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CORPORATE INSOLVENCY AND THE DOCTRINE OF SEPARATE LEGAL ENTITIES: ANALYZING THE IMPACT OF PARENT-SUBSIDIARY RELATIONSHIPS ON ASSET OWNERSHIP AND RESOLUTION PLANS

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A. INTRODUCTION

The doctrine of separate legal entities is a foundational principle in corporate law, emphasizing that each company within a corporate group is recognized as an independent legal entity, distinct from its shareholders, including any parent or holding company. This doctrine is critical in maintaining the autonomy of subsidiaries, allowing them to operate, own assets, and incur liabilities in their own right. The significance of this principle becomes particularly pronounced in the context of corporate insolvency, where the distinct legal identities of parent and subsidiary companies can lead to complex legal and financial implications.

This paper aims to critically analyze the treatment of parent-subsidiary relationships in the context of corporate insolvency, with a focus on how courts have navigated the challenges of asset ownership, liability, and resolution plans. It seeks to explore the limitations and applications of the corporate veil doctrine, particularly in situations where creditors seek to hold a parent company liable for the debts of its insolvent subsidiary. The objective is to understand the balance between preserving the autonomy of the subsidiary and ensuring accountability in cases where the corporate structure may be used to evade liabilities.

The paper is organized into several key sections. First, it provides an overview of the doctrine of separate legal entities and its application within corporate groups. This is followed by an analysis of relevant case law, illustrating how courts have treated the parent-subsidiary relationship in various jurisdictions, with particular emphasis on cases of insolvency. The discussion then shifts to the doctrine of piercing the corporate veil, examining exceptions to the rule and the circumstances under which courts have disregarded the separate legal identity of subsidiaries. The paper concludes with an exploration of the implications of these legal principles for future insolvency proceedings and offers suggestions for potential reforms in corporate and insolvency law.

B. DOCTRINE OF SEPARATE LEGAL ENTITIES

Each company within a corporate group is treated as a distinct legal entity, with its own rights and obligations. The modern corporate group structure capitalizes on the distinct legal identity of each company, allowing holding companies to limit their liability for the debts of their subsidiaries. The 'corporate group' is the most typical structure of modern enterprises, exploiting the idea of a company's distinct personality, which is detached from the identity of its shareholding members, and the benefit of limiting the holding company's liability for the subsidiaries' debts.¹ This strategic separation not only enhances operational flexibility but also fortifies the holding company's financial shield against the risks and liabilities of its subsidiaries.

The case of *Vodafone International Holdings B.V v. Union Of India*² discusses the complex relationship between a parent company and its subsidiary, particularly regarding control and legal rights. It questions whether Hutchison Telecommunications International Limited (HTIL) had the legal right to appoint directors to the board of Hutchison Essar Limited (HEL), which would imply a "property right" in HEL. It stipulated that a legal right is enforceable through legal means, and the nature of control a parent company has over its subsidiary is not absolute. This case affirmed the separate legal identity of subsidiaries and the limitations on parental control.

The case enunciates that while a parent company may exert influence over its subsidiary, this influence does not equate to complete control. A subsidiary is a separate legal entity, and its autonomy is governed by the laws of the jurisdiction in which it is incorporated. Even if a parent company owns all the subsidiary shares, this does not negate the subsidiary's separate legal existence. The parent company does not own the subsidiary's assets, and the subsidiary's directors owe their duties to the subsidiary itself, not to the parent company.

Further, the case of *Vishal Sethi v. Collage Group India Pvt. Ltd*³ reaffirms the legal principle that a holding company and its subsidiary are distinct legal entities, as recognized in the *Vodafone* judgment and under the Indian Companies Act, 1956. It highlights that the subsidiary

¹ Mevorach I, 'Appropriate Treatment of Corporate Groups in Insolvency: A Universal View' (2007) 8 European Business Organization Law Review 179 <<http://link.springer.com/10.1017/S1566752907001796>> accessed 27 August 2024.

² *Vodafone International Holdings BV v Union of India* [2012] 6 SCC 613.

