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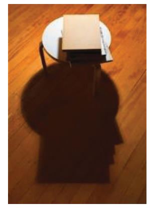

PROF. RANBIR SINGH LEGAL RESEARCH CENTER, INDIA

"One Person Company – A Critical Analysis"

A Research Report under the III - Online Off-Campus Internship

YEAR 2015

Submitted By:

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Most respectfully presented under the auspices of:

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DECLARATION

Exercising numerous research methods to breed my notions, conveyed in this research, the researcher has accomplished the aforementioned work.

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This is to certify that, the research report of Ms. Ishita Chelawat from School Of Law, Devi Ahilya Vishwavidyalaya, Indore, studying in B.A., LL.B. (Hons.), as per his/her declaration is found to be the result of his/her passion to fuel the title taken by the researcher.

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Sonal Gupta

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ACKNOWLEDGEMENT

Undertaking research for the first time is a totally different experience. I have learnt many different ways and aspects of research through this programme. It requires a lot of hard work, efforts, time and knowledge to complete a research to its best. I understood that a lot of discipline is required to make a good and detailed research.

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Ishita Chelawat.

I dedicate this research to

My Parents, My brother

My best friend Payal Sood and SHAAI,

for their constant support and unconditional love.

I love you all.

CASE STUDIED/REPORTED

CASE	CITATION	PAGE NO.
Salomon v. A. Salomon and Co ltd.	[1897] AC 22	26, 29

LIST OF ABBREVIATIONS

ABBREVIATIONS	FULL FORMS
&	And
AOA	Article Of Association
BC	Before Christ
CA	Chartered Accountant
Co.	Company
CS	Company Secretary
CWA	Cost and Work Accountant
DAVV	Devi Ahilya Vishwavidyalaya University
DCS	Digital Signature Certificate
DDT	Dividend Distribution Tax
DIN	Director Identification Number
ESO	Employee Stock Option
GSR	General Statutory Rules
i.e.	That Is
ICSI	Institute Of Company Secretaries of India
INR	Indian Rupees
JSC	Joint Stock Company
Ltd.	Limited
MAT	Minimum Alteration Tax
MOA	Memorandum Of Association
NOC	No Objection Certificate
NUJS	National University Of Judicial Sciences
OPC	One Person Company
ROC	Registrar Of Companies
Sec.	Section
UAE	United Arab Emirates
UK	United Kingdom
USA	United States Of America
v.	Versus

RESEARCHER'S EXPERIENCE

Research is an experience beyond words. This was the first research of the researcher and couldn't have been better than this. It is correctly said "in the minds of beginners there are many possibilities, in the experts are few"[1]. The topic of the research "One Person Company – A Critical Analysis" is a new concept and least developed one. Cumming to the fourth year of college inclined the researcher to the economic need rather social needs which will decide development of the country. The topic of the research was very attractive to the researcher as she aspires to work in a corporate framework and one person company is a rising star of the filed. Being the students they just look at what is present in books, they don't go in depth of it and look what's best for society. Research gives a medium and a broad vision to look at these written text and critically analyse them. Research made the researcher realised the power of the individuals to create a change in society through its recommendations, which may be considered by the legislators for the growth our country. While finding out facts and collecting data one learns the concept from the very beginning i.e. history and the reason behind introducing such concept to Indian law frame. Accumulating the information was not an easy task as there are very few articles written and published by the reliable scholars and there was no formal research being conducted by any person in reference to one person company in Indian law after being practiced in it. But the fact that this research would be the first formal research gave her an inspiration and a kick to work harder to achieve what she is presenting below. From her first research she realised that a good research needs discipline and focus. This research gave the researcher an opportunity to express her thoughts and views after rationally analysing each aspect of the topic. On an ending note this was her first research but sure not the last.

[1] Suzuki, S. (2001). Experts and Possibilities. Academic Research: Quotes for Talks, Introduction, and lunchtime Banter. Retrieved on January 13, 2015 at 4:36 PM. http://www-stat.wharton.upenn.edu/~steele/Rants/Academic-Resarch-Quotes.html

ABSTRACT

According to Sec. 2(62) of The Companies Act, 2013, "OPC (One Person Company) means a company which has only one person as a member of that company"[2]. "Companies Bill (Bill No. 59 of 2009) was presented before Lok Sabha (lower house of Indian Parliament) on 3rd August 2009 containing One Person Company (OPC) in Sec. 2 (1) (zzk)"[3]. India was compelled to introduce this feature in Indian laws, after witnessing other countries development. In the first two chapters researcher focuses on the introduction and the methodology used. Every present ideology has a history from which is derived from, this is shown in the third chapter. The fourth unit elucidates about the concept of OPC like minimum mandate of director is one[4], a person can run only one OPC[5]. And then she moves forward and examines the concept with values in the chapter five. During her research she analysed the reason behind the concept like to promote small young entrepreneurs etc.[6]. Limited liability is a pleasure enjoyed but is accompanied with setbacks. On calculating each aspect, the researcher made conclusions in chapter six and gave commendations to erode them. She found that the compliance cost is very high due to the presence of the professionals[7]. The rules and laws legislated to incorporate it stands silent with respect to the taxation policy, this bring it under the taxing system of private companies, as the former is analogy to the latter[8]. There is no forethought made by the law framer with respect to credit distribution to the OPC's, as no potential creditor would provide loan to the toddlers of the filed. Misuse of the concept is also possible by evading tax[9]and opening OPC in the name of the family member. It is appreciable that law framers initiated a step and incorporated this concept in the act, but there is a need to take steps in developing these law and take it to next stage.

[2] Company Secretary (CS) Module. (2014). One Person Company (OPC). The Institute of Company Secretaries of India. Retrieved on January 1, 2015 at 12:46 AM. https://www.icsi.edu/Docs/Webmodules/ONE%20PERSON%20COMPANY.pdf

[3] Jain, A. (2011). One Person Company – A New Business Ownership Concept. Tapuriah Jain & Associates – Chartered Accountant. Retrieved on January 1, 2015 at 12:52 PM.

[4] Section 149, (2014). The Companies Act 2013 (18 of 2013). Universal Law Publishing Co. Pvt. Ltd. New Delhi (India). 6th Edition. Retrieved on January 1, 2015 at 11:23 PM.

[5] Supra Note 3

[6] Jain, A. (2011). One Person Company – A New Business Ownership Concept. Tapuriah Jain & Associates – Chartered Accountant. Retrieved on January 1, 2015 at 12:52 PM.

[7] Mohan, A. (2014). Concept of One Person Company – An Analysis. Taxman's Tax Research. Retrieved on January 4, 2015 at 1:19 AM.

[8] Harsh. (2014). One Person Company Disadvantages in India. Easylaw.in. Retrieved on January 4, 2015 at 1:25 AM. http://www.easylaw.in/articles/one-person-company-disadvantages-india

[9] Bhosale, S. (2012). One Person Company: soon to be reality. LawZ. Volume: 11, No.04, Issue 128. Retrieved on January 4 2015 at 1:36 AM. http://www.academia.edu/1254510/One_Person_Company_soon_to_be_reality

CHAPTER – 1
PRELIMINARY

CONTENTS

1.1 Quotation

"I am the CEO (Chief Executive Officer) and the technical staff and the janitor[10]."

By Mal Steifel.

1.2 Introduction

One of the forms of a business organisation is Joint Stock Company (JSC). An act was created by parliament for organising this structure and for it the assent of President of India was given on 29th August 2013, called The Companies Act, 2013[11]. It is an entity which is formed voluntarily by a group of persons whether legal or natural to carry out a business with a goal of achieving maximum profit[12]. Each member contributes his side of capital and takes part in activities of the business. These organisations is usually are in a need of huge amount of capital[13], which is contributed in form of small units by people through the medium of shares and in totality is called share capital of the company. Each person contributing in the share capital of the company is called share holder of the company. The concerned shareholder's right on the shares held by him can be transferred to any other person for a consideration according to its public document i.e. Memorandum of Association (MOA)[14].

In the eyes of law, a company is an entity separate from its members, which means even if the members die or even if they are incapable to enter into contract the company shall be in existence and remain competent[15].

A company once formed, it is considered that it has taken birth and its birth certificate is 'Certificate of Incorporation'. This is considered as a conclusive evidence that the company is an

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[10] Weese, S. (2003). In A One Person Company, The Break Room Is Always Empty. Rhyming Planet Inc. Retrieved on January 4, 2015 at 2:10 AM.

[11] The Companies Act, 2013. (2013). Ministry of Corporate Affairs Government of India. Retrieved on January 2, 2015 at 11:23 AM. http://www.mca.gov.in/MinistryV2/companiesact.html

[12] Banerjee, A. (2011). Joint Stock Company. Retrieved on January 2, 2015 at 11:33 AM. http://www.slideshare.net/aritrabanerjee1/jsc-10114759

[13] Ibid

[14] Ibid

[15] Ibid.

artificial person, which can enter in contracts, can sue and be sued[16]. For entering in any contracts or arrangements with other entities it needs a common seal which is treated as its signature.

In various other forms of company a new concept of One Person Company (OPC) was introduced by ministry of corporate affairs in its "G.S.R.[17] Notification no. 250(E) on 31st March, 2014 in the Companies (Incorporation) Rule, 2014"[18]. The concept of OPC is somewhere between to the existing concepts of sole proprietorship and Joint Stock Companies (JSC). It shall have only one director but with limited liability. Before this concept was introduced an individual who was willing to start their own venture had only one option i.e. to opt for sole proprietorship, instead of private company because of its mandatory provision of minimum two directors. But now with emergence of new concept OPC, having only 1 (one) director has given wide opportunity to develop for small entrepreneurs and reduce unemployment in the country[19].

This new concept was introduced to encourage the entrepreneurs who wish to establish a start up in micro economics industry but are in search of a business structure with less time, effort and monetary resource consumption in legal conformity[20]. It has made the requirements to establish a JSC in a simple yet beneficial. Now a willing entrepreneur does not need any other person to believe in his idea and agree to be the other director and contribute in the capital of the venture initiated by him, as according to earlier concept to start a private company there was a minimum requirement of two directors.

