

**RJA**

**Rajput Jain & Associates**  
Chartered Accountants

**Limitation Act, 1963**

# About Us

- Rajput Jain & Associates is a Chartered Accountants firm, with its headquarter situated at New Delhi (the capital of India). The firm has been set up by a group of young, enthusiastic, highly skilled and motivated professionals who have taken experience from top consulting firms and are extensively experienced in their chosen fields has providing a wide array of Accounting, Auditing, Taxation, Assurance and Business advisory services to various clients and their stakeholders. focus at providing tailor made solutions to challenging problems of our clients, and perform with high quality and timely service.
- Rajput Jain & Associates, a professional firm, offers its clients a full range of services, To serve better and to bring bucket of services under one roof, the firm has merged with its various Chartered Accountancy firms pioneer in diversified fields
- Our main office is located at Delhi. Incidentally, Delhi is the Capital of India. Our other offices are in Mankapur & Moradabad (U.P.). We have associates all over India in big cities. All our offices are well equipped with latest technological support with updated reference materials. We have a large team of professionals other than our Core Team members to meet the requirements of our prospective clients including the existing ones. However, considering our commitment towards high quality services to our clients, our team keeps on growing with more and more associates having strong professional background with good exposure in the related areas of responsibility. Further to meet the growing demands of the fiercely competitive market we are constantly looking forward for team of associates comprising of highly skilled professionals to cater the needs ever increasing clientele.

# BACKGROUND

- Section 433 of Companies Act, 2013 provides that provisions of Limitation Act, 1963 shall apply to proceedings before NCLT and NCLAT.

Principle behind law of limitation

In State of Kerala v. V R Kalliyankutty 1999(2) SCALE 374 (SC 3 member bench), it was observed - 'The law of limitation rests on the foundation of public interest.

Courts have expressed at least three reasons for supporting the existence of statutes of limitation –

- (1) that long dormant claims have more cruelty than justice in them
- (2) that a defendant might have lost the evidence to disprove a stale claim and
- (3) that persons with good causes of action should pursue them with reasonable diligence.

# APPLICABILITY

Statutes of Limitation have been considered as Statutes of Repose and Statutes of Peace. The generally accepted basis for such statutes is that they are designed to effectuate a beneficent public purpose.'

Limitation must be considered even if not raised by parties

Limitation Act does not extinguish rights, it only extinguishes remedy

Law of limitation bars a remedy but not a right.

Limitation Act applies normally only to Courts and tribunals

(and not to other quasi-judicial authorities like MRTP Commission.)

However, this Act has been made specifically applicable to NCLT and NCLAT.

Section 14 of Limitation Act has been held to be applicable to quasi-judicial authorities also.

## TIME LIMIT FOR FILING SUIT OR APPEALS

- Time limit for filing appeal against order of NCLT - Section 421(3) of Companies Act, 2013 prescribes that appeal against order of NCLT should be filed before NCLT within 45 days, extendable by further 45 days by NCLAT for sufficient reasons. This period cannot be extended .  
Period as prescribed in Schedule to the Limitation Act  
The period has been prescribed in Schedule to the Limitation Act.  
Generally, the period is as follows -
  - (a) 3 years for a suit relating to accounts, contracts, declarations, decrees, suits relating to movable property, recovery of law suit under a contract etc.
  - (b) 12 years for suits relating to possession of immovable property and 30 years for mortgaged property
  - (c) One year for suit relating to torts 3 years for compensation in certain cases
  - (d) 30 to 90 days in case of appeals under Civil Procedure Code and Criminal Procedure Code.- - Period of filing appeal and application can be extended if proper cause is shown (but not the suit) [section 5 of Limitation Act].

## PERIOD OF LIMITATION –CONTD.

If court is closed on last day - suit, appeal or application can be filed on next day when Court reopens, [section 4 of Limitation Act]

If the last day of limitation is a holiday, the required action (filing of appeal/ deposit of amount etc.) can be done on first working day after the holiday

In case of appeals against any judgment, if limitation is provided in any statute, the same will prevail.

- Limitation In case of mistake of law

In case of mistake of law, period of limitation is three years from the date when mistake is known .Tax paid under mistake of law is refundable under section 72 of Indian Contract Act and the limitation would be three years. Starting point for limitation would be the date when the mistake of law is known - which could be the date on of judgment on which a competence court declared the correct law.

Limitation is question of law

Limitation is a question of law and can be raised at any stage i.e. even at the time of appeal.

**Provision of limitation in Special law** :Where a special statute makes a specific limitation, that limitation will apply and not as per Limitation Act. However, other provisions of sections 4 to 24 of Limitation Act will apply for determination of period of limitation .

Position when law does not prescribe any limitation

Any period of limitation is not applicable unless prescribed in law. However, even when no limitation is prescribed, the power should be exercised within a reasonable period.

If period of reopening assessment is enhanced by amending law (section 149 of Income-tax in this case), the assessment cannot be reopened for the years which had become time barred as per earlier provisions..

## LIMITATION IN CRIMINAL MATTERS

As per section 468 of Cr PC, Court cannot take cognizance of offence after expiry of following limitation period -

- (a) Six months, if the offence is punishable only with fine
- (b) One year, if the offence is punishable with imprisonment for a term not exceeding one year
- (c) three years, if the offence is punishable with imprisonment for a term not exceeding three years.

However, in case of economic offences, there is no time limit.



# Contact Us

- Rajput Jain & Associates Address: P-6/90, Connaught Circus Connaught Place New Delhi-110001
- Mobile No: 9811322785, 9555555480
- Telephone: +91 011 -23343333
- Email : [info@carajput.com](mailto:info@carajput.com), [singh.swatantra@gmail.com](mailto:singh.swatantra@gmail.com)
- Website : [www.carajput.com](http://www.carajput.com)

## Corporate & Head Office

- Address: 1598, Level-1, Sector 22-B, Chandigarh
- Mobile No: 9555555480, 9811322784, 9871857333
- Email : [rajputjainandassociates@gmail.com](mailto:rajputjainandassociates@gmail.com)

• Address: Building No. 53/160 R5, Bhakti Nagar, Pandeypur Varanasi 221002 (U.P) India

• Address: D 301 Omex Royal Apartment Sector 44 Noida, India

• Address: Building No 65 Ward No.10 Lakhe Chaur Marg, Kathmandu Metropolitan Kathmandu, Nepal.

## Branch Offices



## Follow us on