³ *Vishal Sethi v Collage Group Infrastructure (P) Ltd* [2024] SCC OnLine NCLAT 396.

is a separate legal entity, especially concerning tax and liability, with its management and autonomy. The case accentuates that mere ownership or control by a parent company does not justify piercing the corporate veil. i.e., treating the two entities as one, unless there is concrete evidence of fraud, breach of trust, or other misconduct that serves to limit or avoid the subsidiary's liabilities. In the case discussed, the appellant failed to provide sufficient evidence to warrant holding the parent company liable for the actions of its subsidiary.

Therefore, the court upheld the decision of the Adjudicating Authority, finding no valid reason to hold the parent company accountable for the subsidiary's liabilities. The gist is that without clear, specific evidence, the legal separation between a parent and subsidiary remains intact. It also highlighted that mere ownership, parental control, management of a subsidiary by the holding company therefore does not constitute sufficient and adequate ground to justify piercing the status of their relationship.

C. PIERCING THE CORPORATE VEIL: EXCEPTIONS TO THE RULE

The principle of a separate legal entity is a cornerstone of corporate law, granting companies an independent identity distinct from their shareholders and management. However, this principle has often been exploited to evade liabilities and engage in unlawful activities under the corporate shield. The principle of separate legal entity has been traditionally misused by the management of companies to extract money, acquire property and discharge their liability by doing illegal acts. Such managements are aware that, as per the separate legal entity principle, any liability that arises from an act committed under the name of the company would be shifted to the company and that they shall not be liable for any illegal act committed. To fill this loophole, the concept of 'Piercing of Corporate Veil' has been introduced.⁴ To prevent such misuse, the doctrine of 'Piercing the Corporate Veil' serves as a crucial legal mechanism, ensuring that individuals behind wrongful corporate actions cannot escape accountability under the guise of a separate legal entity.

The existence of a holding-subsidiary relationship does not automatically result in the holding company being held liable for the debts of its subsidiary, as the principle of independent legal personality is typically upheld and respected. The mere fact that the holding company has a

⁴ Joshisays G, 'Separate Legal Entity Principle: Friction Between Company And Insolvency Laws' (NUALS Law Journal, 19 March 2020) <<https://nualslawjournal.com/2020/03/19/separate-legal-entity-principle-friction-between-company-and-insolvency-laws/>> accessed 5 March 2025

subsidiary company, does not imply that whenever claims are made against the subsidiary company, the corporate veil is to be pierced to hold the holding company liable for the debts incurred in connection with the subsidiary company. The ordinary rule is that the company's independent legal personality is to be preserved and respected. The holding company shall, though, be liable if it provides a guarantee for repayment of the debts borrowed by its subsidiary company. Though the burden or liability under these circumstances appears due to the fact of 'guarantee' and it does not appear to be the 'holding - subsidiary' relationship - S.A.E. (India) Ltd. v. E.I.D. Parry (India) Ltd.⁵ Thus, the holding company's liability is contingent on the existence of a guarantee, not merely its relationship with the subsidiary.⁶

The Indian insolvency framework establishes a clear distinction between the assets and liabilities of a holding company and its subsidiary, ensuring independent treatment during the Corporate Insolvency Resolution Process (CIRP). The provisions of the Indian insolvency law make a clear distinction between the assets and liabilities of the holding company and its subsidiary in the process of CIRP. Simultaneously, the courts of law have paved the way for lifting the veil in case of any camouflage transfer of funds between the holding company and its subsidiary to avoid the liabilities.⁷ However, courts have intervened to lift the corporate veil in cases of fraudulent fund transfers, preventing companies from circumventing their financial liabilities through deceptive practices.

In the case of Walnut Packaging Pvt. Ltd. v. The Sirpur Paper Mills Ltd., court has held that when a subsidiary company is acting as an agent to a holding company, NCLT has the power to lift the veil between the subsidiary and the holding company if the application for CIRP is filed against the subsidiary company.⁸ This case establishes that when a subsidiary company functions as an agent of its holding company, the NCLT possesses the authority to lift the corporate veil between the two entities if a CIRP application is filed against the subsidiary. This ruling underscores the NCLT's power to intervene and hold the holding company accountable in situations where the subsidiary's operations are effectively an extension of the

⁵ S.A.E. (India) v E.I.D. Parry (India) Ltd [1998] 18 SCL 481 (Mad).

