any rules, made under the Act, and the principles of natural justice.

**4. Language of the Tribunal.**—The proceedings of the Tribunal shall be conducted in English. No appeal, application, document or other papers contained in any language other than English, shall be accepted by the Tribunal unless the same is accompanied by a translation thereof in English attested by a translator and countersigned by the party concerned.

**5. Sittings of the Tribunal.**—The Tribunal shall ordinarily have sittings at its headquarters at New Delhi and at such places as the Chairperson may by general or special order, direct.

**6. Official seal of the Tribunal.**—Every notice, order and judgment of the Tribunal shall bear the seal of the Tribunal. The official seal of the Tribunal shall be in the custody of the Registrar.

**7. Functions of the Registrar.**—The Registrar shall—

- (a) receive and register appeals, applications, interlocutory and all other miscellaneous applications;
- (b) maintain all records of the Tribunal;
- (c) represent the Tribunal before the Supreme Court in the event of an appeal under Section 53(T) of the Act, and
- (d) perform such other functions as the Chairperson may direct.

**8. Fee.**—(1) Every appeal and application shall be filed in accordance with Rule 4 of the rules.

**9. Registration of appeal/application.**—Every appeal or application shall be supported by an affidavit and a certified copy of the impugned direction, decision

REGN. 16]

or order of the Commission. The appeal/application shall be verified and if found to be in order, be registered by the Registrar.

**10. Pleadings before the Tribunal.**—(1) All appeals, applications, counters, rejoinders, supplemental pleadings or other documents which are required to be filed before the Tribunal, shall be filed as prescribed in sub-rule (5) of Rule 3 of the rules.

(2) Appeal or application as the case may be, shall be accompanied by four copies thereof for the Tribunal's record and such additional number of copies thereof for being served on respondents.

(3) No pleadings, subsequent to the reply, shall be presented except by the leave of the Tribunal upon such terms as the Tribunal may think fit.

**11. Signing of the pleading, etc. to be filed before the Tribunal.**—All appeals or applications or order pleadings, to be filed before the Tribunal, shall be signed by the parties or their duly authorized representatives and verified. The person verifying shall specify by reference to the numbered paragraphs, what he verifies on his own knowledge and what he verifies on information received and believed to be true. The verification shall be signed by the person making it and shall state the date on which and the place at which it was signed.

**12. Service of notice or other documents.**—Every notice or other documents, required to be served on or delivered to any person, may be sent by the Registrar by speed post or by courier or by e-mail to the person or his agent empowered to accept service.

**13. Adjournment of hearings.**—The Tribunal may, if sufficient cause is shown at any stage of any proceedings, grant time to the parties. In any case, the Tribunal may not grant more than three adjournments during the course of the whole proceedings.

**14. Ex-parte hearings.**—If a party to the proceedings does not appear on the day fixed for hearing, the Tribunal may continue with the proceedings in the absence of such party.

**15. Custody of Records.**—The Registrar shall maintain the records of the Tribunal and no record or document filed in any case or matter shall be allowed to be taken out of the custody of the Tribunal without the leave of the Tribunal.

**16. Inspection and certified copies of documents, papers, etc.**—(1) A party to any proceeding before the Tribunal may, subject to the provisions of the Act, on an application made by it or on its behalf, addressed to the Registrar, be allowed to inspect or obtain copies of pleadings and other documents or records in the proceedings on payment of fees and charges, as may be specified.

(2) An inspection shall be allowed only in the presence of the Registrar.

(3) Copies of the proceedings, required under sub-regulation (1) or (2), may be certified, as true copies, by the Registrar.



(4) Every duly authorized officer, not below the rank of Under Secretary to the Central Government or State Government or the Competition Commission of India shall, at all reasonable times, be entitled free of charge inspection of the file of proceedings of the Tribunal. The Tribunal shall furnish such copies or extracts to the aforesaid officers, as they may request in writing.

**17. Orders or judgments of the Tribunal.**—(1) Every order, or judgment of the Tribunal shall be signed and dated by the Chairperson and Members:

Provided that the Chairperson or a Member who dissents with the final conclusion, shall record his reasons separately under his signature and date.

(2) If Chairman and the members of the Tribunal are divided in their opinions, the appeal or the application will be decided in accordance with the views of the majority.

**18. Rectification of errors.**—Any clerical or arithmetical mistakes in any proceedings, amendment of proceedings, declaration or order of the Tribunal or error may, at any time, be corrected by the Tribunal, either on its own motion or on the application of any party.

## CHAPTER II APPEALS

**19. Appeal to the Appellate Tribunal.**—(i) The Central Government or the State Government or a local authority or enterprise or any person aggrieved by any direction, or decision or order of the Commission, as referred to in clause (a) of sub-section (1) of Section 53-A of the Act, may prefer an appeal to the Appellate Tribunal as prescribed in the Form appended to the rules.

(ii) The appeal shall be filed within a period of sixty days from the date of receipt of the certified copy of the direction, decision or order appealed against. The Tribunal may entertain the appeal after the expiry of the sixty days on showing sufficient cause for not filing the appeal within sixty days.

(iii) The appeal shall recite succinctly and in chronological order with relevant dates, the principal steps in inquiry keeping up to the appeal from commencement of the inquiry.

(iv) The appeal shall be accompanied by a certified copy of the order of the Commission appealed against. If any annexure are filed along with the appeal they should be affirmed to be true copy of originals.

