



## Company Law

### Lifting of corporate Veil

#### **Case laws where courts pierced the corporate veil**



Jones v. Lipman, (1962) 1 W.L.R. 832





Lipman contracted to sell a house to Jones for £5,250.



Now I don't want to sell. What if Jones goes to court and gets an order for 'Specific Performance'?





Lipman incorporated a company and transferred the house to that company.



I can't sell. House belongs to the company...  
& Company is not me ;)



This is fraud! I will go to court...

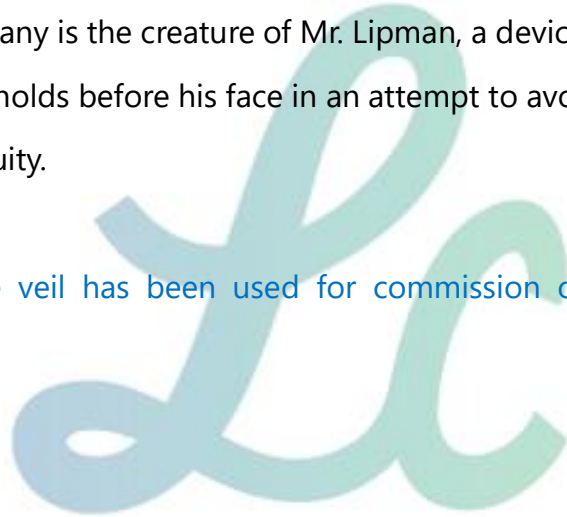




**Held:**

The company is the creature of Mr. Lipman, a device and a sham, a mask which he holds before his face in an attempt to avoid recognition by the eye of equity.

Corporate veil has been used for commission of fraud or improper conduct





## Re. R.G. Films Ltd. (1953)

- An American company produced a film in India.
- Film was technically in the name of a British Company, 90% of whose capital was held by the President of the American company.
- Board of Trade refused to register the film as a British film which stated that the English company acted merely as the nominee of the American corporation.

Corporate facade is really only an agency instrumentality



## Daimler Co Ltd v Continental Tyre and Rubber Co [1916]

- ❖ Both Daimler and Continental were UK Companies.
- ❖ All except one of Continental Tyre and Rubber Co Ltd.'s shares were held by [German residents](#).
- ❖ All directors were German residents.
- ❖ The secretary was English.





## Continental supplied Tyres to Daimler.

- Daimler was concerned that **making payment to Continental** might amount to **trading with the enemy** under common law as well as a proclamation issued under Trading with the Enemy Act 1914.
- Daimler approached Court to determine if payment could be made.



## Held

- ❖ Just like a natural person can have enemy character **though born in the UK**, so can a legal person.
- ❖ The acts of a company's **organs**, its directors, managers, secretary, and so forth, functioning within the scope of their authority, are the company's acts and may invest it definitely with enemy character





### Connors Bros. v. Connors (1940)

- Connors Bros was a UK Company by incorporation.
- Persons who were *de facto* in control of the company's affairs, were residents of Germany.
- House of Lords determined the character of the company as "enemy" company