The OPC in India came as a strong wind of hopes and new opportunities, in only five months of notification 478 (Four Hundred and Seventy Eight) companies were established and together they have authorised capital of INR.11.95/- Crores (Rupees Eleven Crores and Ninety Five Lakhs Only)[21]. In the month of August 2014 alone, 218 OPC's were registered and collected an authorised capital of INR. 4.63/- Crores (Rupees Four Crores and Sixty Three Lakhs Only).

Till the month of august total companies registered were as many as 14.16 Lakhs (Fourteen Lakhs and Sixteen Thousand) out of which only 9.87 Lakh (Nine Lakhs and Eighty Seven Thousand) are active. Out of this huge number, 478 (Four Hundred and Seventy Eight) companies

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[16] Ibid.
[17] General Statutory Rules.
[18] Company Secretary (CS) Module. (2014). One Person Company (OPC). The Institute of Company Secretaries of India. P – iii Para 2. Retrieved on January 1, 2015 at 12:46 AM. https://www.icsi.edu/Docs/Webmodules/ONE%20PERSON%20COMPANY.pdf
[19] Zanwar, M. (2014). One Person Company, Under New Companies Act 2013. SAN Corporate Advisor P ltd. P – 10 Para 4. Retrieved on January 1, 2015 at 1:02AM. http://www.slideshare.net/ANANDGAWADE1/one-person-company-opc-under-new-companies-act-2013?qid=eb1c4b91-dfaa-41fc-8ce2-ccf3bae6d94a&v=qf1&b=&from_search=1
[20] Supra Note 18.
[21] PTI (Press Trust of India). (2014). India sees setting up of 478 one-person companies till August. The Economic Times. Retrieved on January 1, 2015 at 1:50 AM. http://economictimes.indiatimes.com/news/company/corporate-trends/india-sees-setting-up-of-478-one-person-companies-till-august/articleshow/44875373.cms

are OPC i.e. 0.048% which constitutes a petty but a significant number achieved in just five months of introduction[22].

1.3 Researchers Interest

The economy is based on three major sectors namely Agriculture, Industrial and Service. During it's under developed days, the economy was largely based on the agriculture sector for development, as goal then in the five year plan was self-sufficiency of food for the country but now the scenario is different.

Subsequently when the economy achieved its objective of self-sufficiency the focus was shifted to other two sectors, i.e. industrial and service. But in present scenario there are four sectors. "The first sector includes farming, activities arising from woodland, angling and mining, second sector combines acts of construction and production, third sector covers activities related to conveyance, power and sanitary services, and lastly forth sector occupies the act of banking, insurance, and real estate"[23]. Except first, all the remaining sector broadcast a concept of business organisation out of which one is company which is widely preferred and is in use. A new act for Companies was introduced in 2013 replacing the old Act of 1956. The Indian economy is largely relying on these companies to pool out economic stability and development through foreign investment. The new and emerging concepts governing the functions of companies like Corporate Social Responsibility, One Person Company (OPC), establishment of New Company Law Tribunal etc. has accentuated researcher towards this field. The researcher opted for 'One Person Company – A Critical Analysis' as she was keen in such a topic for her research which is the future of emerging economy. This concept is just eight months old in India but not world-wide. The research shall focus on such situations which led to the need of this concept, its benefits to economy and drawbacks. There are various articles written on this subject, but very few had focused on the quotients that it lacked like incentives etc., to encourage young experience-less people, and the benefits are scoped by the rich and already established people. There are various other articles available on this topic, but only a portion of them have been discussed the demerits of this concept and its viability in Indian economy.

1.4 Present Study

The present study focuses on the new feature of The Companies Act, 2013 introduced on 31st march 2014 called One Person Company[24]. The study shall depict the qualities of an OPC envisaged in the

[22] Ibid.

[23] Kenessey, Z. (1987). The Primary, Secondary, Tertiary and Quaternary Sectors of the Economy. U.S. Federal Reserve Board. PP 359 – 363. Retrieved on January 3, 2015 at 1:13 PM. http://www.roiw.org/1987/359.pdf

[24] Company Secretary (CS) Module. (2014). One Person Company (OPC). The Institute of Company Secretaries of India. P – iii Para 2. Retrieved on January 1, 2015 at 12:46 AM. https://www.icsi.edu/Docs/Webmodules/ONE%20PERSON%20COMPANY.pdf

act for a perfect and a globally competitive and sound act. The research shall reveal the situations aroused which resulted in inculcation of this new concept in the act. The much needed privileges offered by the law to promote young entrepreneurs to opt for self-employment and the growth of economy. On one side where the concept opens door to progress and employment, on the other side it is fenced with some limitations. It shall enumerate and discuss the procedure like directors, meetings, management, nominee etc. practised by the (One Person Company) OPC. At the end it will reveal the deficiency in the act and recommendations to evade such deficiencies. The research will try to analyse whether the purpose of introducing this concept has been fulfilled or not. Thus this research will be titled as "One Person Company – A Critical Analysis".

CHAPTER – 2

RESEARCH METHODOLOGY

CONTENTS

2.1 Statement of Problem

The evolution of every business organisation lies in the early history where people learned the art of organising the scattered trade practices. The concept evolved step by step, from one person controlling all the acts of company and undertaking all the liabilities to his personal capacity, later moved a scale up and distributed its powers and liabilities among peoples, which shed some of entrepreneur's liability and work load. Years later a new structure was introduced which gained an immediate response, called the Joint Stock Companies [25](JSC). The concept of One Person Company (OPC) was inculcated in The Companies Act, 2013, which is a type of JSC, after witnessing its success in other countries like China, America, England, Pakistan, Turkey, UAE (United Arab Emirates), etc.[26]. These countries showed a tremendous success in their economic progress in such a way that China, America, England has grown out of blue and recoded an outstanding position in the global scenario. Past has been an evidence that India is a country which prefers to adopt any technology, law or any organisation which has been tried and tested by other countries and after evaluating its pros and cons. Same has been done to adopt this concept of OPC. This research will focus on the following issues:

1. The need of introducing the concept of OPC.
2. The concept and its limited scope.
3. The concept lacks the credit incentive and encouragement to young entrepreneurs.
4. Other similar business organisation has an edge over OPC.

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[25] Haney, L. (2003). Business Organization and Combination - An Analysis of the Evolution and Nature of Business Organization in the United States and a Tentative Solution of the Corporation and Trust Problems. Botoche Books Kitchener. Revised edition of 1913, ISBN: 978-1144359612, PP 26 – 58. Retrieved on January 4, 2015 at 2:31 AM. http://socserv2.socsci.mcmaster.ca/econ/ugcm/3ll3/haney/BusinessCombination.pdf

[26] Jain, A. (2011). One Person Company – A New Business Ownership Concept. Tapuriah Jain & Associates – Chartered Accountant. Retrieved on January 1, 2015 at 12:52 PM.

5. Deficiencies inculcated in the concept.
6. Misuse of the concept.

2.2 Terminologies

- Company: According to Justice Lindley, a voluntary association of peoples who contribute in the share capital and indulge themselves in the activities from which profits or loss are generated. Such a person contributing to the share capital is known as member[27]. A company should be incorporated under The Companies Act 2013[28].
- Director: A person appointed by the Board of the company[29] to take the decision on the behalf of the other shareholders of the company.
- Shares: Contribution of money to the common stock of the company or a fraction of capital is called his share[30].
- Debenture: Debenture is a "Certificate of Loan" testifying that the company has borrowed a sum to be payable to the holder of such certificate[31].
- Nominee: Nominee is a natural person who in the event of death or incapacity of the single member of the One Person Company takes the place of such single member[32].
- Company limited by guarantee: A company where its liability is limited, according to the memorandum of association, by the shareholder to an agreed amount to accord to the assets at the time of winding up.[33]
- Company limited by shares: A company whose liability is fenced only to the amount of unpaid amount of share value to the shareholder[34].
- An unlimited company: A company whose liability is not limited or fenced to a limit for each member, but is jointly and severally imposed on all the members in proportion of the shares[35].

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[27] Business Law. (2014). Business Law. Directorate of Distance Education-Guru Jambheshwar University of Science & Technology, Hisar – Haryana (India). P-2 Para 2. Retrieved on January 1, 2015 at 3:24 PM. http://www.ddegjust.ac.in/studymaterial/bba/bba-201.pdf

[28] Section 2(20). (2014). The Companies Act, 2013 (18 of 2013). Universal Law Publishing Co. Pvt. Ltd. New Delhi (India). 6th Edition. Retrieved on January 1, 2015 at 11:23 PM

[29] Section 2(34). (2014). The Companies Act, 2013 (18 of 2013). Universal Law Publishing Co. Pvt. Ltd. New Delhi (India). 6th Edition. Retrieved on January 1, 2015 at 11:23 PM

[30] Supra Note 27.

[31] Vasavani, R. (2013). A Project Report On Debentures. P – 3. Retrieved on January 1, 2015 at 3:30 PM. http://www.slideshare.net/rajvasavani/debentures-ppt?qid=81c75150-c378-4782-a21d-efd0575fbbf8&v=qf1&b=&from_search=1

[32] Zanwar, M. (2014). One Person Company, Under New Companies Act 2013. SAN Corporate Advisor P ltd. P – 3 Para 5. Retrieved on January 1, 2015 at 1:02AM. http://www.slideshare.net/ANANDGAWADE1/one-person-company-opc-under-new-companies-act-2013?qid=eb1c4b91-dfaa-41fc-8ce2-ccf3bae6d94a&v=qf1&b=&from_search=1

[33] Section 2(21). (2014). The Companies Act, 2013 (18 of 2013). Universal Law Publishing Co. Pvt. Ltd. New Delhi (India). 6th Edition. Retrieved on January 1, 2015 at 11:23 PM.

