The Indian Journal for Research in Law and Management

Open Access Law Journal – Copyright © 2026

Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

LIFTING THE CORPORATE VEIL: JUDICIAL EXCEPTIONS UNDER INDIAN COMPANY LAW

- Subasree S

INTRODUCTION

Since the time the House of Lords decided Salomon v. Salomon & Co. Ltd.[1] in 1897, the idea that a company is a legal entity distinct from its directors and shareholders has proven to be the cornerstone of company law across the common law world, including India. Limited liability is made practical by the concept of separate legal personality, which allows individuals to administer and capitalise businesses without having to risk all of their personal assets on every business decision. However, a distinct personality has always had a negative aspect. A company's lawful separation from its owners may be exploited to carry out fraud, avoid legal duties, or compromise the rights of creditors and the public, all while those accountable remain hidden behind the "corporate veil". Indian courts have created a number of exceptions which enable the veil to be lifted, or breached, so that the law has access through the corporate entity to the natural persons behind it, in conformity with certain sections of the Companies Act, 2013. The statutory and judicial limitations are examined in this essay, along with the uniformity with which Indian courts have applied them and what, if anything, a more systematic framework for veil-lifting might look like in the future.

THE DOCTRINE OF SEPARATE LEGAL PERSONALITY

In the landmark case law of Saloman, Aron Salomon established his shoe company, sold it to the new organization, and bought debentures secured by the company's assets. When the business failed, unsecured creditors claimed that Salomon was not entitled to position himself as a secured creditor above them because the company and Salomon were essentially one and the same. In contrast, the House of Lords held that a business is an independent legal entity after it has been lawfully incorporated, "as much as if he was a totally different individual." In

[1] Salomon v. Salomon & Co. Ltd., (1897) A.C. 22 (H.L.).

India, this decision has been consistently sustained. This position is laid out in Section 9 of the Companies Act, 2013[2], which states that a business becomes a body corporate with perpetual succession on the date of incorporation, enabling it to perform the activities of an incorporated company. Indian courts have regarded lifting veil as an exception that requires explicit grounds rather than the contrary, and separate legal personhood as the default rule.

STATUTORY EXCEPTIONS UNDER THE COMPANIES ACT, 2013

The 2013 Act expressly specifies a number of circumstances in which the veil is lifted by application of a statute, eradicating the necessity for a separate court determining the existence of fraud in each instance.

I. I. If the company was established by fraud or the suppression of material facts, Section 7(7) makes promoters, first directors, and others who provided false information at the time of incorporation personally accountable under Section 447.[3]

II. II. To ensure that investors are not left without a remedy solely because the prospectus was issued in the company's name, Sections 34 and 35[4] impose criminal and civil liability, respectively, on those who authorise a prospectus containing deceptive information.

III. Section 339 deals[5] with fraudulent business practices discovered during winding up. If the tribunal determines that the company's operations were conducted with the intention of defrauding creditors, it has the authority to hold any person who was intentionally involved in such conduct personally liable for the company's debts.

IV. Section 339 is expanded by Section 340[6], which permits the tribunal to mandate a public hearing of such individuals.

V. Section 341[7] guarantees that this liability cannot be bypassed by using a joint venture or a subsequent corporate layer.

[2] Companies Act, 2013, No. 18 of 2013, § 9 (India).
[3] Companies Act, 2013, No. 18 of 2013, §§ 7(7), 447 (India).
[4] Companies Act, 2013, No. 18 of 2013, §§ 34–35 (India).
[5] Companies Act, 2013, No. 18 of 2013, § 339 (India).
[6] Companies Act, 2013, No. 18 of 2013, § 340 (India).
[7] Companies Act, 2013, No. 18 of 2013, § 341 (India).

Together, these provisions provide the doctrine of lifting corporate veil a statutory backbone that does not depend entirely on judicial discretion.

JUDICIAL EXCEPTIONS: GROUNDS DEVELOPED BY THE COURTS

Along with adherence to the statute, Indian courts have determined a number of universal grounds for lifting the veil, which are set forth case by case rather than by rigid rules and regulations. These judicially formulated grounds obligate a court to consider the entire facts of a dispute holistically, which is what essentially gives the doctrine its flexibility and uncertainty, contrary to the statutory guidelines, which apply once their particular triggering circumstances are met.