⁶ S Rastogi, 'Analysis of Lifting of Corporate Veil under Company Law' (2021) (Doctoral dissertation).

⁷ 'Status of Subsidiary Company Vis-à-Vis Holding Company under the Insolvency Law – By Chidambaram Ramesh – IBC Laws' <<https://ibclaw.in/status-of-subsidiary-company-vis-a-vis-holding-company-under-the-insolvency-law-by-chidambaram-ramesh/>> accessed 5 March 2025

⁸ 'Attributing Liability: Piercing of Corporate Veil under IBC Proceedings in India' (Global Business Law Review Blog - SCCLP, 14 November 2023) <<https://gblrsccpl.in/2023/11/14/attribution-liability-piercing-of-corporate-veil-under-ibc-proceedings-in-india/>> accessed 27 August 2024.

parent company.

In the case of *Chicago, M. & St. P. Ry. v. Minneapolis Civic and Commerce Association*⁹, the court ignored the corporate entity of a subsidiary that was created to discriminate against certain shippers. This decision is often used as an example of when a court might treat a subsidiary and its parent company as a single entity, especially when the subsidiary is used merely as a tool or "instrumentality" of the parent.

It also stipulates that just because a court disregarded the corporate entity in that case doesn't mean it would automatically hold the parent company liable for all the subsidiary's obligations or prevent the parent from participating as a creditor in the subsidiary's bankruptcy. The case laid a precedent that courts may selectively disregard the corporate veil for specific purposes without completely negating the corporation's separate existence. The case affirmed that relying too much on past decisions where the corporate veil was pierced might lead to errors, as each case must be judged on its own facts. The court must remain vigilant to ensure that its decision to disregard the corporate entity in one situation does not improperly influence other aspects of the law or other cases.

In *Joseph R. Foard Co. v. State of Maryland*¹⁰, suit was brought against the parent corporation to recover damages caused by the negligence of an employee of a subsidiary corporation. The court held the parent corporation liable, saying that "the two corporations must be regarded, as to the outside public, identical" because the subsidiary was so "organized and controlled and its affairs so conducted as to make it a mere instrumentality." From these dicta, the court apparently felt that the issue was whether the corporate entity was to be disregarded in cases of such organization and control.

The cases of *Vodafone International Holdings B.V. v. Union of India*¹¹ and *Joseph R. Foard Co. v. State of Maryland*¹² provide contrasting perspectives on the relationship between a parent company and its subsidiary, particularly in the context of legal control and liability. While in the US, the Joseph R. Foard case demonstrates the potential for a parent company to be held liable under the doctrine of piercing the corporate veil when the subsidiary is rendered

⁹ *Chicago, M & St P Ry v Minneapolis Civic and Commerce Association* 247 US 490, 38 S Ct 553 (1918).

¹⁰ *Joseph R Foard Co v State of Maryland* (1914) 219 F 827 (CCA 4th).

¹¹ *Vodafone International Holdings BV v Union of India* [2012] 6 SCC 613.

¹² *Joseph R Foard Co v State of Maryland* (1914) 219 F 827 (CCA 4th).

a mere instrumentality. Whereas, in India, the Vodafone case upholds the fundamental principles of corporate law, provides a more nuanced and realistic understanding of the relationship between parent companies and subsidiaries, and offers a stable and predictable legal framework for businesses operating in multiple jurisdictions. Its careful application of the corporate veil doctrine, along with its respect for corporate autonomy, makes it a prevailing and relevant precedent in the modern business world.

