

- **Corporate Veil of a Company be Lifted**

For all purposes of law a company is regarded as a separate entity from its shareholders. But sometimes it is sometimes necessary to look at the persons behind the corporate veil. The separate entity of the company is disregarded and the schemes and intentions of the persons behind are exposed to full view which is known as lifting or piercing the corporate veil. This is usually done in the following cases

1) Determination of character- In *Daimler Co Ltd. v. Continental Tyre and Rubber Co.*, a company was incorporated in England for the purpose of selling tyres manufactured in Germany by a German company. The German company held the bulk of the shares in the English company and all the directors of the company were Germans, resident in Germany. During the First World War the English company commenced an action to recover a trade debt. And the question was whether the company had become an enemy company and should therefore be barred from maintaining the action.

The House of Lords held that though the company was registered in England it is not a natural person with a mind or conscience. It is neither loyal nor disloyal; neither friend nor enemy. But it would assume an enemy character if the persons in de facto control of the company are residents of an enemy country.

2) For benefit of revenue- The separate existence of a company may be disregarded when the only purpose for which it appears to have been formed is the evasion of taxes. In *Sir Dinshaw Maneckjee, Re*, the assessee was a wealthy man enjoying large dividend and interest income. He formed four private companies and agreed with each to hold a block of investment as an agent for it.

Income received was credited in the company accounts but company handed the amount to him as pretended loan. Thus he divided his income in four parts to reduce his tax liability. The Court disregarded corporate entity as it was formed only to evade taxes.

In *Bacha F Guzdar v. CIT, Bombay*, the SC rejected the plea of the plaintiff, a member of a tea company, who claimed that the dividend held by her in respect of her shares should be treated as agricultural income (as it was exempted from tax) and not income from manufacture and sale of tea.

3) Fraud or improper conduct- In *Gilford Motor Co v. Horne*, H was appointed at the managing director of the plaintiff company on the condition that he shall not solicit the customers of the company. He formed a new company which undertook solicitation of plaintiff's customers. The company was restrained by the Court.

4) Agency or Trust or Government company- The separate existence of a company may be ignored when it is being used as an agent or trustee. In *State of UP v. Renuagar Power Co*, it was held that a power generating unit created by a company for its exclusive supply was not regarded as a separate entity for the purpose of excise.

In *Re R.G. Films Ltd.*, an American company produced film in India technically in the name of a British company, 90% of whose share was held by the President of the American company. Board of Trade refused to register the film as the English company acted merely as the agent of the American company.

5) To avoid welfare legislation- where it was found that the sole purpose of formation of new company was to use it as a device to reduce the amount to be paid by way of bonus to workmen, the SC pierced its corporate veil. –The

Workmen Employed in Associated Rubber Industries Ltd. v. The Associated Rubber Industries Ltd, Bhavnagar.

6) Under statutory provisions- The Act sometimes imposes personal liability on persons behind the veil in some instances like, where business is carried on beyond six months after the knowledge that the membership of company has gone below statutory minimum (sec 45)- Madanlal v. Himatlal, when contract is made by misdescribing the name of the company(sec 147), when business is carried on only to defraud creditors(sec 542).