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Supreme Court lays down scenarios for lifting of Doctrine of Corporate Veil

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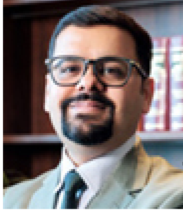

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1. Introduction

THE doctrine of lifting the corporate veil has remained one of the most delicate and contested facets of corporate jurisprudence since the very inception of the concept of separate legal personality. The corporate form was conceived to create a legal entity distinct from its shareholders and management, thereby facilitating commercial enterprise through the principles of limited liability, perpetual succession, and institutional continuity. However, the same legal fiction cannot be permitted to become a protective shield for fraud, evasion of statutory obligations, or circumvention of public law duties. Courts have therefore consistently been required to maintain a careful balance between preserving the sanctity of corporate personality and preventing its misuse for unlawful purposes.

If the veil is pierced casually in every dispute, the doctrine of separate legal entity loses much of its commercial relevance and undermines one of the foundational reasons for conducting business through incorporated structures. Conversely, if courts refuse to look beyond the corporate façade even in exceptional circumstances, the corporate form itself may become an instrument to subvert the law. It is in this larger jurisprudential context that the recent decision of the Hon'ble Supreme Court in *Alpha Corp Development Private Limited v. Greater Noida Industrial Development Authority* - **2026-TIOLCORP-26-SC-IBC** assumes significance, as the Hon'ble Court revisits the scope, limitations, and judicial discipline governing the doctrine of lifting the corporate veil in contemporary commercial jurisprudence.

The judgment is particularly important for insolvency jurisprudence under the Insolvency and Bankruptcy **Code, 2016** ("IBC"), where modern corporate structures frequently involve holding companies, subsidiaries, special purpose vehicles, layered financing arrangements, and project-specific entities. The Hon'ble Supreme Court was therefore confronted with a larger question - whether the doctrine of separate legal personality should prevail mechanically even when the economic reality demonstrates that the subsidiary entities were merely extensions of the corporate debtor itself in the facts and circumstances.

2. Factual Background

Corporate insolvency resolution process ("CIRP") was initiated by a financial creditor against Earth Infrastructures Limited ("EIL"), the Corporate Debtor ("CD"). The Committee of Creditors ("CoC") comprised HDFC Bank and 4,229 allottees, namely homebuyers and office-space purchasers.

EIL, along with other consortium partners, namely Raus Infras Limited and Shalini Holdings Limited, formed a special purpose vehicle ("SPV") in the name of Earth Towne Infrastructures Private Limited ("ETIPL"), pursuant to which lease deeds were executed by the Greater Noida Industrial Development Authority ("GNIDA").

EIL was the majority shareholder and, as per the lease deed arrangements inter se the consortium members, EIL was to remain the lead member of the SPV **throughout** the project period till issuance of occupancy/completion certificates.

GNIDA had allotted various parcels of land on long-term lease of 90 years to entities associated with EIL for development of large real estate projects. However, the projects suffered severe delays and defaults. GNIDA alleged persistent breaches of lease conditions, non-payment of dues, lease rentals, and additional compensation payable under the lease documentation. GNIDA further contended that despite these defaults, it was not properly informed about the CIRP proceedings by the Resolution Professional ("RP").

The dispute ultimately centred around whether the lands leased to subsidiary and associate entities could be treated as part of the resolution framework concerning EIL and whether the doctrine of

lifting of corporate veil could be invoked to look beyond the formal corporate structure.

3. Proceedings before the NCLAT

3.1 Separate Legal Personality of Subsidiaries

The National Company Law Appellate Tribunal ("NCLAT") proceeded on the premise that the assets belonging to subsidiary companies could not form part of the assets of the corporate debtor undergoing CIRP.

The NCLAT observed that, in view of the Explanation to Section 18 of the IBC, assets belonging to subsidiaries of the corporate debtor stood excluded from the purview of the assets of the corporate debtor itself. Since the leasehold rights had been granted by GNIDA to ETIPL and other subsidiary entities and not directly to EIL, the NCLAT held that such lands could not be treated as assets of EIL.