[34] Section 2 (22). (2014). The Companies Act, 2013 (18 of 2013). Universal Law Publishing Co. Pvt. Ltd. New Delhi (India). 6th Edition. Retrieved on January 1, 2015 at 11:23 PM.

- Charge: Charge is a claim or hold on property of the company to satisfy the debt incurred on the security of such property[36]. On non-repayment of the debt the creditor has full right to take overs such property and crystalize his debt.

2.3 Object of research

India is a democratic country with laws to govern the society. These laws are from time to time amended according to the need and demand of continuous developing country. The law are legislated through a rigorous and time consuming process, as it decides the fate of the country. The bill is drafted firstly and runs through both the houses i.e. Lok Sabha (the lower house of Indian Parliament) and Rajya Sabha (the upper house of Indian Parliament) for their approval, if any of them has any proposition for the bill, it may be taken under consideration. In the house, the bill is read three times with proposed amendments and at the end voting is conducted for passing to the next stage. After being passed by both the houses, the bill is moved to the President for his assent[37]. The last and final stage of the law making is publishing in official gazette, though it’s just a formality to let people know about the new law but a mandatory provision. The Companies Act, 2013 has passed all the steps of the process except the last stage of publishing. The provisions of the act has not yet formally came into the force according to Sec. 1 (3) of The Companies Act, 2013[38].

The object of research is to analyse the viability of impending law in Indian society and bring out hidden defect in the concept of One Person Company (OPC). In this research the researcher has aimed at following objectives:

1. To study the basic concept of the OPC.
2. To list and evaluate the legal compliance to be made for forming an OPC.
3. To state the need of emergence of a new branch of Joint Stock Companies (JSC).
4. To identify which type of business should opt for OPC.
5. To appreciate the Merits and point out the demerits and deficiency of the concept.
6. To analyse the strength of Indian version with of the other countries.

2.4 Research Methodology

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[35] Company Secretary (CS) Module. (2014). One Person Company (OPC). The Institute of Company Secretaries of India. Retrieved on January 1, 2015 at 12:46 AM. https://www.icsi.edu/Docs/Webmodules/ONE%20PERSON%20COMPANY.pdf
[36] Section 2 (16). (2014). The Companies Act 2013 (18 of 2013). Universal Law Publishing Co. Pvt. Ltd. New Delhi (India). 6th Edition. Retrieved on January 1, 2014 at 11:23 PM.
[37] Gupta, V. (2002). The President’s role. Times of India. Retrieved on January 3, 2015 at 3:12 PM.
[38] Section 1 (3). (2014). The Companies Act, 2013 (18 of 2013). Universal Law Publishing Co. Pvt. Ltd. New Delhi (India). 6th Edition. Retrieved on January 1, 2014 at 11:23 PM.

1. **Qualitative Method**: The method includes to seek reason and intention of lawmakers behind the concept. Investigating and analysing the influence, perspective towards and notion behind a particular subject[39].
2. **Deduction Method**: This method is also popularly known as "Top to Down Approach". It starts from a theory, then hypothesis is devised from it, conclusions are made and finally hypothesis is verified[40].
3. **Observatory Method**: The method includes the research conducted on existing literature, rules, review of literature and drawing conclusion from these collected data after analysing[41].
4. **Content Analysis**: The method includes analysing the data collected for a period of time and drawing inferences out of it[42].

2.5 Data Collection

The collected and used data for this research are secondary. They are composed through various reliable sources and analysed further. The data is collected from e-books and Google e-books.

Data from governments' official website is used for analysing the concept.

The data is also collected from module of different courses:

- CS (Company Secretary) Module published by ICSI ("Institute of Company Secretaries of India") for the course of Company Secretary
- Courseware from NUJS ("National University for Judicial Science, Kolkata, West Bengal") and iPleader's joint venture for the diploma in "Entrepreneurship and Business Administration course".
- Module for course of "Cyber Law from Asian School of Cyber Law" by Rohas Nagpal

2.6 Coverage and Scope

The research covers the whole concept of One Person Company (OPC) like procedure of incorporation, registration, meetings to be conducted and its manner of conduction, taxation policy etc. and defines its boundary of action. It describes the need of stating the concept in the act and also its reference taken from other countries which are already practicing it from years. Which business type should opt for an organisation as OPC (One Person Company)? It shall state the impact on the society on revealing this concept and their attitude towards its acceptance. The

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[39] Vibhute, K., & Aynalem, F. (2011). Legal Research Methods-Teaching Material. Justice and Legal System Research Institute. PP 15 – 18. Retrieved on January 2, 2015 at 11:23 AM.

[40] Trochim, W. (2006). Deduction & Induction. Research Method Knowledge Base. P – 1. Retrieved on January 2, 2015 at 11:30 AM. http://www.socialresearchmethods.net/kb/dedind.php

[41] Gupta, S. (2015). This technique has been suggested to the researcher from his mentor while conducting a class on 3rd of January 2015. Observatory method includes the research conducted on existing literature, rules, review of literature and drawing conclusion from collected data after analysing.

[42] Gupta, S. (2015). This technique has been suggested to the researcher from his mentor while conducting a class on 3rd of January 2015. Content Analysis method includes analysing the data collected and drawing inferences out of it.

researcher has tried to extend the scope to scrutinize the credits and instability in Indian scenario. It will attempt to check the viability of its taxing policy, credit availability and loop holes in the law.

2.7 Hypotheses

1. A one person company does not aim at relaxing taxation policy which is stumble for opting this as a structure[43].
2. The incorporation cost of OPC is high due to government charges, appointment of CA (Chartered Accountant) or CS (Company Secretary)[44].
3. The OPC having only one director has a separate legal identity from the company[45].
4. Anonyms company, a possible misuse of an OPC[46].
5. Limited benefit of concept of OPC to a particular class of entrepreneurs i.e. rich and experienced[47].

[43] This hypothesis is verified on P – 35.
[44] This hypothesis is verified on P – 38.
[45] This hypothesis is verified on P – 26.
[46] This hypothesis is verified on P – 41.
[47] This hypothesis is verified on P – 33.

CHAPTER – 3

HISTORY

CONTENTS

3.1 Pre-historic and Post-historic

Days before human civilisation is bifurcated in two distinct eras as pre-historic and post-historic periods[48]. The pre-historic era is defined as an era where the tool of writing and expressing thoughts was not introduced. In other words, the time before emergence of inscription and post-historic is after the emergence of writing[49]. People used different tools like gestures to convey their thoughts. The prehistoric era is further divided into three ages[50]:

3.1.i Stone Age

Stone Age is seen in three phrases, first being Palaeolithic age where humans learned to use stone tools. During this time humans lived a nomadic life in which they moved place to place in search of food and water[51]. Second phrase was Mesolithic age, which is middle stone age, where human started to develop technology. Finally at the last is Neolithic stage, which marked an end to the Stone Age and beginning of the social development[52]. In earlier stages wants were limited and these wants were fulfilled by their own produce[53]. Human stared to settle, they chose a place near water

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[48] Misra, V.N. (2001). Prehistoric human colonization of India. Indian Academy of Sciences. Vol. 26, No. 4, PP 491 Para 1. Retrieved on January 2, 2015 at 7: 12 PM. http://www.ias.ac.in/jbiosci/nov2001/491.pdf

[49] Renfrew, C. (2008). Prehistory-The Making of The Human Mind. New York: Modern Library. ISBN: 978-0812976618. Retrieved on January 3, 2015 at 5:43 PM.

[50] Supra Note 48.

[51] Nettle, D., & Romaine, S. (2000). Vanishing Voices: The Extinction of World's Languages. Oxford University Press USA 2000. ISBN: 0198031181, 9780198031185, PP 102 – 103. Retrieved on January 3, 2015 at 6:01 PM.

52 Ibid.

[53]Jain, T.R., & Khanna, O.P. (2006). Economic Concepts and Methods. India, New Delhi : V.K. (India) Enterprises. ISBN: 81-88597-18-X, PP 1-39. Retrieved on January 3, 2015 at 5:45 PM.

bodies to satisfy their wants .In other words they became self-sustaining[54], but after a period of time wants gradually increased. It saw an early stage of formation of association, harvesting and animal domestication[55].

3.1.ii Bronze Age

This age spots an era where humans learned to use metals, melting copper and making utensils out of it, etc. This age was where the human learned the art of writing and to convey through it. This age comes within post-historic period.

3.1.iii Iron Age

Iron Age witnessed the use of iron as a strong metal which brought sophistication in farming, cultivation, religious benefits, arty works and social practices.

3.2 Medieval Period – Barter System

Human beings are a sea of needs and wants which cannot be fulfilled by themselves alone, they need help of others for them. So a conclusion of exchanging their goods with another's to satisfy each other's need was made. This system of exchange is known as Barter System. According to S.E. Thomas, 'Barter system is an exchange of good(s) directly with other good(s)'[56]. The biggest Drawback of barter system was that it was based on a principle of "double coincidence of wants"[57], which implies that the goods in possession of one is of use of another person. But with time it was discovered that all the time this principle is not viable, sometimes if one is in need of rice it cannot be exchanged with wheat. It also involved a lot of time and efforts to find a suitable person from whom the exchange could be made. The economic problem faced was to ascertain the price and value of certain good to be exchanged like exchange of gold with salt.

3.3 Modern Period – Money and Trade Introduced

To eliminate the difficulties of barter system, a new concept of medium of transfer was evolved known as Money. Till 500 B.C. material like metal, leather etc. were used as money[58]. It gave value to each good and was a way to escape from the tedious procedure to find a suitable person for exchange. The system of buying and selling was introduced. They started to sell their produce for money and buy goods of need from others. This was marked as beginning of new era of trade.

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[54] Ibid.

[55] Nettle, D., & Romaine, S. (2000). Vanishing Voices: The Extinction of World's Languages. Oxford University Press USA 2000. ISBN: 0198031181, 9780198031185, PP 102 – 103. Retrieved on January 3, 2015 at 6:01 PM.