The case of *Workmen of Associated Rubber Industry Ltd. v. Associated Rubber Industry Ltd.* highlights the Supreme Court's approach to lifting the corporate veil when companies use subsidiaries as mere instruments to manipulate financial outcomes, particularly in matters affecting employee bonuses. A company purchased shares in another company in *Workmen of Associated Rubber Industry Ltd. v. Associated Rubber Industry Ltd.*¹³ Its employees received bonuses from the dividends that were generated there. All of those shares were transferred to the company's wholly-owned subsidiaries, which had no other operations of their own. As a result, the surplus for bonus payments could not be seen on the balance sheet or profit and loss account.

In such exceptional cases, the Supreme Court observed that it was entitled to lift the veil of corporate entity 'to pay regard the economic realities behind the legal façade.' "A new company is created wholly owned by the principal company, with no assets of its own except those transferred to it by the principal company, with no business or income of its own except receiving dividends from shares transferred to it by the principal company and serving no purpose whatsoever except to reduce the gross profits of the principal company. These facts speak for themselves. There cannot be direct evidence that the second company was formed as a device to the Principal company's gross profits for whatever purpose. An obvious purpose that is served and which stares one in the face is to reduce the amount to be paid by way of bonus to workmen. It is such an obvious device that no further evidence, direct or circumstantial, is necessary." This judgment underscores the judiciary's commitment to uncovering economic realities behind corporate structures, ensuring that legal entities are not misused to evade financial obligations, especially at the cost of employees' rightful dues.

The doctrine of lifting the corporate veil has been a crucial tool in corporate jurisprudence,

¹³ *Workmen of Associated Rubber Industry Ltd v Associated Rubber Industry Ltd AIR 1986 SC 1*

allowing courts to look beyond the legal identity of a company to uncover the underlying realities of corporate relationships. The Supreme Court noted in the State of U.P v Renusagar Power and Co and others¹⁴ that, “It is high time to reiterate that in expanding horizon of jurisprudence, lifting of corporate veil is permissible. Its frontiers are unlimited.” The Court ruled that when related businesses are closely linked to reality and are a part of a single issue, the corporate veil should be lifted. The Supreme Court considered the issue of lifting the corporate veil in New Horizons Ltd. v Union of India¹⁵. When discussing the relationship between a holding company and its two subsidiaries, the Court of Appeal cited DHN Food Distributors Ltd. v. London Borough of Tower Hamlets. Lord Denning, M.R. observed, “this group is virtually the same as the partnership in which all the three companies are partners. They should not be treated separately so as to be defeated on a technical point.” In the same case, Goff, L.J. said, “this is a case in which one is entitled to look at the realities of the situation and to pierce the corporate veil.” These judicial observations reinforce the principle that corporate structure should not be misused to evade legal responsibilities, and courts have the authority to pierce the corporate veil when necessary to serve justice.

The doctrine of lifting the corporate veil has been a crucial tool in corporate jurisprudence, particularly in cases where a subsidiary functions as a mere extension of its parent company. In U.K. Mehra vs. Union of India¹⁶, a Division Bench of the Delhi High Court observed that where a subsidiary is wholly owned by the principal company which has pervasive control over it and the former acts as the hand and voice of the latter, the subsidiary would be nothing but an instrumentality of the principal company, and wherever public interest demands, the Court must lift the corporate veil in the interest of justice. The ruling in U.K. Mehra v. Union of India reinforces the principle that when public interest and justice demand, courts will look beyond the legal facade of separate corporate entities to hold the parent company accountable.

There could be potential alternative avenues for creditors of an insolvent subsidiary to hold the holding company liable for its losses, without relying on the traditional approach of piercing the corporate veil. There could be alternative means for creditors of a subsidiary company which has gone insolvent to hold the holding company liable for its losses other than having to try to pierce the corporate veil. The law of delict could provide a remedy in the form of an

¹⁴ State of U.P v Renusagar Power Co Ltd and Others (1988) 4 SCC 59

¹⁵ New Horizons Ltd v Union of India (1995) 1 SCC 478

¹⁶ U.K. Mehra v Union of India [1994] 1 Comp LJ 263 (Del HC).