The most commonly cited reason continues to be fraud or unethical behaviour. Courts have consistently disregarded the corporate personality when a corporation is utilised as an excuse for fraud or to bypass an existing legal obligation. The Supreme Court lifted the veil in Delhi Development Authority v. Skipper Construction Co.[8], ruling that the corporate personality could not be permitted to become "an instrument of fraud" after determining that the company and its managing members had used an arrangement of corporate entities to misappropriate funds collected from consumers.

A relevant ground is evasion of tax or statutory obligations. The Court lifted the veil to treat a captive power-generating subsidiary and its parent as a single entity for the purposes of electricity duty in State of U.P. v. Renusagar Power Co.[9], recognising that the corporate device was being used only to avoid a tax liability that would otherwise unambiguously be applicable.

In instances where collective businesses are so interconnected in ownership, management, and finances that treating them as completely separate entities would result in an unfair result—especially in cases involving the dispersion of funds within a corporate group. Collective businesses and the individual business entity principle have also on occasion influenced courts to look past formally established corporate individuality.

Another acknowledged ground is the determination of agency or function, which is used when it is demonstrated that a subsidiary or shell company is merely a tool or facade of its controllers,

[8] Delhi Dev. Auth. v. Skipper Constr. Co., (1996) 4 SCC 622.
[9] State of U.P. v. Renusagar Power Co., AIR 1988 SC 1737.

with no independent business existence of its own, meaning that the controlling individuals are essentially running their own businesses under a corporate name.

In some court proceedings, the protection of public interest and earnings has also been considered as an independent basis for lifting of the veil. This is particularly relevant when regulators need to determine the true parties involved in a transaction in order to enforce securities law, foreign exchange regulations, or competition law. In some circumstances, regulatory bodies have looked past formal corporate separateness within a company to determine which entities are actually accountable for the behaviour in question. They do this because they believe that permitting a complex holding structure to thwart enforcement would go against the fundamental goals of the regulatory regime they operate under.

Determining a company's true nature is an additional basis that is typically used when the identification of the people who truly operate a business is more significant than the company's official incorporation location.Even though the classic example is English in origin, Indian courts have long been influenced by it: regardless of whether a company is incorporated in a nation, it may still be considered an "enemy" during a war if the people in charge of its shares and management are discovered to be enemy nationals.[10] This is because the people behind the veil, not the certificate of incorporation, determine the company's true character for that purpose. Whether under foreign exchange law, sectoral ownership constraints, or licensing terms that restrict control by specific categories of people, Indian courts have also applied the same underlying logic outside of the wartime context, examining who actually controls and benefits from a company whenever the answer to that question determines the outcome of a dispute.

VEIL-LIFTING UNDER THE INSOLVENCY AND BANKRUPTCY CODE, 2016

The doctrine has also found a home in India's newer insolvency framework. Although the term "lifting the veil" is not used explicitly in the Insolvency and Bankruptcy Code, 2016[11], its rules against fraudulent and improper trade, which are closely structured based on Sections 339 and 340 of the Companies Act, accomplish similar objectives during a company's resolution or liquidation. The Adjudicating Authority may order individuals in charge to make personal contributions to the company's assets, thereby piercing the veil in the light of insolvency, if a resolution professional or liquidator determines that the corporate debtor's business was

[10] Daimler Co. Ltd. v. Continental Tyre & Rubber Co. (Gt. Brit.) Ltd., (1916) 2 A.C. 307 (H.L.).
[11] Insolvency and Bankruptcy Code, 2016, No. 31 of 2016 (India).

conducted with the intent to defraud creditors or that those in charge continued trading despite knowing there was no reasonable probability of avoiding insolvency. This overlap between company law and insolvency law is important because it means that once a company enters the insolvency process, there is still a practical incentive to refrain from abusing the corporate form. Therefore, scrutiny of the controllers' actions tends to increase at the exact moment when creditors are most vulnerable and the desire to obtain value from a failing company is most intense.