[56] Jain, T.R., & Khanna, O.P. (2006). Economic Concepts and Methods. India, New Delhi : V.K. (India) Enterprises. ISBN: 81-88597-18-X, PP 1-39. Retrieved on January 3, 2015 at 5:45 PM.

[57] Ibid.

[58] Nova. (1996). The History Of Money. Public Broadcasting Service. Retrieved on January 4, 2015 at 2:10 AM. http://www.pbs.org/wgbh/nova/ancient/history-money.html

3.4 Business Organisation

The origin of systematic business organisation is from Common Law in England[59].

"To carry out activity of trade in an organised fashion and acquire the very first goal of an enterprise i.e. earning profit, one requires to pool all the resources all together and put them in a systematic way, harmonise and cooperate with other entrepreneurs properly. This engagement is known as Business Organisation"[60]. Business organisation can be done by a single individual or a group of individuals by forming an association. The structures were made by keeping in mind the size of an establishment, process, association with others and liability.

3.4.i Individual Entrepreneur Organisation

Organising business by a single entrepreneur or by family member's was first introduced in the society. It was prevalent in the small industries. It was highly motivated as it gave an ease in formation and dealt with most reliable sources i.e. family. In this system motive of profit was somewhere left behind as labour was put by the family members itself. In earlier time it endured for household purposes but now it is limited only to clothing industry[61]. This system with time showed disadvantages like the single entrepreneur cannot be master of all the areas, unlimited liability etc.[62].

3.4.ii Partnership organisation

New form of organisation was introduced after marking the drawbacks of single person organisation called Partnership. In this form the partners share the profit and loss for their skill or property or both applied in the business[63]. At the beginning there was no limitation on the number of partners but later with time limits were imposed[64]. Before coming to India it was practised in England and USA by an oral agreement on the contrary in Italy and France a written agreement was necessary[65]. The main drawback witnessed was that it limited the scope to expand the business at large level as the liability was unlimited however divided.

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[59] Haney, L. (2003). Business Organization and Combination - An Analysis of the Evolution and Nature of Business Organization in the United States and a Tentative Solution of the Corporation and Trust Problems. Botoche Books Kitchener. Revised edition of 1913 ISBN: 978-1144359612, PP 26 – 58. Retrieved on January 4, 2015 at 2:31 AM. http://socserv2.socsci.mcmaster.ca/econ/ugcm/3ll3/haney/BusinessCombination.pdf
[60] Thakur, R. (2010). As per discussion in class of Business Studies in XI standard at Sri Sathya Sai Vidhya Vihar. Indore. A business organization is to organize, systematize the working to maximize profit and harmonize and co-operate with other existing entrepreneurs in the same field.
[61] Supra Note 59.
[62] Ibid.
[63] Ibid.
[64] Ibid.
[65] Ibid.

3.4.iii Joint Stock Company (JSC)

After seeing the impediment of partnership in accumulating the capital and liability sharing policy the new organisation for operating business on such a large scale was announced called JSC[66]. The capital is shared by bulk of people in a small denominations, in return of which fixed portion of profit are distributed. Affairs of the company are decided by the board of directors who are qualified in different fields to get specialisation in it. In India it is regulated by The Companies Act, 2013 after replacing the act of 1956.

3.4.iv One Person Company (OPC)

The concept of OPC was first proposed and discussed by the committee of experts chaired by Dr. J.J. Irani in 2005[67]. Companies Bill (Bill No. 59 of 2009) was presented before Lok Sabha (the lower house of Indian Parliament) on 3rd August, 2009 containing OPC in Sec. 2 (1) (zzk)[68]. After witnessing the success in other countries it was adopted in India[69]. It aimed to promote and develop small entrepreneurs for employing self and creating opportunity for others.

Till the present date the response to this system is great. It has been recorded that in the month of August only 218 (Two Hundred and Eighteen) OPC's were registered with the Registrar of Companies (ROC)[70].

[66] Ibid.
[67] Naiyyar, S. (2014). OPC under The New Companies Act. P – 5 Para 4. Retrieved on January 7, 2015 at 2: 32 PM. http://www.slideshare.net/sameernaiyyar/one-person-company-40240528
[68] Jain, A. (2011). One Person Company – A New Business Ownership Concept. Tapuriah Jain & Associates – Chartered Accountant. Retrieved on January 1, 2015 at 12:52 PM.
[69] Supra Note 67.
[70] PTI (Press Trust of India). (2014). India sees setting up of 478 one-person companies till August. The Economic Times. Retrieved on January 1, 2015 at 1:50 AM. http://economictimes.indiatimes.com/news/company/corporate-trends/india-sees-setting-up-of-478-one-person-companies-till-august/articleshow/44875373.cms

CHAPTER – 4
REVIEW OF LITERATURE

4.1 Review of Literature

4.1 Review of Literatures

Zanwar (2014)[71], Kumar (2014)[72], Saluja (2014)[73] et – al opines that One Person Company (OPC) will give a wide opportunity to small scale industries to develop and flourish their work in a systematic form with less legal compliance and limited liability as it has separate legal identity. The liability will be limited only to the extent of the capital being contributed by the member in the company. It aims at less legal requirements and benefits of both the organisational structures which is sole proprietor and Joint Stock Company (JSC) in one. They have described OPC in one phrase as "One Man Army", as he acts as directors, Board for passing any resolutions for transacting business, Charted Accountant (CA) or Company Secretary (CS) in case of audit etc.

Mohan (2014)[74] and Harsh (2014)[75],[76], derived in their study, that the major drawback of the OPC is its "compliance cost". The cost incurred in the procedure of incorporation of the company and yearly recurring cost of audit and preparation of financial statement is termed as compliance cost in this case. This structure was incorporated to promote and establish small, young and inexperienced entrepreneurs in a pre-arranged structure of business with a cherry on the top benefit i.e. limited liability, but is attached with a major drawback of high cost.

The other drawback stated was the prevailing "taxation policy" which is of 30% whereas for sole proprietorship it varies from 10% to 30% depending on the income slabs. By opting an OPC instead of a sole proprietor one faces an extra burden of Dividend Distribution Tax which is 15%. It was claimed to be the best of both worlds, namely sole proprietor and Joint Stock Company but it lacks in these spheres.

Harsh (2014)[77], stated merits of OPC in his article. He discovered the major benefit for the entrepreneurs is of less efforts and time required. Before this concept was introduced, minimum requirement was of two directors in private company and three in public company but now in OPC only one director can commence business. The time and effort of finding a co-director who believes

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[71] Zanwar, M. (2014). One Person Company, Under New Companies Act 2013. SAN Corporate Advisor P ltd. Retrieved on January 1, 2015 at 1:02AM. http://www.slideshare.net/ANANDGAWADE1/one-person-company-opc-under-new-companies-act-2013?qid=eb1c4b91-dfaa-41fc-8ce2-ccf3bae6d94a&v=qf1&b=&from_search=1
[72] Kumar, K. (2014). One Person Company Final. Retrieved on January 3, 2015 at 12:55 PM.
[73] Saluja, R. (2014). One Person Company. Lunawat & Co. Retrieved on January 3, 2015 at 12:25 PM.
[74] Mohan, A. (2014). Concept of One Person Company – An Analysis. Taxman's Tax Research. Retrieved on January 4, 2015 at 1:19 AM.
[75] The author does not uses his last name.
[76] Harsh. (2014). One Person Company Disadvantages in India. Easylaw.in. Retrieved on January 4, 2015 at 1:25 AM. http://www.easylaw.in/articles/one-person-company-disadvantages-india
[77] The author does not uses his last name.

and trusts in the idea and is willing to be a part of the new venture is removed which turned out to be a bliss[78].

Bhosale (2012), the author in his study concluded that the concept of One Person Company (OPC) as a tool for "evasion of tax" as the sole member and director may give funds to the company as a loan only on papers, and application of tax on such loans is different from capital invested[79]. The tax collected from the company for loans by the director is at 0%, which means it is exempted from purview of taxing.

Jain (2011), concluded in his study that OPC is such an organisation which will give an opportunity to young entrepreneurs, as there are less legal requirements for its incorporation and benefit of limited liability which will not be to the extend to his personal assets. He also stated that this concept will affect the inflow of the foreign currency[80].

Weese (2003), through her empirical study focused on the challenges which are faced by the sole director while working alone. The major drawback according to her is there is no room for discussion of ideas, no source of income on each non-working day, if he has not done the work then no one else is there to cover the work for him etc. The atmosphere for working is not created and many a time's lethargic air prevails[81].

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[78] Harsh. (2014). One Person Company Advantages in India. Easylaw.in. Retrieved on January 4, 2015 at 2:45 AM. http://www.easylaw.in/articles/one-person-company-advantages-india

[79] Bhosale, S. (2012). One Person Company: soon to be reality. LawZ. Volume: 11, No.04, Issue 128. Retrieved on January 4, 2015 at 1:36 AM. http://www.academia.edu/1254510/One_Person_Company_soon_to_be_reality

[80] Jain, A. (2011). One Person Company – A New Business Ownership Concept. Tapuriah Jain & Associates – Chartered Accountant. Retrieved on January 1, 2015 at 12:52 PM.

[81] Weese, S. (2003). In a One Person Company, The Break Room Is Always Empty. Rhyming Planet Inc. Retrieved on January 4, 2015 at 2:10 AM.

Please Turn Over

CHAPTER – 5

CONCEPT OF ONE PERSON COMPANY

CONTENTS

5.1 Definition

According to Sec. 2(62) of The Companies Act, 2013, "one person company (OPC) means a company which has only one person as a member of that company"[82]. It provides a great chance for sole entrepreneurs to enter into the corporate structure[83]. In a private company, there are minimum two director required and in public company minimum mandate of three directors are required but unlike them, one person company requires only one director[84]. One person can form only single OPC[85]. A Sec. 8 company which is a company having charitable objectives cannot be formed as an OPC[86].

OPC can be formed as a company limited by shares, limited by guarantee or unlimited in respect of liabilities[87]. But it restricted to carry out any non-banking financial investment activities[88].