action for pure economic loss. The element of wrongfulness and whether a creditor would be able to satisfy this element should be focused upon. For wrongfulness to exist, there has to be a legal duty on the holding company not to cause the creditor loss. A letter of comfort can be used as a means to illustrate that in certain specific cases there could be a legal duty on the holding company due to its knowledge of the reliance which the creditor puts on the letter as well as the special relationship which came into existence between the holding company and the creditor once the letter was issued by the holding company. The elements of negligence and especially legal causation may, however, be difficult to prove.¹⁷

In conclusion, creditors of an insolvent subsidiary may have alternatives to holding the parent company liable without resorting to piercing the corporate veil. The law of delict, particularly through an action for pure economic loss, offers a potential remedy. The key lies in establishing wrongfulness, which depends on whether the holding company has a legal duty not to cause the creditor harm. The concept of a "letter of comfort" was highlighted as a specific scenario where such a duty might arise. However, while the article outlines this theoretical framework, it acknowledges that proving negligence and legal causation in these cases remains complex and requires further exploration beyond the current discussion.

D. DIVERSE PERSPECTIVES ON CORPORATE AUTONOMY AND LIABILITY

a. THE ROLE OF CONTROL AND INFLUENCE

The US Court in the Foard case was influenced by a previous case *Interstate Telegraph Co. v. Baltimore & Ohio Telegraph Co.*¹⁸, where the corporate entity was disregarded. The parent corporation, in this case had sold all the assets of the subsidiary and kept the proceeds, was thus held liable to a creditor of the subsidiary. This means that the US Court was inclined to treat the parent and subsidiary as a single entity, disregarding their separate legal identities.

To pierce the corporate veil, courts often search for flaws or manipulations in how the corporation was organized or is being used. These 'defects' serve as justification to look past the corporate facade and hold the actual controlling parties (like shareholders or parent

¹⁷ R Stevens, 'Circumventing Veil Piercing: Possible Delictual Liability of a Holding Company to a Creditor of Its Insolvent Subsidiary' (2013) 24 Stellenbosch L Rev 93.

¹⁸ *Interstate Telegraph Co v Baltimore & Ohio Telegraph Co* (1914) 219 F 829 (CCA 4th).

companies) accountable. *Dillard & Coffin Co. v. Richmond Cotton Oil Co.*¹⁹ held a parent corporation liable for overdrafts drawn by the subsidiary upon the plaintiff and paid by the latter, the drafts exceeding the value of the merchandise sold by the subsidiary to the plaintiff. The US Court said that the subsidiary was organized by the parent for its own business convenience and that its separate legal identity could be disregarded.²⁰ Such decisions are targeted and specific, addressing particular injustices without negating the fundamental principle that corporations are separate legal entities. This approach balances the need to prevent abuse of corporate structures with the recognition of legitimate corporate separateness essential for business operations.

b. MODERN JURISPRUDENCE ON GROUP INSOLVENCY

The foundation of corporate and insolvency laws continues to prioritize the concept of individual legal entities over the broader notion of enterprise, reflecting a global adherence to traditional legal structures despite emerging aspirations for more integrated group insolvency frameworks. Corporate laws are still primarily based on “legal entity” rather than “enterprise”, and unsurprisingly, insolvency laws, in most global jurisdictions, are still anchored on the concept of legal entity. Enterprise insolvency or group insolvency is aspirational, and even as advances are made once in a while to move to group insolvencies, the move to mandated insolvency of a corporate enterprise group remains largely a distant optimism.²¹ As a result, the transition towards a mandated group insolvency framework remains more of an idealistic goal than an imminent reality.

The case of *State Bank of India v. Videocon Industries Ltd.*²² explains that the decision to lift the corporate veil between a subsidiary and its holding company depends on the specific facts of each case. There is no universal rule that applies to all situations, and modern jurisprudence allows the corporate veil to be pierced for various reasons, apart from cases of fraud or impropriety. Therefore, each case must be evaluated based on its unique circumstances.

In *ArcelorMittal India Private Limited vs. Satish Kumar Gupta and Ors.*²³, the Supreme Court

¹⁹ *Dillard & Coffin Co v Richmond Cotton Oil Co* (1918) 140 Tenn 290, 204 SW 758.