### Re. Sir Dinshaw Manockjee Petit A.I.R. 1927 Bombay 371



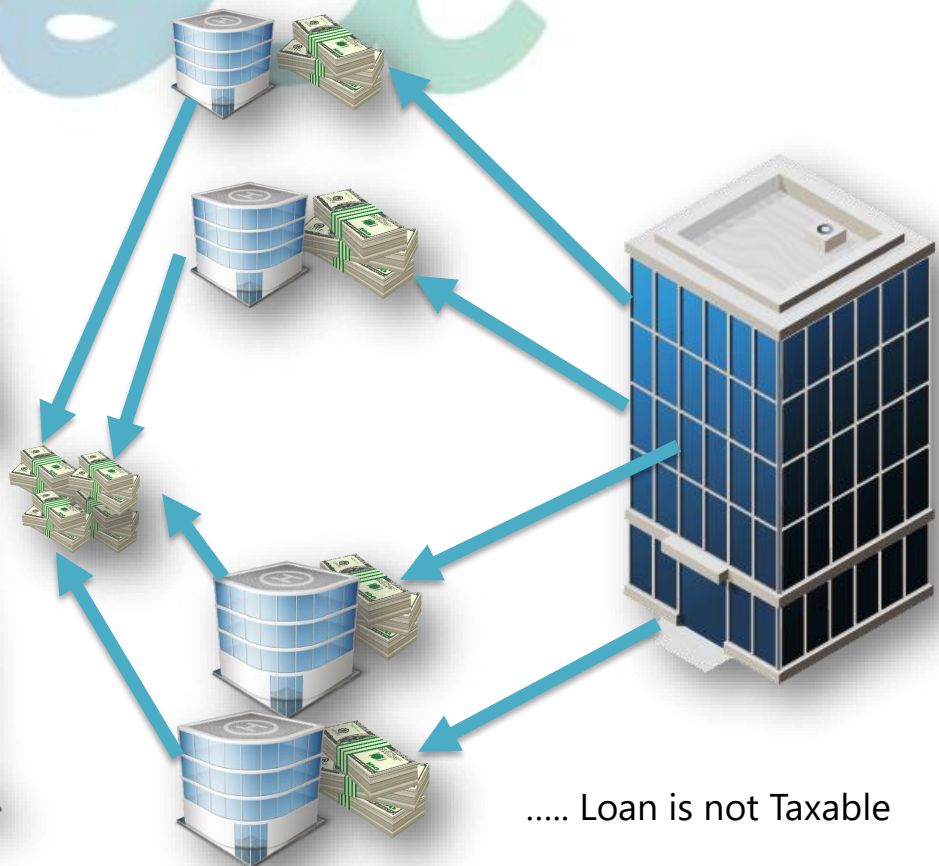


## Dividends from Companies



.... Was Taxable in the hands of the recipient...

Four companies received Dividends and paid as loan to the promoter, never to be repaid....



.... Loan is not Taxable



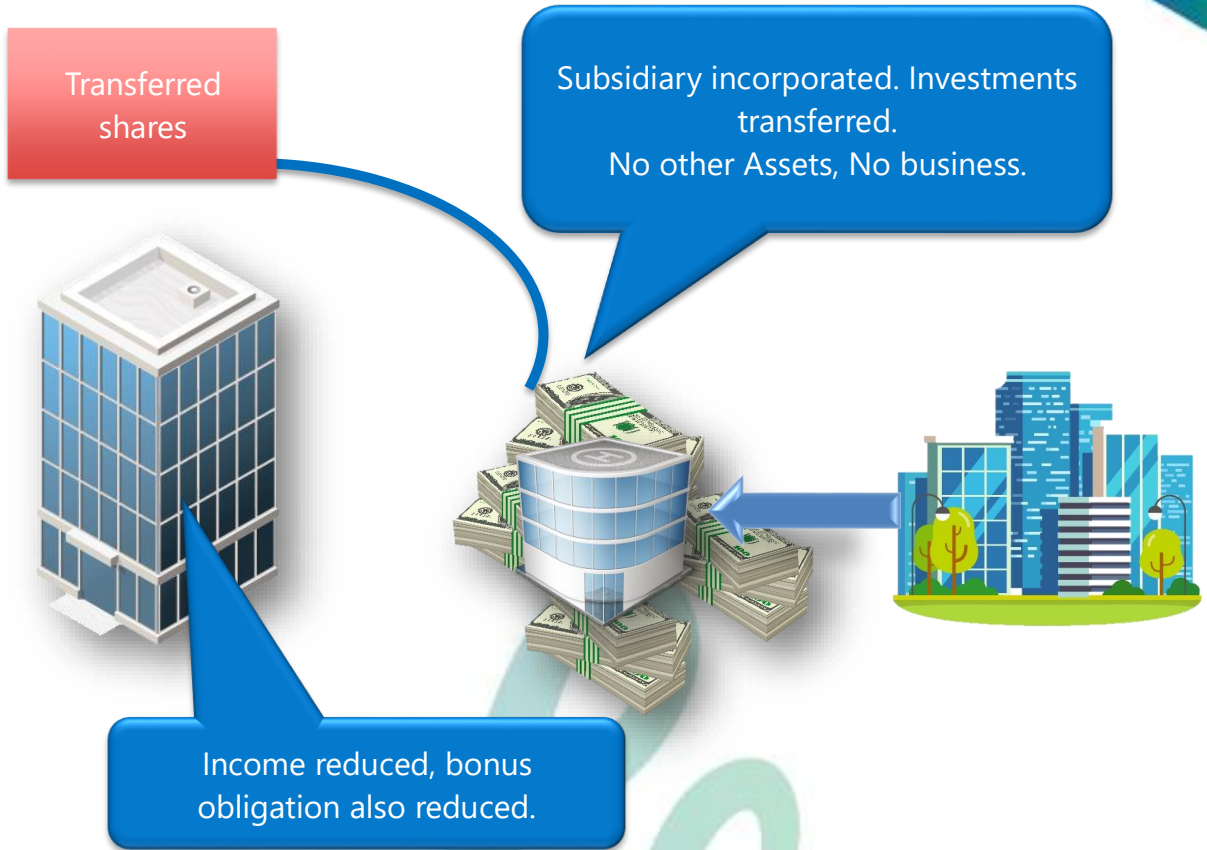
- ❖ In another case.
- ❖ The corporate structure was used as a device or facade to conceal criminal activities like evasion of customs and excise duties.
- ❖ The Court could lift the corporate veil and treat the assets of the company as the realisable property of the shareholder.