[82] Company Secretary (CS) Module. (2014). One Person Company (OPC). The Institute of Company Secretaries of India. P – 6. Retrieved on January 1, 2015 at 12:46 AM. https://www.icsi.edu/Docs/Webmodules/ONE%20PERSON%20COMPANY.pdf
[83] Zanwar, M. (2014). One Person Company, Under New Companies Act 2013. SAN Corporate Advisor P ltd. P – 10 Para 4. Retrieved on January 1, 2015 at 1:02AM. http://www.slideshare.net/ANANDGAWADE1/one-person-company-opc-under-new-companies-act-2013?qid=eb1c4b91-dfaa-41fc-8ce2-ccf3bae6d94a&v=qf1&b=&from_search=1
[84] Section 149. (2014). The Companies Act 2013 (18 of 2013). Universal Law Publishing Co. Pvt. Ltd. New Delhi (India). 6th Edition. Retrieved on January 1, 2014 at 11:23 PM.
[85] Supra Note 82.
[86] One Person Company. (2014). Altacit Global. P – 9 Para 2. Retrieved on January 3, 2015 at 2:47 PM. http://www.slideshare.net/altacitglobal/one-person-company-37565314?related=3
[87] Supra Note 83.
[88] Supra Note 86.

5.2 Salient Features

1. The person forming such One Person Company (OPC) should be “a natural person being an Indian resident, living in the country for a minimum time of 182 days in the past calendar year”[89].
2. There is only one shareholder who at the same time can be the director.
3. There is no specific description for transferring of share in the act or in the rules legislated but being analogous to private companies therefore shares cannot be transferred except for the arrangement made in the Memorandum of Association (MOA)[90].
4. The company can be registered only as a private limited company[91].
5. It has to comply with the stated requirements[92]:

i. It should have a minimum amount of INR. 1, 00,000/- (Rupees One Lakh Only) as it’s paid up share capital.

ii. Prohibits any member of public to subscribe or invite deposits from them through public invitation called prospectus.

iii. Restricts the right to transfer ownership of shares from one to another except as provided in MOA.

6. According to Sec. 149 (1) (a) of The Companies Act, 2013, OPC shall have one director only.
7. A company is required to get its name registered with the Registrar of Companies (ROC) under which it shall carry out all the activities for which business is set up. Below the name of the company it has to mention in “()” one person company, as per the proviso of Sec. 12 (3) of The Companies Act, 2013[93].

5.3 Nominee

[89] Saluja, R. (2014). One Person Company. Lunawat & Co. Retrieved on January 3, 2015 at 12:25 PM.
[90] Intelligent Legal Risk Management Solution (iPleaders). (2014). National University of Judicial Science. Retrieved on January 2, 2015 at 5: 46 PM. http://startup.nujs.edu/login
[91] Company Secretary (CS) Module. (2014). One Person Company (OPC). The Institute of Company Secretaries of India. Retrieved on January 1, 2015 at 12:46 AM. https://www.icsi.edu/Docs/Webmodules/ONE%20PERSON%20COMPANY.pdf
[92] One Person Company. (2014). Altacit Global. P – 17. Retrieved on January 3, 2015 at 2:47 PM. http://www.slideshare.net/altacitglobal/one-person-company-37565314?related=3
[93] Supra Note 89.

"Sec. 3 (1) proviso discusses nominee as a person appointed by the director for taking his place in the event of his death or incompetancy of the director to enter into contracts"[94]. In Sec. 161 of The Companies Act, 2013, provision for appointment of nominee is listed.

Essentials of a nominee are[95]:

1. He must be "Indian resident, living in the country for a minimum period of 182 days".
2. He must have cross the age of 18 years[96].
3. A person can be a nominee of not more than one company.

A member of single One Person Company (OPC) can be a member of another OPC. The nominee can be a director of another OPC, but on the happening of the aforesaid event, he has to choose one of the OPC within 180 days and leave another as he can be director of only one OPC[97]. The director shall express his willingness to the person for appointment as a nominee of the company and the person will give his written consent for the same. The written consent so obtained is to be filed on form no.INC 3. Nominee can at any time withdraw his consent by giving a written notice, in such a situation another nominee has to be appointed within 15 days[98]. The notice of appointment of a new nominee to the Registrar of Companies (ROC) shall be made within 30 days of notice of withdrawal, such withdrawal and further appointment should be filed in form no. INC 4[99]. As per Rule 4 of Companies Rules, 2014, the subscriber to the memorandum should mention the name of the person appointed as nominee in form no. INC 2 filed with the ROC[100].

5.4 Incorporation of One Person Company

The following steps should be followed to incorporate an OPC:

Step 1. The sole director shall apply for Director Identification Number (DIN) and Digital Signature Certificate (DSC)[101].

a. As per Sec. 153 of The Companies Act, 2013 to obtain a DIN, an application has to be made to Central Government along with the fees prescribed. And in lines of Sec. 154 of The Companies Act, 2013 within one month of the above stated application, DIN shall be

[94] Section 3(1). (2014). The Companies Act 2013 (18 of 2013). Universal Law Publishing Co. Pvt. Ltd. New Delhi (India). 6th Edition. Retrieved on January 1, 2015 at 11:23 PM.
[95] One Person Company. (2014). Altacit Global. P – 17. Retrieved on January 3, 2015 at 2:47 PM. http://www.slideshare.net/altacitglobal/one-person-company-37565314?related=3
[96] Ibid.
[97] Intelligent Legal Risk Management Solution (iPleaders). (2014). National University of Judicial Science. Retrieved on January 2, 2015 at 5: 46 PM. http://startup.nujs.edu/login
[98] Ibid.
[99] Saluja, R. (2014). One Person Company. Lunawat & Co. Retrieved on January 3, 2015 at 12:25 PM.
[100] Supra Note 99.
[101] Supra Note 97.

allotted. The following documents for the application will be needed to be attached along with DIR 3[102] for obtaining DIN[103]:

i. Proof of the permanent residential address.
ii. Educational qualification.
iii. Identity proof.
iv. 2 passport size photos[104].
v. Verification in Form No. DIR 4[105].

b. A DSC can be acquired from Certifying Authority[106].

Step 2. In the next step the company shall choose a name for the company under which the company shall operate its activities. Form no. INC 1 is made to the registrar to check the availability and reservation of the name with requisite fees[107].

Step 3. Form no. INC 2 has to be submitted to the Registrar of Companies for applying to incorporate One Person Company (OPC) also stating the name of the nominee with requisite fees[108].

Step 4. The name in form no. INC 2 of the nominee shall be entered only after obtaining his written consent in form no. INC 3 with requisite fees[109].

Step 5. Memorandum of Association (MOA) and Article of Association (AOA) shall be submitted to the ROC. The MOA should contain the name of the nominee as stated in form no INC. 2[110].

MOA is the constitution of the company and any act going against it shall be termed as ultra vires and void-ab-initio. Sec. 5 (1) of The Companies Act, 2013 incorporates that MOA shall inscribe the last words of the company as "OPC Limited" in case of private limited one person company.

On the other hand AOA is the by-laws of the company defining the internal management of the company[111].

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[102] Chirimar, S. (2014). New E-Forms Under Companies Act, 2013. S Dhanpal & Associates. Retrieved on January 10, 2015 at 5:14 PM. http://www.sircoficai.org/downloads/cpe-materials/NEW-E-FORMS-UNDER-COMPANIES-ACT-2013-part-2.pdf
[103] Supra Note 99.
[104] Aggrawal, M. (2014). Incorporation of One Person Company (OPC). MAK Biz Advisors. Retrieved on January 10, at 6:10 PM. http://www.slideshare.net/meghaaggarwal94/incorporation-of-one-person-company-under-companies-act-2013
[105] Ibid.
[106] Nagpal, R. (2012). E-Commerce. Asian School of Cyber Laws. Retrieved on January 8, 2015 at 2:12 PM
[107] Intelligent Legal Risk Management Solution (iPleaders). (2014). National University of Judicial Science. Retrieved on January 2 2015 at 5: 46 PM. http://startup.nujs.edu/login
[108] Ibid.
[109] Ibid.
[110] Ibid.
[111] Paranjape, N. (2014). The New Company Law. Central Law Agency Allahabad. 6th Edition, PP 41 – 46. Retrieved on 2, 2015 at 1:43 PM.

Step 6. Form no. DIR 12 shall be made to the registrar comprising his details, interest in other body corporates and entities and written consent to act as a director[112].

Step 7. As per form no. INC 11, the registrar shall issue a "Certificate of Incorporation"[113].

Step 8. The director must give a declaration saying that all the above provisions and steps are complied, it has been verified by the CA (Chartered Accountant) or CS (Company Secretary) or CWA (Cost and Work Accountant) in practise in form no. INC 21[114].

Step 9. Last and final step is to get an office within 15 days of incorporation and after 30 days of incorporation shall file a form no. INC 22 for verifying it[115].

Minimum time taken to register and commence an OPC (One Person Company) is 7 – 15 days and rest depends on the relevancy of document being submitted to the Registrar of Companies (ROC)[116].

5.5 Management and Administration

The management and administration of a company is conducted through its directors and the board. The minimum requirement of director according to Sec. 149 (1) (a) of The Companies Act, 2013 is one[117]. The directors can be increased to a maximum of fifteen, and if more than fifteen directors are to be appointed then a special resolution is required to be passed[118]. The "First directors" appointment is required to be stated in the Article of Association (AOA) and in absence of such appointment then the subscriber to the Memorandum of Association (MOA) shall be deemed to be the first director[119].