(v) The appeal shall be supported by an affidavit in support of the statement of facts contained in the appeal. It shall be signed by the appellant or by an authorized representative.

(vi) The Registrar, after satisfying himself that the appeal is in order, shall register the same as an appeal in the Tribunal.

(vii) On scrutiny, if the appeal is found to be defective, the appellant would be advised to rectify the defects. After rectification of the defects by the appellant the appeal shall be registered.

(viii) The appeal registered shall be put up for hearing before the Tribunal with a notice to the appellant. The Tribunal, after hearing the appellant may either dismiss it summarily or direct issue of notice to all necessary parties or may make such orders as the circumstances of the case may require.

(ix) In case, the Tribunal directs issuance of notice to the concerned parties, the Registrar will issue notice, along with the order of the Tribunal and copy of the appeal to all the respondents.

(x) Where at any stage prior to the hearing of the appeal the appellant desires to withdraw his appeal, he shall make an application to that effect to the Tribunal.

(xi) The filing of an appeal shall not prevent execution of the direction, decision or order appealed against, but the Tribunal, may, subject to such terms and conditions as it may think fit to impose, order a stay of the direction, decision or order of the Commission.

(xii) In terms of sub-section (4) of Section 53-B all appeals be disposed within six months of receipt of the appeal.

(xiii) The Registrar shall send a copy of the final order/judgment to the parties concerned and to the Commission.

### CHAPTER III APPLICATIONS

**20. Application for claim for compensation.**—(1) Every application made under Sections 42-A, 53-N(1) and 53-Q(2) of the Act for compensation shall be supported by an affidavit of the person making the application in the Form appended to these regulations stating the particulars and the extent of the loss or damage caused as a result of the alleged anti-competitive agreements or abuse of dominance or compensation in case of contravention of orders of Commission, and also stating that he has not filed any application either before the Tribunal or before any other authority and be filed with the Registrar with four extra copies and one additional copy for each respondent.

(2) Every application under sub-section (1) of Section 53 shall be accompanied (*sic* by) a certified copy of the impugned direction, decision or order.

**21. Interpretation.**—In case of any doubt as to the interpretation to these procedures, the matter shall be placed before the Chairperson who shall have the power to modify, waive and exempt the operation of any of these procedures by specific or general order(s).



**FORM***Before the Competition Appellate Tribunal, New Delhi*

Application.....of 20

(Name and address of the applicant)

Applicant

Versus

(Name and address of the respondent)

Respondent

Application under Section 42-A/53-N(1)/53-Q(2) of the Competition Act, 2002

Sir,

The Applicant begs to submit as under—

1. Brief facts of the claims.
2. Brief narration of the anti-competitive agreements or/and abuse of dominant position.
3. Details of the orders passed by the Commission.
4. Brief narration of the contravention, if any, of the orders of the Commission.
5. Particulars of loss, damage or injury and the amount payable.
6. Particulars of proceedings, if any, under any other Law in respect of the same matter.

**PRAYER**

(State exact amount, rate of interest or any amount on any other account)

Signature of the applicant.

**VERIFICATION**

Verified at ..... on the ..... day of .....  
20..... . The contents of above paras ..... are true to the best of my knowledge and  
nothing has been concealed therefrom.

Signature of the applicant.

Encl. 1. Attested affidavit.

**AFFIDAVIT**

I ..... S/o..... aged  
..... years, resident of ..... swear in the name of  
God/solemnly affirm and state as under:

- (1) I have gone through my application for grant of compensation under Section 42-A/53-N(1)/53-Q(2) of the Competition Act, 2002. The same is correct. The annexures are true copies to their originals/ and true translation of the originals.
- (2) The aforesaid is the only application made. The particulars of the application/applications in addition to the aforesaid application are as under.
- (3) No such application was filed either by me or on my behalf under any other Act, in respect of the same matter.
- (4) I did not receive any amount in respect of the aforesaid compensation from any one whether through any court or otherwise.



OR

I received a sum of Rs ..... out of the compensation claim particulars of which as under—

AFFIDAVIT

I ..... S/o ..... aged ..... years, resident of ..... swear in the name of God/solemnly affirm and state as under:

- (1) I have gone through my application for grant of compensation under Section 42-A/53-N(1)/53 Q(2) of the Competition Act, 2002. The same is correct. The annexures are true copies to their originals/ and true translation of the originals.
(2) The aforesaid is the only application made. The particulars of the application/applications in addition to the aforesaid application are as under.
(3) No such application was filed either by me or on my behalf under any other Act, in respect of the same matter.
(4) I did not receive any amount in respect of the aforesaid compensation from any one whether through any court or otherwise.

OR

I received a sum of Rs ..... out of the compensation claim particulars of which as under—

(5) I undertake that if I receive any amount from any source in connection with or relating to the aforesaid compensation. I will intimate the same to the Competition Appellate Tribunal.

Deponent

VERIFICATION

I solemnly, affirm/swear in the name of God that whatever is stated in Paras 1 to 5 above are true to my knowledge and no material fact is concealed by me.

Place .....

Date .....

Deponent

Notes:

- (1) The affidavit shall be attested by an Oath Commissioner or a Civil Judge or a Sub-Judge First Class or a Magistrate or a Notary Public and need not be on a Non-Judicial paper.
(2) Strike out whichever is not applicable.