

Madras Bar Association v. Union of India and Another

Transferred Case (Civil) No. 150 of 2006, with connected matters including Writ Petition (Civil) No. 621 of 2007

[2014] 10 SCR 1 | 2014-09-25

National Tax Tribunal: constitutional limits on replacing High Court tax appeals, judicial independence and professional representation

National Tax Tribunal Act, 2005: sections 5, 6(2)(b), 7, 8, 13(1), 15 and 24 | Income-tax Act, 1961: sections 260A and 288 (appellate and representation context) | Constitution of India: Articles 50, 225, 226, 227 and 323B

Five-judge Constitution Bench; majority opinion by Jagdish Singh Khehar, J.; separate opinion by R. F. Nariman, J., concurring in the result | R. M. Lodha, CJI | Jagdish Singh Khehar, J. | J. Chelameswar, J. | A. K. Sikri, J. | R. F. Nariman, J.

Different Madras Bar Association decision

This judgment dated 25 September 2014 concerns the National Tax Tribunal Act, 2005 and TC(C)150/2006. It is not the judgment dated 19 November 2025 concerning the Tribunals Reforms Act, 2021 and WP(C)1018/2021 with WP(C)626/2021.

NTT representation ruling is not a general section 288 prohibition

The ruling on Chartered Accountants and Company Secretaries concerns representation before the proposed NTT on substantial questions of law. It does not withdraw authorised-representative rights before income-tax authorities or the ITAT generally.

Majority reasoning and separate concurrence differ

The majority did not prohibit all transfer of statutory appellate jurisdiction to tribunals. Nariman, J., agreed with invalidation but relied on the exclusive domain of superior courts to decide substantial questions of law. Do not present his broader reasoning as the unanimous ratio.

01 FACTS OF THE CASE

Madras Bar Association and connected litigants challenged the National Tax Tribunal Act, 2005, which proposed replacing High Court appellate adjudication of substantial questions of law arising from ITAT and CESTAT decisions with a National Tax Tribunal. The dispute concerned the constitutionally required competence, independence and accessibility of that proposed substitute, rather than the amount of tax payable by an assessee. The tax-appeal history was material: executive first appeals and specialist appellate tribunals had been followed by High Court determination of questions of law, later through statutory appeals including Income-tax Act section 260A. The challenged scheme allowed selection and administrative involvement by the Central Government, specified qualifications and renewable terms, and permitted certain non-lawyer representation. In the connected WP(C)621/2007, Company Secretaries sought the same right of representation before the NTT as Chartered Accountants. The Court addressed that claim separately from the challenge to the tribunal itself.

Source: [Introduction and statutory history / PDF pp. 25-43](#); [Majority paragraphs 67-78 / PDF pp. 273-308](#)

02 DISCUSSION BY THE HON'BLE COURT

The majority distinguished statutory appellate jurisdiction from the High Courts' constitutionally protected judicial review and superintendence. Parliament could transfer the former to an alternative court or tribunal, but the substitute had to preserve the salient standards, qualifications, independence and security of the court replaced. Because Articles 226 and 227 had not formally been ousted, the Act did not fail simply because it created a tribunal. Its actual design nevertheless failed the constitutional test. Ordinary sittings in Delhi impaired equivalent access; executive powers concerning benches, jurisdiction and transfers were inappropriate where the Government would be a litigant in every case. NTT adjudication would involve substantial questions of law, often extending into family, company, contract, property and other fields. Accountant or technical experience alone was not commensurate with the qualifications needed to replace High Court judges. Executive departmental secretaries' participation in selection and the renewable five-year term likewise compromised independence. The direct appeal to the Supreme Court made maintaining equivalent standards especially important despite the formal survival of High Court review. On representation, the same substantial-law character led the majority to reject Company Secretaries' claim and invalidate the Chartered Accountant limb of section 13(1). Nariman, J., concurred only in the result on a distinct, broader ground: the core function of deciding substantial questions of law belonged to the superior courts of record. He distinguished earlier tribunalisation decisions addressing original or first-appellate jurisdiction and concluded that this proposed transfer crossed the constitutional boundary.

Source: [Majority analysis / PDF pp. 269-317](#); [Separate concurrence / PDF pp. 328-354](#)

03 JUDICIAL DECISION

The majority invalidated section 5(2)-(5), section 6(2)(b), section 7, section 8 and section 13(1) to the stated extent permitting Chartered Accountant representation before the NTT. Its final conclusion summarised these as sections 5, 6, 7, 8 and 13 to the extent previously indicated. Those provisions formed the edifice of the legislation; without them the remainder was ineffective and inconsequential. Accordingly the entire NTT Act, 2005 was declared unconstitutional. WP(C)621/2007's prayer for Company Secretary representation was declined. Nariman, J., agreed that the Act was unconstitutional, but on the superior courts' exclusive substantial-law jurisdiction ground rather than the majority's acceptance of transfer in principle subject to safeguards.