3.2 Findings Regarding the Resolution Plan

The NCLAT also noted that the Information Memorandum prepared during CIRP did not include the project lands as assets of EIL. Consequently, according to the NCLAT, there was no occasion for resolution applicants to deal with such lands under the resolution plans.

It was further observed that the resolution plans effectively contemplated transfer of development rights and interests over the lands in favour of third parties without obtaining prior consent of GNIDA, which was contrary to the express terms of the lease deeds.

The NCLAT emphasised that the lease deeds specifically required prior permission of GNIDA before any transfer, assignment, or dealing with the leased properties could take place. Since GNIDA was not a party to the development arrangements entered into by EIL with the subsidiary entities, the NCLAT held that GNIDA could not be compelled to recognise obligations arising under the resolution plan.

3.3 Refusal to Lift the Corporate Veil

On the issue of lifting of corporate veil, the NCLAT held that the holding company and subsidiary companies were separate legal entities. Accordingly, only the assets of the corporate debtor undergoing CIRP could be subjected to the resolution process and not the assets of its subsidiaries.

The NCLAT therefore concluded that the assets and projects belonging to subsidiary companies could not have been dealt with under the resolution plan without obtaining independent approval from GNIDA as lessor.

4. Submissions of the Appellants

The appellants argued that the NCLAT had adopted an excessively technical and formalistic approach by mechanically treating the subsidiary entities as entirely independent from EIL despite overwhelming evidence demonstrating complete operational unity.

It was submitted that EIL was the real developer and controlling force behind all projects. The subsidiary companies merely held leasehold rights while the entire development, financing, approvals, customer dealings, and project execution were undertaken by EIL itself.

The appellants further contended that the projects were marketed to the public under the banner of EIL and thousands of homebuyers had invested their life savings relying upon the reputation and representations of EIL. Therefore, permitting GNIDA to rely upon technical distinctions between EIL and its subsidiaries at such a late stage would defeat the objectives of the IBC and severely prejudice innocent homebuyers.

It was also argued that GNIDA had full knowledge of EIL's role in the projects and had consciously permitted EIL to undertake development activities over the leased lands. Having acquiesced to such arrangements for years, GNIDA could not later deny the commercial reality of the group structure.

5. Submissions of the Respondent

GNIDA argued that the leasehold rights vested exclusively in the subsidiary companies and not in EIL. Consequently, such assets could not form part of the CIRP proceedings against EIL.

It was further argued that under the lease deeds no transfer or assignment could take place without prior approval of GNIDA. Since the resolution plans sought to alter rights over the leased lands without such approval, the plans were contrary to the contractual and statutory framework governing the leases.

GNIDA also maintained that separate legal personality of companies is a settled principle of corporate law and could not be disregarded merely because entities belonged to the same corporate group.

6. Discussion and Findings of the Supreme Court

6.1 Statutory Powers and Obligations of GNIDA

The Supreme Court observed that GNIDA was empowered under Section 7 of the Uttar Pradesh Industrial Area Development Act, 1976 to allot lands on lease basis subject to terms and conditions imposed by it.

The lease deeds specifically imposed extensive obligations upon the lessees concerning construction timelines, approvals, development obligations, and compliance requirements. GNIDA also retained supervisory and monitoring powers under the lease framework. The Court noted that the lease deeds provided that failure to complete projects within stipulated timelines entitled GNIDA to re-enter upon the premises and determine the leases.

6.2 Failure of GNIDA to Act Vigilantly

A significant portion of the judgment is devoted to the Court's criticism of GNIDA's conduct. The Court observed that GNIDA had remained consistently inactive despite being fully aware of delays and defaults in the projects. The Court noted that even prior to initiation of CIRP proceedings, GNIDA had received complaints from homebuyers regarding the stalled construction activities but failed to take effective coercive measures.

The Court further observed that GNIDA could not claim ignorance of the fact that EIL was the actual developer of all projects. Documentary records demonstrated that EIL itself had secured approvals, permissions, and certifications from various authorities, which were thereafter submitted before GNIDA. The Court therefore held that GNIDA had substantially contributed to the prevailing situation through its "persistent inaction and ineptitude".