²⁰ Latty ER, ‘Corporate Entity As a Solvent of Legal Problems’ (1935) 34 Michigan Law Review 597 <<https://heinonline.org/HOL/Page?handle=hein.journals/mlr34&id=619&div=&collection=>>>.

²¹ Kothari V and Bansal S, ‘Entity Versus Enterprise: Dealing with Insolvency of Corporate Groups’ [2019] SSRN Electronic Journal <<https://www.ssrn.com/abstract=3350877>> accessed 27 August 2024.

²² *State Bank of India v Videocon Industries Ltd* [2018] SCC OnLine NCLT 13182.

²³ *ArcelorMittal India Private Limited v Satish Kumar Gupta and Others* MANU/SC/1123/2018 (SC).

of India stated that under a limited principle of English law, the corporate veil may be pierced, but only to prevent a company or its controller from gaining an unfair advantage due to the company's separate legal identity.

Furthermore, the State Bank of India contended that the explanation (b) appended to Section 18²⁴ of the Insolvency and Bankruptcy Code, 2016 states that the assets of any Indian or foreign subsidiary of the corporate debtor should not be considered as assets of the corporate debtor. This provision applies if it is clearly established that the assets were genuinely held and purchased by the subsidiaries.

The court believes that if the assets are not recognized as belonging to the broader group or holding company, the companies involved in the insolvency process might be unnecessarily forced into liquidation, even though they have enough assets to settle their debts. This outcome would undermine the goals of the IBC, which aims to find viable solutions for financially troubled companies rather than pushing them into liquidation. "Consolidation" of 13 Videocon Group Companies was done for the purpose of CIRP and to achieve the goal of IBC.

Typically, when one of the enterprises of a group entity gets insolvent, it is treated as a separate entity and insolvency proceedings are initiated against that particular entity only. But when group entities are significantly interdependent, it may not be helpful to conduct the insolvency proceedings for only such enterprise, which is *ex facie* insolvent. In fact, one should not turn a blind eye to the interlinkages between group entities when one or more of enterprises within a group become insolvent. Insolvency proceedings initiated against each such enterprise would be time-consuming, ineffective and an unnecessary burden on an already overburdened judicial system. The concept of group insolvency is being developed gradually in India and in that process, it is important to identify such interlinkages between different entities of a group to have a more effective resolution process.²⁵

To sum up, reliance should be put on whether consolidation brings more benefits than losses if not consolidated. The decision should be in favour of consolidation if the results outweigh the cons, even if the entity is found to be self-sustainable and independent through the second test.

²⁴ Insolvency and Bankruptcy Code 2016, s 18.

²⁵ Vishwakarma VKJ Shivansh, 'High Time for Group Insolvency Framework?!' (Dispute Resolution Blog, 27 November 2023) <<https://disputeresolution.cyrilamarchandblogs.com/2023/11/high-time-for-group-insolvency-framework/>> accessed 5 March 2025

The advent of doctrine of substantial consolidation will benefit recoveries in other large group company insolvency cases, while applying the broader principle of balancing equity between consolidation and maintaining corporate separateness of the entity.

E. LEGAL BOUNDARIES IN INSOLVENCY: SUBSIDIARY ASSETS VS. SHARES

The legal framework governing insolvency, i.e., Insolvency and Bankruptcy Code, 2016 delineates a clear boundary between the treatment of a subsidiary's shares and its assets during liquidation. The provision of the Code providing an apparent sanctity to the separation of legal entities is clear; section 36 (3) (a)²⁶ provides that the shares of an Indian or foreign subsidiary shall be included in the liquidation estate. Section 36 (4) (d)²⁷ provides that the assets of any such subsidiary shall be excluded from the liquidation estate. Therefore, the law makes it clear that the bounds of the liquidation estate will extend to the shares of the subsidiaries, but will not piece the same to reach out to the asset of the subsidiary. This distinction reinforces the principle that while the liquidation estate encompasses the shares of subsidiaries, it does not extend to their individual assets, preserving the separate legal identity of each entity within the corporate group.²⁸

In Greater Noida Industrial Development Authority (GNIDA) v. Roma Unicon Designex Consortium²⁹ and other connected matters, the NCLAT in New Delhi held that the Insolvency and Bankruptcy Code, 2016 distinctly acknowledges the separation between the assets of the Corporate Debtor and those of its subsidiary. According to the Explanation in Section 18(1)³⁰, the assets of the Corporate Debtor do not encompass the assets of its subsidiary company. The tribunal clarified that the assets of a subsidiary cannot be addressed within the Corporate Insolvency Resolution Process (CIRP) of a holding company, as both entities maintain independent legal identities.