JUDICIAL RESTRAINT: WHEN COURTS DECLINE TO LIFT THE VEIL

Recognising the doctrine's shortcomings is as crucial to understanding it. When a corporate structure results in an unpleasant outcome for one party, Indian courts have taken care to prevent lifting of veil from becoming a generalised remedy. The Supreme Court warned in Life Insurance Corporation of India v. Escorts Ltd.[12] that the corporate veil should only be lifted where there are strong reasons to do so, such as fraud, illegality, or an overriding public interest, and not just because it would be convenientIn Vodafone International Holdings v. Union of India[13], the Court firmly reaffirmed this caution by refusing to disregard a layered corporate structure used to facilitate a foreign transaction. The Court held that legitimate tax planning and corporate structuring, even when intended to minimise tax liability, are not the same as a deceitful arrangement created solely to defraud the revenue. In a similar vein, in Balwant Rai Saluja v. Air India Ltd.[14], the Court rejected considering employees of a subsidiary as employees of the parent company based exclusively on shared ownership and control, ruling that functional and financial integration alone does not warrant piercing the veil in the absence of proof that the subsidiary was merely a disguise.

CRITICAL ANALYSIS

When taken together, these examples show a theory that is intentionally flexible rather than rigidly implemented. Indian courts have refused to reduce veil-lifting to a standard checklist, opting rather to enquire in each instance as to whether the corporate structure is being utilised as a lawful commercial vehicle or as a means of subverting justice. This flexibility is justified since strict classifications would encourage parties to organise their affairs around them. However, it also creates factual ambiguity, especially for creditors, workers, and minority

[12] Life Ins. Corp. of India v. Escorts Ltd., (1986) 1 SCC 264.
[13] Vodafone Int'l Holdings B.V. v. Union of India, (2012) 6 SCC 613.
[14] Balwant Rai Saluja v. Air India Ltd., (2014) 9 SCC 407.

shareholders attempting to forecast ahead of time whether the structure of a corporate group would safeguard its controllers from liability.

In Prest v. Petrodel Resources Ltd.[15], the UK Supreme Court confined English veil-piercing to cases of genuine "evasion," where a company is interposed to avoid an existing legal obligation, as in contrast to mere "concealment," where a company is essentially used to conceal who really owns an asset, which does not justify piercing the veil at all because other legal remedies, such as traceability or agency principles, are generally accessible instead. This approach is a useful comparison. Although Indian courts have not adopted this exact two-part distinction, rulings such as LIC v. Escorts and Vodafone also reflect the fundamental insight that veil-lifting should be saved for situations in which no other approach can achieve justice. Indian jurisprudence could benefit from making that instinct more explicit. Before lifting the veil, courts should consider whether the same outcome could be achieved by applying contract, tort, or fraud principles against the individuals in question. True veil-piercing should only be used in a limited number of situations where ignoring the corporate form itself is sufficient.

The 2013 Act's statutory provisions give fraud-based veil-lifting a more solid, more predictable foundation than pure judicial discretion, but they only address certain aspects of the circumstances, primarily fraud at incorporation, in the prospectus, and during winding up; other situations, like regular joint venture diversions outside of insolvency, are left up to the court's interpretation of the facts. Without compromising the doctrine's essential flexibility, a more structured judicial test based on the recurrent factual patterns that Indian courts have already implicitly relied upon—such as undercapitalisation, total control combined with disregard for corporate formalities, and use of the company to defeat an existing legal obligation—might bring about greater consistency.The distinction between legal structuring and abusive layering becomes more difficult to determine from the outside as both Indian promoters and multinational investors execute transactions through multiple layers of holding companies across various jurisdictions. This renders clear, principled reasoning increasingly important whenever courts do choose to look behind the corporate form.

CONCLUSION

In Indian company law, the corporate veil continues to be and should continue to be the default position because separate legal personality is what enables large-scale modern commercial

[15] Prest v. Petrodel Res. Ltd., [2013] UKSC 34.

activity. However, the Companies Act of 2013's exclusions, which have been strengthened by the insolvency framework and improved throughout decades of judicial interpretation, represent a careful evaluation that this protection cannot be total. Indian courts have attempted to strike a balance between two ideas: that the corporate structure merits respect and that it cannot be used as a cloak by those who abuse it. Examples of this include Skipper Construction's blatant fraud and Vodafone's cautious refusal to confuse lawful structuring with wrongdoing. The fundamental topic that courts continuously revisit as corporate structures get increasingly complicated, especially when it comes to multi-layered group firms and cross-border holding structures, is whether, a company is a genuine separate enterprise or simply a facade will probably continue to be as crucial to Indian company law in the coming decades as it has been since the Salomon ruling more than a century ago, especially as corporate structures become more complex, especially across multi-layered group companies and cross-border holding structures.