Source: [Majority operative conclusions / PDF pp. 318-319](#); [Concurrence conclusion / PDF p. 354](#)

04 OUTCOME / IN WHOSE FAVOUR

The constitutional challenge succeeded: the entire National Tax Tribunal Act was set aside as unconstitutional, and the matters were disposed of. The separate Company Secretaries' representation claim failed. This was final institutional relief, not a remand of a taxpayer appeal or a finding for either side on tax liability. The report contains no separate operative costs direction. It does not support treating all tribunalisation as impermissible under the majority opinion or treating every later tribunal-service provision as already adjudicated in 2014.

Source: [Final relief / PDF pp. 317-319 and 354](#)

05 AKHB REVIEW POINT

AKHB analysis: identify tribunal-governance authorities by decision date, lead docket, challenged enactment and operative order, not party name alone. For a proposed transfer of tax jurisdiction, map the precise function transferred, member qualifications, selection process, tenure, executive control, access to benches and the route of judicial review. Preserve the distinction between the majority's conditional acceptance of transfer and Nariman, J.'s broader separate rationale. The NTT-specific representation holding must not be exported into a general ban on Chartered Accountants appearing under section 288 before tax authorities or the ITAT. This historical ruling also neither decides a tax assessment nor supplies current appointment or tenure rules. Verify subsequent legislation and later judicial treatment before relying on it in a present tribunal challenge.

Source: [Editorial synthesis from primary reasons / PDF pp. 307-319 and 341-354](#)

SOURCE & VERIFICATION

Supreme Court Reports scan - public eSCR mirror

Complete 354-page SCR report reviewed. Editorial material occupies pp.1-24; the majority judgment occupies pp.25-319, paragraphs1-91, and the separate Nariman concurrence occupies pp.319-354, paragraphs1-41. Earlier judgments quoted within the report are distinguished from the 2014 reasons and operative order.

Open cited source rendition

Exact downloaded source SHA-256 matches the catalogue; physical PDF pagination equals printed SCR pagination from 1 through 354.

Lead docket, date, enactment and source hash distinguish this from the existing 2025 note. No existing exact-hash match was identified in the checked corpus.

SCR p. 24 visually prints connected CA4501/2006; searchable judgment renditions show CA4051/2006. The lead docket is unambiguous. This note does not silently resolve the connected-docket discrepancy.

The majority ends with paragraph 91 at p. 319; the separate concurrence begins on the same page and ends with paragraph 41 at p. 354. Those boundaries and operative text were visually checked.

The lengthy case-law table in majority paragraph 77 is counsel's compilation illustrating legal subjects encountered in tax cases; it is not a new adjudication of every cited tax proposition.

All judicial pages were read in assigned contiguous ranges and the range evidence integrated. Extensive earlier-opinion quotations in pp. 25-260 were distinguished from the 2014 Court's own conclusions: quoted DRT and Consumer Protection Act outcomes, NCLT remedial rules and historical Sampath Kumar review-exclusion reasoning are not NTT operative orders. The final order does not strike down Article 323B itself.

No assessment year or taxpayer liability was decided. No comprehensive later-treatment or statutory-update clearance is claimed.

STATUTORY SCOPE

This is the 2014 challenge to the National Tax Tribunal Act, 2005, not the later Madras Bar Association challenges to tribunal service-condition legislation. Statutory extracts and earlier decisions are discussed as reproduced in this historical judgment; no current consolidated-law audit is represented.

LATER TREATMENT

Source checked 2026-10-12. Comprehensive later judicial treatment has not been checked. No current-law or citator clearance is represented. The separate 2025 Madras Bar Association decision is an identity comparator, not proof of present treatment of every proposition in this 2014 decision.

[Related note: Madras Bar Association v. Union of India and Another](#)

AI DISCLOSURE

This AKHB research note was prepared with AI assistance from the identified primary report; independent human review is not represented.

PROFESSIONAL DISCLAIMER

General legal and tax research only; not legal or tax advice. Verify the complete judgment, applicable statutory version and subsequent judicial treatment before reliance. The AKHB REVIEW POINT is editorial analysis, not the Court's holding. No current-law clearance is claimed.