

Peer - Reviewed & Refereed Journal

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

DISCLAIMER

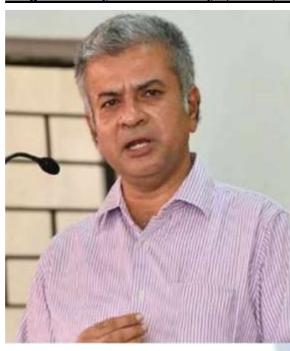
No part of this publication may be reproduced or copied in any form by any means without prior written permission of Editor-in-chief of White Black Legal

— The Law Journal. The Editorial Team of White Black Legal holds the

- The Law Journal. The Editorial Team of White Black Legal holds the copyright to all articles contributed to this publication. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of White Black Legal. Though all efforts are made to ensure the accuracy and correctness of the information published, White Black Legal shall not be responsible for any errors caused due to oversight or otherwise.

EDITORIAL TEAM

Raju Narayana Swamy (IAS) Indian Administrative Service officer

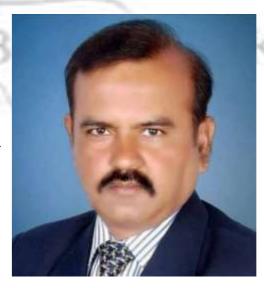


a professional Procurement from the World Bank.

Dr. Raju Narayana Swamy popularly known as Kerala's Anti Corruption Crusader is the All India Topper of the 1991 batch of the IAS and posted currently as Principal Secretary to the Government of Kerala . He has earned many accolades as he hit against the political-bureaucrat corruption nexus in India. Dr Swamy holds a B.Tech in Computer Science and Engineering from the IIT Madras and a Ph. D. in Cyber Law from Gujarat National Law University . He also has an LLM (Pro) (with specialization in IPR) as well as three PG Diplomas from the National Law University, Delhione in Urban Environmental Management and Law, another in Law Environmental and Policy and third one in Tourism and Environmental Law. He also holds a post-graduate diploma IPR from the National Law School, Bengaluru and diploma Public in

Dr. R. K. Upadhyay

Dr. R. K. Upadhyay is Registrar, University of Kota (Raj.), Dr Upadhyay obtained LLB, LLM degrees from Banaras Hindu University & Phd from university of Kota.He has successfully completed UGC sponsored M.R.P for the work in the ares of the various prisoners reforms in the state of the Rajasthan.



Senior Editor



Dr. Neha Mishra

Dr. Neha Mishra is Associate Professor & Associate Dean (Scholarships) in Jindal Global Law School, OP Jindal Global University. She was awarded both her PhD degree and Associate Professor & Associate Dean M.A.; LL.B. (University of Delhi); LL.M.; Ph.D. (NLSIU, Bangalore) LLM from National Law School of India University, Bengaluru; she did her LL.B. from Faculty of Law, Delhi University as well as M.A. and B.A. from Hindu College and DCAC from DU respectively. Neha has been a Visiting Fellow, School of Social Work, Michigan State University, 2016 and invited speaker Panelist at Global Conference, Whitney R. Harris World Law Institute, Washington University in St.Louis, 2015.

Ms. Sumiti Ahuja

Ms. Sumiti Ahuja, Assistant Professor, Faculty of Law, University of Delhi,

Ms. Sumiti Ahuja completed her LL.M. from the Indian Law Institute with specialization in Criminal Law and Corporate Law, and has over nine years of teaching experience. She has done her LL.B. from the Faculty of Law, University of Delhi. She is currently pursuing Ph.D. in the area of Forensics and Law. Prior to joining the teaching profession, she has worked as Research Assistant for projects funded by different agencies of Govt. of India. She has developed various audio-video teaching modules under UGC e-PG Pathshala programme in the area of Criminology, under the aegis of an MHRD Project. Her areas of interest are Criminal Law, Law of Evidence, Interpretation of Statutes, and Clinical Legal Education.



Dr. Navtika Singh Nautiyal

Dr. Navtika Singh Nautiyal presently working as an Assistant Professor in School of law, Forensic Justice and Policy studies at National Forensic Sciences University, Gandhinagar, Gujarat. She has 9 years of Teaching and Research Experience. She has completed her Philosophy of Doctorate in 'Intercountry adoption laws from Uttranchal University, Dehradun' and LLM from Indian Law Institute, New Delhi.





Associate Professor at School of Law, Apex University, Jaipur, M.A, LL.M, Ph.D,

Dr. Rinu have 5 yrs of teaching experience in renowned institutions like Jagannath University and Apex University. Participated in more than 20 national and international seminars and conferences and 5 workshops and training programmes.

Dr. Nitesh Saraswat

E.MBA, LL.M, Ph.D, PGDSAPM

Currently working as Assistant Professor at Law Centre II, Faculty of Law, University of Delhi. Dr. Nitesh have 14 years of Teaching, Administrative and research experience in Renowned Institutions like Amity University, Tata Institute of Social Sciences, Jai Narain Vyas University Jodhpur, Jagannath University and Nirma University.

More than 25 Publications in renowned National and International Journals and has authored a Text book on Cr.P.C and Juvenile Delinquency law.



Introduction of the second of

Subhrajit Chanda

BBA. LL.B. (Hons.) (Amity University, Rajasthan); LL. M. (UPES, Dehradun) (Nottingham Trent University, UK); Ph.D. Candidate (G.D. Goenka University)

Subhrajit did his LL.M. in Sports Law, from Nottingham Trent University of United Kingdoms, with international scholarship provided by university; he has also completed another LL.M. in Energy Law from University of Petroleum and Energy Studies, India. He did his B.B.A.LL.B. (Hons.) focussing on International Trade Law.

ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

CASE COMMENTARY ON WORKMEN V. ASSOCIATED RUBBER INDUSTRY LTD. (1985 4 SCC 114)

AUTHORED BY - MANSHA GARG

Introduction-

The principle of separate legal existence which was laid down in the case of *Salomon V. Salomon & Co.* ¹Ltd casts a veil between a company and its members. But sometimes, the court may lift this corporate veil, when the members or directors uses the legal entity of the company to commit fraud or for any dishonest purposes. Lifting of corporate veil means disregarding the status of separate legal entity of a company and identifying the realities that exist behind the legal façade. In the case of Workmen V. Associated Rubber Industry Ltd, the courts had lifting the corporate veil to discover the true state of affairs where the company had formulated a subsidiary company in order to avoid the liability under the welfare legislations.

Facts Of The Case:-

- A company named Associated Rubber Industries Ltd. had purchased the shares of the INARCO Ltd. by investing an amount of Rs 4,50,000. It was getting annual dividend in respect of these shares and the same was shown in the profit and loss account of the company year after year. The dividend received by the company was also taken into account to calculate the bonus which was payable to workmen.
- ➤ In the year 1968, Associated Rubber Industries transferred the shares of INARCO Ltd to Aril Bhavnagar Ltd, a subsidiary company of its own.
- Aril Bhavnagar Ltd had no assets of its own except those shares which were transferred to it by Associated Rubber Industries Ltd. Even they did not have any business or income of its own except from the dividend which was received from the shares transferred by Associated Rubber Industries Ltd.
- ➤ Aril Bhavnagar Ltd. was serving no other purpose except to reduce the profit of the Associated Rubber Industries Ltd.

¹ Salomon V. Salomon & Co. Ltd, (1897) AC 22.

- The amount that was previously shown in the profit and loss account of the firm was not there now which ultimately resulted in decrease in the bonus of the workers from 16% to 4%. The workmen then filed an industrial dispute to get the rightful amount of their share.
- ➤ The Industrial Tribunal and High Court of the Gujarat held that the Associated Rubber Industries Ltd. and the Aril Bhavnagar Ltd. are two separate legal entities. Subsequently, an appeal was filed by the workmen in the Supreme Court under Article 133(1)2 of The Constitution of India.

Issues Involved In The Case:-

- 1. Whether the transfer of shares by Associated Rubber Industries Ltd. of INARCO Ltd. to Aril Bhavnagar Ltd. was a strategy to avoid the payment of higher bonus to the workmen of the company?
- 2. Whether the Associate Rubber Industries Ltd. and Aril Bhavnagar Ltd. were two separate entities?

Counsel Arguments

Arguments From The Side Of Appellant (Workmen)

- The workers claimed that the Associated Rubber Industries Ltd. and the Aril Bhavnagar Ltd. were effectively under the same management and control. The transfer of shares from the parent company to the subsidiary company was merely a paper transaction and a plot to avoid payment of rightful bonus to the workmen.
- 2. Associated Rubber Industries Ltd. and the Aril Bhavnagar Ltd. was a single economic entity.
- 3. The workmen contended that the court should lift the corporate veil that exists between these two companies and to find out in reality the control exercised by the Associated Rubber Industries ltd.

Arguments From The Side Of Respondent (Associated Rubber Industries Ltd.)

- 1. Associated Rubber Industries Ltd. and Aril Bhavnagar Ltd. are two separate legal entities and both the companies are operating separately with their own management, assets and liabilities.
- 2. According to the parent Company, no profit in the form of dividend received from the

² INDIA CONST. art.133. cl.1.

- shares was transferred by the Aril Bhavnagar Ltd to the parent company.
- 3. The transfer of shares by the Associated Rubber Industries Ltd. was a legitimate corporate restructuring plan intended to optimize its business operations and creating a subsidiary with specific business objectives. The subsidiary kept the dividend income to finance its own operations and not with a aim to avoid payment of bonus to the workers.

Judgment-

The Supreme Court in this case held that the fact speaks for themselves and while acknowledging that both these companies were separate companies, the court can lift the corporate veil to prevent the misuse of legislations to evade taxes.

There cannot be a more direct evidence than that Aril Bhavnagar Ltd was formed as a device to reduce the profit of Associate Rubber Industries Ltd., which in turn will reduce the available surplus for the purpose of the Bonus Act. The court held that the workers are entitled to receive their rightful share of 16% bonus by the company.

Current Relevance-

- This case holds much relevance as it provides that the members or the directors under the
 garb of separate legal existence cannot defeat any provisions of law like Payment Of Bonus
 Act, Payment Of Gratuity Act etc. and the court under reasonable circumstance can life
 this corporate veil to find out the real culprit.
- To prevent the misuse of dominant position held by the corporate authorities for tax evasion and for protecting the rights of the workers who are exploited in the company.
- The principle of lifting of Corporate Veil helps in the promoting of sound and ethical business practice in a company, as by applying this principle the actual wrongdoers in a company can be identified and punished.
- This case also brings into limelight the importance of Corporate Social Responsibility in the sense that, the focus of the company should not only be just restricted to earning profits but also to carry out the welfare activities which are beneficial for the society.
- It gives people a sense of security that enable them to engage in lucrative activities that would otherwise be rejected on the grounds that it is risky to invest in a business.

Conclusion-

Thus, to conclude Workmen V. Associated Rubber Industries Ltd. Case is a significant decision to fix the liability of the members of the company for any offences or defaults that are committed by them under the veil of separate legal existence to prevent themselves from the implementation of welfare legislations. The lifting of corporate veil principle helps in the promotion of accountability and transparency on the part of companies.

References:-

- https://www.legalvidhya.com
- https://blogipleaders.in
- https://lawfoyer.in
- https://www.scconline.com
- https://www.legalserviceindia.com