6.3 GNIDA as an Operational Creditor

The Court also observed that GNIDA, being an operational creditor, was entitled to lodge its claims during the CIRP proceedings under Section 60(5)(b) of the IBC. However, despite such entitlement, GNIDA failed to properly participate in the CIRP proceedings at the relevant stage and attempted to raise objections only subsequently. The Court therefore held that GNIDA could not portray itself as an uninformed victim after having remained passive throughout the insolvency proceedings.

7. Lifting of Corporate Veil: The Central Theme of the Judgment

7.1 Separate Legal Entity Is Not an Absolute Principle

The most significant aspect of the judgment lies in the Court's detailed discussion on lifting of the corporate veil. The Court acknowledged that Section 2(87) of the Companies Act, 2013 recognises a subsidiary company as a separate legal entity. However, the Court clarified that the principle of separate corporate personality is not absolute and cannot be applied in a rigid or mechanical manner where doing so would defeat justice or commercial reality. The Court observed that where associated companies are "inextricably connected" and function as part of a single economic enterprise, courts are justified in lifting the corporate veil to ascertain the true nature of the arrangement.

7.2 Public Interest and Economic Reality

The Court reiterated the settled principle that the corporate veil may be pierced where protection of public interest becomes paramount or where the corporate structure is employed to evade obligations imposed by law.

The judgment recognises that modern commercial entities often operate through interconnected group structures where the apparent distinction between holding and subsidiary entities may not reflect the actual economic reality. Importantly, the Court observed that the doctrine may be invoked not merely in cases of fraud in the narrow sense, but also where insistence upon corporate separateness would defeat legitimate public and commercial interests.

7.3 Why the Veil Was Lifted in the Present Case

Applying the above principles, the Court held that the present case was an eminently **fit** case for **lifting** the corporate veil. The Court noted that Neo Multimedia Limited and Nishtha Software Private Limited were wholly-owned subsidiaries of EIL. ETIPL itself had been incorporated solely for facilitating the lease arrangement with GNIDA and was overwhelmingly controlled by EIL through 98% shareholding.

The Court further noted that the companies shared common directors and related managerial personnel. More importantly, the only substantive assets of these companies were the leased project lands, while actual development activities were entirely undertaken by EIL. The Court therefore concluded that the subsidiary companies were effectively fronts for EIL and that EIL remained the real and dominant force behind all projects. The Court accordingly held that the NCLAT erred in adopting a purely technical approach without appreciating the true commercial and factual realities underlying the corporate structure.

7.4 The Broader Jurisprudential Significance

The judgment is significant because it reiterates that lifting of corporate veil is fundamentally a doctrine of **substance over form**. At a time when large business groups increasingly operate through complex webs of subsidiaries, SPVs, and layered ownership structures, the decision sends a clear message that courts would not permit technical corporate compartmentalisation to defeat statutory objectives, especially under welfare-oriented and resolution-focused legislations such as the IBC.

Equally important is the Court's emphasis that each case involving lifting of corporate veil must turn upon its own facts. The judgment therefore does not dilute the doctrine of separate legal personality generally, but recognises that exceptional situations demand judicial examination of the real economic entity operating behind the formal corporate façade.

8. Conclusion

The decision in ***Alpha Corp*** marks an important development in Indian corporate insolvency jurisprudence. The judgment carefully balances two competing principles - the sanctity of separate corporate personality on one hand and the necessity of preventing misuse of corporate structures on the other.

The ruling is particularly noteworthy because the Court refused to adopt a narrow technical interpretation divorced from commercial realities. Instead, it examined the substance of the transactions, the operational control exercised by EIL, the conduct of GNIDA, and the overarching public interest involving thousands of affected homebuyers.

The judgment ultimately reinforces the principle that while incorporation grants legal separateness, such separateness cannot become a shield to defeat justice, frustrate insolvency resolution, or obscure the true economic identity of a business enterprise. The doctrine of lifting of corporate veil therefore continues to remain an essential judicial tool to ensure that corporate personality serves legitimate commerce and not legal evasion.

For insolvency practitioners, lenders, developers, and regulatory authorities alike, the judgment serves as a reminder that courts will increasingly look beyond formal ownership structures where the factual matrix demonstrates functional and economic unity between entities.

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