The companies having one director are exempted from the compulsion of having one board of directors meeting in every six months and the difference between the two should not be anytime less than ninety days according to Sec. 173 (5) of the Act[120]. Sec. 174 states the "quorum for meeting of board" is exempted for one director company[121]. To pass a resolution in a company normally a majority is required in the general meeting but, in case of OPC if decision is taken by

[112] Intelligent Legal Risk Management Solution (iPleaders). (2014). National University of Judicial Science, West Bengal. Retrieved on January 2, 2015 at 5: 46 PM. http://startup.nujs.edu/login
[113] Ibid.
[114] Ibid.
[115] Kedia, S. (2014). The New Company Act 2013. Company Secretary (CS) Professional Program. Retrieved on January 3, 2015 at 3:43 PM.
[116] FAQ On One Person Company. (2014). Ministry of Corporate Affairs Government of India. Retrieved on January 9, 2015 at 11:23 AM. http://www.mca.gov.in/MinistryV2/OPCfaq.html
[117] One Person Company. (2014). Altacit Global. P – 10 Para 1. Retrieved on January 3, 2015 at 2:47 PM. http://www.slideshare.net/altacitglobal/one-person-company-37565314
[118] Ibid.
[119] Ibid.
[120] Mani, R. (2011). One Person Company. Bizand legis. P – 13. Retrieved on January 9, 2015 at 12:43 AM. http://www.slideshare.net/BizandLegis/opc-one-person-company
[121] Company Secretary (CS) Module. (2014). One Person Company (OPC). The Institute of Company Secretaries of India. Retrieved on January 1, 2015 at 12:46 AM. https://www.icsi.edu/Docs/Webmodules/ONE%20PERSON%20COMPANY.pdf

sole director and communicated, it is assumed that a resolution is passed[122]. The same decision should be entered in the minute book managed under Sec. 118 and, be dated and singed by the director[123].

5.6 Accounts, Financial Statement and Boards Reports

An account is a systematic chronological entry of inflow and outflow in the business[124]. Financial Statements comprises balance sheets, Profit and Loss Accounts, Ratios and Cash Flow Statement which analyses working of the business over a fixed period of time, generally for one year from 1st April to 31st March of the next year[125].

As Stated in Sec. 2 (40) proviso, "preparing a financial statement for One Person Company (OPC), may not include Cash Flow Statement"[126]. According to Sec. 134 of the Companies Act, 2013 "the sole director shall sign the financial statement and hand it over to the auditor so that he prepares report out of it"[127]. Sec. 137 of the Act sates for "within a period of 180 days before end of the financial year, an OPC should file a copy of financial statement along with the required documents with the approval of the member(s) to the Registrar of the Companies". One of the document which is to be attached is the copy of "Report of Board of Director(s)" which compiles observation and remarks by them on opinion given in Auditors Report[128].

5.7 Audit of Accounts

Audit is an analysis of the Financial Statement by qualified auditors to ascertain true position of the company for making important financial decisions, payment of taxes etc.[129].

It is mandatory to get accounts of an One Person Company (OPC) on a regular basis audited as done for a private or public company[130]. Under Sec. 139 (2) of The Companies Act, 2013, it is

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[122] Novojuris. (2014). One person company- New Concept introduced in Companies Act, 2013. P – 3. Retrieved on January 9, 2015 at 1:11 PM. http://www.slideshare.net/Novojuris/one-person-company-30306942

[123] Supra Note 117.

[124] Dalmia, P. (2010). As per the class room discussion in Shri Sathya Sai Vidhya Vihar, Indore (M.P.). An account is a systematic chronological entry of inflow and outflow in the business.

[125] Understanding Where You Stand. (2012). A Simple Guide to Your Company's Financial Statements. Illionis Small Business Development Centre. PP-3. Retrieved on January 9, 1015 at 1:30 PM. http://www.wbdc.org/Portals/0/Resources%20and%20Tools/Understanding%20Your%20Business%20Financial%20Statements.pdf

[126] Section 2(40). (2014). The Companies Act 2013 (18 of 2013). Universal Law Publishing Co. Pvt. Ltd. New Delhi (India). 6th Edition. Retrieved on January 1, 2015 at 11:23 PM.

[127] Ibid.

[128] One Person Company. (2014). Altacit Global. P – 10 Para 1. Retrieved on January 3, 2015 at 2:47 PM. http://www.slideshare.net/altacitglobal/one-person-company-37565314

[129] Dalmia, P. (2010). As per the class room discussion in Shri Sathya Sai Vidhya Vihar, Indore (M.P.). Audit is an analysis of the Financial Statement by qualified auditors to ascertain true position of the company for making important financial decisions, payment of taxes etc.

laid down that the provision of “compulsory of rotation of auditors is not applicable to OPC as it applies to listed companies and to other companies as prescribed by the central government through notification”[131].

5.8 Contract by One Person Company

Sec.193 of the Act states provisions for contract by OPC (One Person Company)[132]. As mentioned above a company can be of three types limited by shares or guarantee or unlimited[133]. As per Sub Sec. 1 of Sec. 193 “a company either limited by share or guarantee enters into a contact with the sole member being the director, the company shall, unless the contact is in writing, should make sure that the terms of the contract be entered in the Memorandum of Association (MOA) or the minute book of the first meeting after entering into the contract”[134]. If the contract made orally between the company and the sole director cum member then this provision shall not be enforced[135]. Proviso says that other companies not being an OPC do not require to comply with the above stated sub section[136]. Sub Sec. 2 states that “every such contact entered and recorded shall be intimated to the Registrar of the Companies (ROC) within a period of 15 days of approval from the board of director(s)”[137].

5.9 Conversion to Private or Public Company

Conversion can be of two ways, one if from OPC to public or private company and other is from private companies to an OPC. An OPC can be converted either compulsorily or voluntary to a private or public company.

Conversion from One person Company to public or private (pvt.) companies

Compulsory Conversion

[130] Zanwar, M. (2014). One Person Company, Under New Companies Act 2013. SAN Corporate Advisor P ltd. P – 3. Retrieved on January 1, 2015 at 1:02AM. http://www.slideshare.net/ANANDGAWADE1/one-person-company-opc-under-new-companies-act-2013?qid=eb1c4b91-dfaa-41fc-8ce2-ccf3bae6d94a&v=qf1&b=&from_search=1

[131] Ibid.

[132] Section 193. (2014). The Companies Act 2013 (18 of 2013). Universal Law Publishing Co. Pvt. Ltd. New Delhi (India). 6th Edition. Retrieved on January 1, 2015 at 11:23 PM

[133] Zanwar, M. (2014). One Person Company, Under New Companies Act 2013. SAN Corporate Advisor P ltd. P – 3. Retrieved on January 1, 2015 at 1:02AM. http://www.slideshare.net/ANANDGAWADE1/one-person-company-opc-under-new-companies-act-2013?qid=eb1c4b91-dfaa-41fc-8ce2-ccf3bae6d94a&v=qf1&b=&from_search=1

[134] Section 193 (1). (2014). The Companies Act 2013 (18 of 2013). Universal Law Publishing Co. Pvt. Ltd. New Delhi (India). 6th Edition. Retrieved on January 1, 2015 at 11:23 PM

[135] Supra Note 133.

[136] Ibid.

[137] Ibid.

Governing by Rule 6 (2) of the Companies (Incorporation) Rules, 2014, an OPC shall be compulsorily converted into private company or public company in 2 conditions[138]:

- "When the paid up capital of the company is more than or crosses INR. 50,00,000/- (Rupees Fifty Lakhs Only)" or
- "When average annual turnover of the company is exceeds than INR. 2,00,00,000/- (Rupees Two Crores Only)".

The conversion shall take place within 6 months from the day of increment of the paid up capital or the last day of the period in which the turnover exceeded. Period here means "the end of preceding three consecutive financial years"[139].

The rules state that the conversion shall be according to the Sec. 18 of The Companies Act, 2013. The number of directors, subscribers etc. should be according to the provision of private or public company, for example the number of directors shall increase to two for private company or three in case of public company from one[140]. As per Sec. 122, it is required to alter the companies Memorandum of Association (MOA) and Article of Association (AOA) as the requirement of the public or private company[141].

The Registrar of the Companies (ROC) shall be informed by an application made in form no. INC 6 declaring the condition due to which it is inclined to convert with the prescribed fees within 30 days of the end of being OPC (One Person Company)[142].Any officer of OPC or the OPC which tends to breach the provisions of compulsory conversion shall be punished with a maximum fine of INR. 10,000/- (Rupees Ten Thousand Only) and for every day of continuing violation INR. 1,000/- (Rupees One Thousand Only) after happening of the first time[143].

A fresh Certificate of incorporation will be issued by the ROC for a new structure[144].

Voluntary Conversion

An OPC willingly can apply to the ROC to convert itself to private company through an application made in form no. INC 6. No company can convert willingly before 2 years of incorporation except

[138] Gahrana, A. (2014). Conversion of Private Company into One Person Company. AishMGahrana Law Governance Responsibility. Retrieved on January 8, 2015 at 3:17 PM. http://aishmghrana.me/2014/09/23/conversion-of-private-company-into-one-person-company/
[139] Ibid.
[140] Kumar, K. (2014). One Person Company Final. PP 20 – 22. Retrieved on January 8, 2015 at 5:27 PM. http://www.slideshare.net/Saiganesh1919/one-person-company-final
[141] Company Secretary (CS) Module. (2014). One Person Company (OPC). The Institute of Company Secretaries of India. PP 16 – 18. Retrieved on January 1, 2015 at 12:46 AM. https://www.icsi.edu/Docs/Webmodules/ONE%20PERSON%20COMPANY.pdf
[142] Ibid.
[143] The Companies (Incorporation) Rules, 2014. (2014). Ministry of Corporate Affairs Government of India. Retrieved on January 8, 2015 at 5:43 PM. http://220.227.161.86/32978clcgc22720-cp2.pdf
[144] Intelligent Legal Risk Management Solution (iPleaders). (2014). National University of Judicial Science. Retrieved on January 2, 2015 at 5: 46 PM. http://startup.nujs.edu/login

for conditions specified in Rule 6 (2),[145] it will within 6 months complete the formalities and shall convert itself into other form of company as opted for. The basic requirements of a private or public company like director, capital shall be complied for converting[146].