Dividend received from companies enhanced the revenues...



Company planned to exclude the dividend income while arriving at allocable surplus for the payment of bonus.



**Sole purpose** for the formation of the new company was to use it as a device to reduce the amount to be paid by way of bonus to workmen.

The Supreme Court upheld the piercing of the veil to look at the real transaction.





## Kapila Hingorani v. State of Bihar



### Allegation:

The State of Bihar did not pay salaries to its employees in PSUs for long periods of time, resulting in deaths due to starvation.

Bihar Government responded that the PSUs are companies distinct from its owner. Therefore, the State is not responsible.

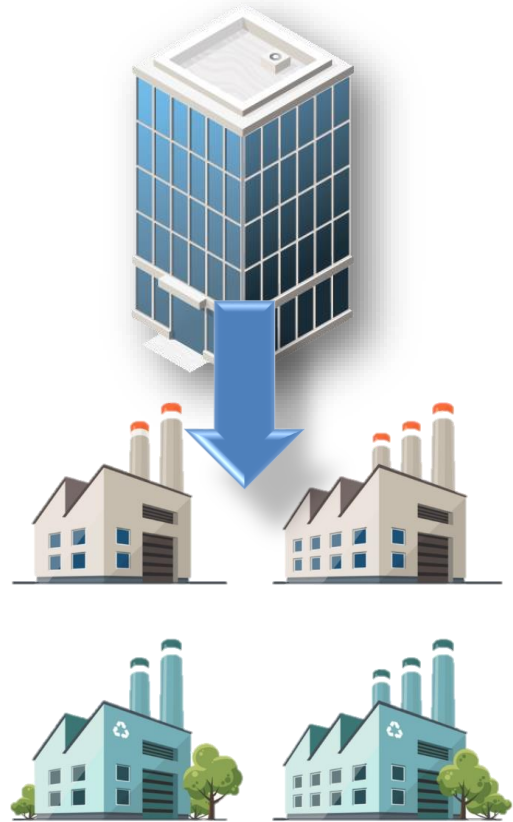
### Held:

- State may not be liable in relation to the day-to-day functioning of the PSUs
- But its liability would arise on its failure to perform the constitutional duties and the functions of these undertakings



## Inalsa Ltd. v. UoI

- Subsidiaries floated for availing benefits given to small scale industries
- Holding entities are to be treated as real entities and exemptions shall not be allowed



## Illegal Associations

- ❖ An unincorporated company, association or partnership consisting of persons exceeding the prescribed number are illegal.
- ❖ Limit is 50 for associations or partnerships, under Rule 10 of the Companies (Miscellaneous) Rules, 2014





- ❖ Illegal associations cannot enter into contract and cannot sue or be sued.  
[Wilkinson v. Levison]
- ❖ It can be taxed! [Kumara Swamy Chattiar v. ITO (1957)]
- ❖ Members are personally liable for the acts of the association without limit.