In BRS Ventures Investments Ltd. v. SREI Infrastructure Finance Ltd. & Anr.³¹, it was

²⁶ Insolvency and Bankruptcy Code 2016, s 36.

²⁷ Insolvency and Bankruptcy Code 2016, s 36.

²⁸ Kothari V and Bansal S, 'Entity Versus Enterprise: Dealing with Insolvency of Corporate Groups' [2019] SSRN Electronic Journal <<https://www.ssrn.com/abstract=3350877>> accessed 27 August 2024.

²⁹ Greater Noida Industrial Development Authority (GNIDA) v Roma Unicon Designex Consortium [2023] SCC OnLine NCLAT 1609.

³⁰ Insolvency and Bankruptcy Code 2016, s 18.

³¹ BRS Ventures Investments Ltd v SREI Infrastructure Finance Ltd and Ors [2024] INSC 548.

highlighted that a holding company and its subsidiaries are distinct legal entities. The holding company does not have legal ownership over the subsidiary's assets, even though it may control or influence the subsidiary. Because the holding company does not legally own its subsidiaries' assets, those assets cannot be included in the holding company's resolution plan during insolvency. This separation is crucial for maintaining clear ownership boundaries and ensuring that each entity's assets and liabilities are treated independently.

G. CONCLUSION

This research paper has explored the nuanced and intricate dynamics of corporate insolvency within the framework of the doctrine of separate legal entities, with a specific focus on the relationship between holding companies and their subsidiaries. Through a comprehensive examination of legislative provisions, case law, and doctrinal perspectives, the paper has underscored the complexities that arise when dealing with asset ownership and liability during insolvency proceedings.

The doctrine of separate legal entities remains a cornerstone of corporate law, ensuring that each company within a corporate group is treated as an independent legal entity with its own rights, obligations, and assets. This principle is particularly crucial in insolvency proceedings, where the distinct legal identities of parent and subsidiary companies must be maintained to avoid the improper conflation of assets and liabilities. Case law, such as *Vodafone International Holdings B.V. v. Union of India*³² and *BRS Ventures Investments Ltd. v. SREI Infrastructure Finance Ltd.*³³, reaffirms the legal separation between holding companies and their subsidiaries, emphasizing that a subsidiary's assets cannot be incorporated into the resolution plan of its holding company. Exceptions to the doctrine, such as piercing the corporate veil or applying the alter ego doctrine, are only invoked in cases of fraud, misconduct, or when a subsidiary is used as a mere instrumentality of the parent company.

The findings from this paper have significant implications for the future of corporate insolvency proceedings. Courts and practitioners must continue to uphold the doctrine of separate legal entities while being mindful of the circumstances that may warrant exceptions. The careful application of these principles is essential to ensure fairness and accountability in insolvency cases involving corporate groups. The continued emphasis on the independence of

³² *Vodafone International Holdings BV v Union of India* [2012] 6 SCC 613.

³³ *BRS Ventures Investments Ltd v SREI Infrastructure Finance Ltd and Ors* [2024] INSC 548.

each entity within a corporate group highlights the importance of structuring resolution plans in a manner that respects the distinct legal personalities of each company. This approach not only safeguards the interests of creditors but also maintains the integrity of the insolvency process.

In conclusion, the doctrine of separate legal entities plays a critical role in shaping the landscape of corporate insolvency. By upholding this principle, courts and practitioners can navigate the complexities of parent-subsidiary relationships, ensuring that the resolution process is fair, equitable, and aligned with the broader goals of corporate law.