Conversion from private companies to One Person Company: Rule 7 of The Companies (Incorporation) Rule 2014

Any private company not being company established for charitable purpose under Sec. 8 can be converted to an OPC[147]. Following points are to be remembered before conversion[148]:

1. The company should not fall for any provision for compulsory conversion of OPC (One Person Company) into other form as stated in Rule 6 (2).
2. No member or secured creditor of the company should object, and for that they are required to give a "No Objection Certificate" (NOC) for the conversion under Rule 7 (4).
3. A special resolution is to be passed by the board of directors and it shall be recorded in the minute's book.

Enlisted documents are to be submitted before the registrar of the companies (ROC) in form no. INC 6 with prescribed fees[149]:

1. The declaration by the directors in form of an affidavit that the company does not fall under the conditions prescribed for compulsory conversion in the Rule 6 (2) of The Companies (Incorporation) Rules, 2014.
2. The NOC of members and creditors and the list of their full name.
3. The audited financial statements.
4. Special resolution in form no. MGT[150] – 14 under Rule 7 (3).

On being convinced, a fresh Certificate of Incorporation will be issued by the Registrar of the Companies (ROC).

5.10 Winding up

An OPC shall be wound up similarly as of private and public companies are done. The liquidator shall also be appointed for facilitating the procedure. The liability of the Director and the sole

[145] Supra Note 141.
[146] Zanwar, M. (2014). One Person Company, Under New Companies Act 2013. SAN Corporate Advisor P ltd. Retrieved on January 1, 2015 at 1:02AM. http://www.slideshare.net/ANANDGAWADE1/one-person-company-opc-under-new-companies-act-2013?qid=eb1c4b91-dfaa-41fc-8ce2-ccf3bae6d94a&v=qf1&b=&from_search=1
[147] Intelligent Legal Risk Management Solution (iPleaders). (2014). National University of Judicial Science. Retrieved on January 2, 2015 at 5: 46 PM. http://startup.nujs.edu/login
[148] Supra Note 143.
[149] Ibid.
[150] Management and Administration.

member of the OPC shall be limited up to the extent of its capital contribution in the company and not beyond it[151].

[151] The Companies (Incorporation) Rules, 2014. (2014). Ministry of Corporate Affairs Government of India. Retrieved on January 8, 2015 at 5:43 PM. http://220.227.161.86/32978clcgc22720-cp2.pdf

CHAPTER – 6

ANALYSIS OF ONE PERSON COMPANY IN INDIA

CONTENTS

6.1 Analysis of One Person Company with Relation to Sole Proprietorship and Joint Stock Company

One Person Company (OPC) is an outcome of unique and best features of Sole proprietorship and Joint Stock Company (JSC). They share various similarities in different spheres, be it legal compliances or management. The JSC and OPC are legally bound to get themselves registered with the Registrar of Companies (ROC) along with Memorandum of Association (MOA) and Article of Association (AOA)[152]. Both have same guidelines for taxation policy no matter how much the profit is[153]. Another common feature that both enjoy is having separate legal status in the eyes of law and not getting affected with the incapacity or death of the director(s) or member(s)[154].

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[152] Naiyyar, S. (2014). OPC under The New Companies Act. P – 13. Retrieved on January 7, 2015 at 2: 32 PM. http://www.slideshare.net/sameernaiyyar/one-person-company-40240528

[153] Harsh. (2014). One Person Company Disadvantages in India. Easylaw.in. Retrieved on January 4, 2015 at 1:25 AM. http://www.easylaw.in/articles/one-person-company-disadvantages-india

[154] Supra Note 152.

The concept of separate legal identity in Single Member Company was firstly defined in a leading case of Salomon v. A. Salomon & Co.[155] in UK. In this case Salomon and his 7 (Seven) family member consisting himself, a wife and five sons invested in a company of manufacturing shoes. In which he contributed £ 20,000/- (Pounds Twenty Thousand Only) as share capital, each share valuing £ 1/- (Pound One Only) and debentures worth £ 10,000/- (Pounds Ten Thousand Only). Later the company ran into losses and was decided to windup. In the course of winding up only £ 6,000/- (Pounds Six Thousand Only) were recovered out of assets. The liquidator revoked the first claim of Salomon, being the only debenture holder, considering him as a representative of company and responsible for companies down fall. There were majorly two points raised in this case:

1. Can the family members in a company be the main 7 members of private limited company?
2. Can the debenture holder be the share holder at the same time?

To this the House of Lords replied to all the questions in an affirmative answer. The conclusion drawn from this case by the House of Lord was that company is a separate legal entity from its members directing its way. They shall be considered different from the company[156].

Hence the hypothesis no. 3 "The One Person Company (OPC) having only one director has a separate legal identity from the company" is verified.

The key attraction of JSC is limited liability which is successfully incorporated in OPC[157]. This led to the major reason behind its popularity. Though being so similar, they are inconsistent on a main parameter which is number of directors. According to The Companies Act, 2013, Sec. 149 commands a minimum requisite of three directors in public company and two in private company whereas only one director is prescribed for One Person Company (OPC)[158].

The only feature and USP of sole proprietorship which is shared with OPC is that the whole control is vested in a single person being the director[159]. Apart from this on following ground they differentiate:

- Sole proprietorship is not bound to get itself registered and can freely conduct its activities without registration, on the contrary it is mandatory for OPC to get registered without which it cannot function or perform its activities[160].

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[155] Paranjape, N. (2014). The New Company Law. Central Law Agency Allahabad. 6th Edition, PP 41 – 46. Retrieved on 2, 2015 at 1:43 PM.
[156] Ibid.
[157] Naiyyar, S. (2014). OPC under The New Companies Act. P – 13. Retrieved on January 7, 2015 at 2: 32 PM. http://www.slideshare.net/sameernaiyyar/one-person-company-40240528
[158] Section 149. (2014). The Companies Act 2013 (18 of 2013). Universal Law Publishing Co. Pvt. Ltd. New Delhi (India). 6th Edition. Retrieved on January 1, 2015 at 11:23 PM
[159] Supra Note 157.

- In the event of winding up, the sole proprietor is liable to the extent of his personal assets to fulfil the debts as it does not have a separate identity in respect to the company, but in One Person Company (OPC) the director is liable to contribute only to the extent of his share contributed in the company[161].
- On the event of death of the sole director cum member of OPC, the ownership gets transferred in the person named as nominee by the director, but this provision is not applicable for sole proprietorship[162].
- Other ground on which OPC and sole proprietorship can be differentiated is that both the structures have different provisions for taxation and legal requirements to comply with for incorporation[163].

After several years of observing the shortcomings of Joint Stock Company (JSC) and sole proprietorship ,the new concept of OPC was introduced having the best features of both the entities for giving entrepreneurs liberty to try their hands in business[164].

6.2 Need of One Person Company

OPC is a result of years of study and observations of its performance in other countries[165]. It was earlier felt by the law makers that having OPC would be a duplication to the concept of sole proprietorship[166]. But later seeing great reflection of this concept in the other countries development and in economy, India was forced to introduce this concept. Committee was formed in 2005 headed by Dr. J.J. Irani which stated the need to establish the company[167]. They suggested that "revolution in Information Technology (IT) sector has brought evident growth and to cope with this there is a need to bring revolution in the economic diameter of the country. For the development in the economy individual participation is essential. Finally to enhance this participation a new structure of OPC was devised"[168].

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160 Intelligent Legal Risk Management Solution (iPleaders). (2014). National University of Judicial Science. Retrieved on January 2, 2015 at 5: 46 PM. http://startup.nujs.edu/login
161 Ibid.
162 Ibid.
163 Ibid.
164 Naiyyar, S. (2014). OPC under The New Companies Act. P – 7. Retrieved on January 7, 2015 at 2: 32 PM. http://www.slideshare.net/sameernaiyyar/one-person-company-40240528
165 Bag, A. (2014). One Person Company – A New Age Concept. Sheroes. Retrieved on January 6, 2015 at 7:19 PM. http://sheroes.in/articles/one-person-company-a-new-age-concept/NTIy
166 Jain, A. (2011). One Person Company – A New Business Ownership Concept. Tapuriah Jain & Associates – Chartered Accountant. Retrieved on January 1, 2015 at 12:52 PM. http://www.tjaindia.com/articles/onepersoncompany.pdf
167 Supra Note 164.
168 Company Secretary (CS) Module. (2014). One Person Company (OPC). The Institute of Company Secretaries of India. PP 2 – 3. Retrieved on January 1, 2015 at 12:46 AM. https://www.icsi.edu/Docs/Webmodules/ONE%20PERSON%20COMPANY.pdf

One Person Company (OPC) was created with an objective to convert unsystematised business sectors to systematised business sector[169]. Precisely speaking the aim was to put in order the private sector out of any supervision[170]. It was projected that this structure would be of great benefits to the small entrepreneurs for example potters, artisan's etc.[171]. This concept gave Indian corporate law international footing.

6.3 Which Type of Business Should Prefer One Person Company

A person who finds himself in the following circumstances should opt for OPC:

- A small scale industry or a manufacturing unit which strives for legal recognition, which being in sole proprietorship is impossible. OPC gives an opportunity to them for getting a legal recognition and to expand as the liability incurred by the proprietors will not fear them of bankruptcy on the event of inability to repay the financial debts[172].
- The small entrepreneurs who doesn't hold a good credit worthiness in the eyes of the creditors in the market upfront can take financial help from the same in an One Person Company (OPC), as it has a separate legal identity from the subscribers ,directors, members of the company[173] and their personal credit status does not marks for an OPC.
- If a person is confident and self-assured that he has the required knowledge of different aspects of a business be it legal, financial, social, technical etc. and is competent enough to cater all the needs of the business then he can form an OPC all by himself[174].
- If a person desirous of carrying certain business activity is not able to convince another person to either subscribe to the memorandum and invest in the capital of the company, or to devote his time in the decision making process, or in the functioning of the company then he can go for forming one person company by being a sole director or member. Sole ownership also gives benefit of quick and prompt decision making as there is no mandate of taking suggestions or consulting any other members[175]. A person can opt for such an option when he has a unique idea which is not accepted and welcomed by others.

[169] Zanwar, M. (2014). One Person Company, Under New Companies Act 2013. SAN Corporate Advisor P ltd. P – 10 Para 4. Retrieved on January 1, 2015 at 1:02AM. http://www.slideshare.net/ANANDGAWADE1/one-person-company-opc-under-new-companies-act-2013?qid=eb1c4b91-dfaa-41fc-8ce2-ccf3bae6d94a&v=qf1&b=&from_search=1

[170] Bag, A. (2014). One Person Company – A New Age Concept. Sheroes. Retrieved on January 6, 2015 at 7:19 PM. http://sheroes.in/articles/one-person-company-a-new-age-concept/NTIy

[171] Zanwar, M. (2014). One Person Company, Under New Companies Act 2013. SAN Corporate Advisor P ltd. P – 10 Para 4. Retrieved on January 1, 2015 at 1:02AM. http://www.slideshare.net/ANANDGAWADE1/one-person-company-opc-under-new-companies-act-2013?qid=eb1c4b91-dfaa-41fc-8ce2-ccf3bae6d94a&v=qf1&b=&from_search=1

[172] Supra Note 170.

[173] Mehra, P. (2014). 10 reasons why start-ups should choose One Person Company (OPC) as their form of business. Quick Company Register A Company Online. Retrieved on January 6, 2015 at 7:34 PM. http://www.quickcompany.in/advice/10-reasons-why-start-ups-should-choose-one-person-company-opc-as-their-form-of-business

[174] Supra Note 170.

[175] Supra Note 173.

- The entrepreneurs who feel that their venture is viable and profit earning but only for a limited time period for example, manufacturing of certain type of electronic good which has high chances of getting outdated with time, should opt for One Person Company (OPC). The benefit is of less legal compliances as compared to Joint Stock Company (JSC) [176], limited liability, higher chances of getting credit when the entrepreneurs himself is not sound for availing credit from available sources.

Thus small entrepreneurs being artisans, weavers, potters etc. can enjoys status, trust and privileges offered to JSC by opting for an OPC.

6.4 Comparison with Other Countries

6.4.i America

In America, many of the states give the permission to carry on a business activity by forming and functioning as a limited liability company by a single member[177]. The tax calculated shall be on the net earnings of an individual carrying a limited liability company, same as are applicable to a sole proprietor[178].

Unlike America which permits forming single member company to only few states, India has the provision for forming such a company by a single individual in all over the country. Another point of distinction is that the taxation of an OPC is done as of a private company and not as done in sole proprietorship.

6.4.ii England

United Kingdom (UK) was the first country who formally introduced the structure of single member company. It adopted a simplified and easy procedure for the formation of single member company in UK Companies Act, 2006 and The Companies (Single Member) Private Limited Companies Regulation, 1992. Before the enactment of UK Companies Act, 2006, for the formation of a single member company only private limited companies were considered appropriate and suitable. But after the enactment of this act, both private and public companies can form a single member company. Besides this division of public and private companies, there are bifurcation on ground of liability, which is limited and unlimited liability[179].

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[176] Bag, A. (2014). One Person Company – A New Age Concept. Sheroes. Retrieved on January 6, 2015 at 7:19 PM. http://sheroes.in/articles/one-person-company-a-new-age-concept/NTIy

[177] Mani, R. (2011). One Person Company. Bizand legis. P – 7 Para 4Retrieved on January 9, 2015 at 12:43 AM. http://www.slideshare.net/BizandLegis/opc-one-person-company

[178] Single Member Limited Liability Companies. (2014). Small Business & Self-Employed. International Revenue Service. Retrieved on January 9, 2015 at 1:13 PM. http://www.irs.gov/Businesses/Small-Businesses-&-Self-Employed/Single-Member-Limited-Liability-Companies

[179] Katinka, B. (2010). Concept Of Single Member Companies In The Light Of Eu Harmonization – A Comparative Analysis Of Serbis, Germany, United Kingdom. Central European University, Hungary. PP 54 – 58. Retrieved on January 9, 2015 at 1:16 AM. file:///C:/Users/Ishita/Downloads/beretka_katinka.pdf

The first case was Salomon v. A. Salomon & Co. discussing the concept of single member company in detail[180].

According to Sec. 7 - 13 of the UK Companies Act, 2006, a person can form a single member company by subscribing its name in the Memorandum of Association (MOA) and abiding the provision of the act relating to registration. It also provides that such a company shall not be formed for an unlawful objective[181].

Unlike the UK companies act 2006, which provides for both public and private companies to be formed as a single member company, the Indian law provides for only private companies to be forms and incorporated as OPC.

6.4.iii China

China provides for the formation of single member company. It gives the authority to a single person to start up a business by forming a limited liability company by having a minimum paid up capital of 1,00,000 yuan (Yuan One Lakh Only)[182].

The amended law of China, provides for the formation of only one One Person Company (OPC) by a single member, it states that "the member shall pay the investment amount once and if he has done so he will not be able to open another company of such a kind".

The law governing one person company of India is quite similar to that of china, as both the countries have same provisions regarding the capital requirement and limitation on one person forming such a company.

6.4.iv Pakistan

The law of Pakistan provides for the operation and formation of a single member company by registering itself with registrar. At the time of incorporation of a single member company the individual is required to file a nomination form, in the prescribed format and nominate at least two individuals to act as nominee directors and individual directors[183].

This provision for Pakistan is a bit different when compared with the Indian's, which provides for filing the nomination form by nominating only a single person to act as nominee in the event of death or incapacity of the sole director.

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[180] Paranjape, N. (2014). The New Company Law. Central Law Agency Allahabad. 6th Edition, PP 41 – 46. Retrieved on 2, 2015 at 1:43 PM

[181] Company Secretary (CS) Module. (2014). One Person Company (OPC). The Institute of Company Secretaries of India. Retrieved on January 1, 2015 at 12:46 AM. https://www.icsi.edu/Docs/Webmodules/ONE%20PERSON%20COMPANY.pdf

[182] Bhosale, S. (2012). One Person Company: soon to be reality. LawZ. Volume: 11, No.04, Issue 128. Retrieved on January 4. 2015 at 1:36 AM. http://www.academia.edu/1254510/One_Person_Company_soon_to_be_reality

[183] Ibid

6.5 Attractions

One Person Company (OPC) offer following temptation to choose it as a business organisational structure:

1. The key attraction of OPC is its liability policy, which is the limited only to the extent of capital contribution unlike to the sole proprietorship. In sole proprietorship liability has no limit, it can be satisfied even by selling his/hers personal assets[184].
2. It offers free hand to the sole director to work according to his wish[185] without pressure of sailing other members off to the shore along with him.
3. Can start even with one director unlike the minimum mandate of having two directors in a private company or three in public company. This leads to less consumption of time and effort to find another person as co-director and make him believe in the idea of venture for investment[186].
4. OPC offers less legal compliances as compared to Joint Stock Company (JSC). Its Article of Association (AOA) is a non-bulky and a simple document having details of only and sole member. Less documents are to be submitted with Registrar of Companies (ROC) as compared to JSC, this makes it easy in establishing and getting the status of company[187].
5. Contrary to JSC, in line with proviso of Sec. 40 "an OPC is not required to prepare cash flow statement and include it in financial statement for audit". It is also not required to observe the provision of "rotation of auditors" as stated in Sec. 139 (4)[188].
6. According to Sec. 122 of the Companies Act, 2013, an OPC is not required to comply with the provisions of meetings, quorum of meeting, voting's etc. as there is a single member in the company therein mentioned in Sec. 98 and Sec. 100 to Sec. 111 of the Act. This notion creates relaxation of compliances and ease in functioning of the company[189].
7. The company and the director have separate legal existence and recognition. On the death or incapacity of the sole director the company does not shut down or stands incapable of

[184] Harsh. (2014). One Person Company Advantages in India. Easylaw.in. Retrieved on January 4, 2015 at 2:45 AM. http://www.easylaw.in/articles/one-person-company-advantages-india

[185] Mehra, P. (2014). 10 reasons why start-ups should choose One Person Company (OPC) as their form of business. Quick Company Register A Company Online. Retrieved on January 6, 2015 at 7:34 PM. http://www.quickcompany.in/advice/10-reasons-why-start-ups-should-choose-one-person-company-opc-as-their-form-of-business

[186] Supra Note 184.

[187] Ibid.

[188] Company Secretary (CS) Module. (2014). One Person Company (OPC). The Institute of Company Secretaries of India. P – 8 Para 5. Retrieved on January 1, 2015 at 12:46 AM. https://www.icsi.edu/Docs/Webmodules/ONE%20PERSON%20COMPANY.pdf

[189] Zanwar, M. (2014). One Person Company, Under New Companies Act 2013. SAN Corporate Advisor P ltd. P – 9. Retrieved on January 1, 2015 at 1:02AM. http://www.slideshare.net/ANANDGAWADE1/one-person-company-opc-under-new-companies-act-2013?qid=eb1c4b91-dfaa-41fc-8ce2-ccf3bae6d94a&v=qf1&b=&from_search=1

working. It exist with the same image as earlier it possessed. This feature is called perpetual succession[190].

8. While investing in an One Person Company (OPC) people are positive towards the provision of compulsory conversion. They feel that sometime in near future the OPC has strong chances to get itself converted into private or public company, either voluntarily or compulsorily and this would make their investment safer. Being a private or public company, the chances of repayment is high due to the number of share-holders in it. It also gives them a hope that on conversion the company will expand, not only in respect to the numbers of members but most importantly in sphere of business[191].
9. Foreign large companies having subsidiary companies in different countries, willing to establish one in India can do so by just having one director unlike before to meet a least number of two directors[192]. They have to affix "India" in the end of the company's name[193]. The ease in formation will attract large foreign companies to come and invest in India, this will also bring lots of foreign capital to the country[194].
10. Everyone wishes to save his income or profit from tax. This can be done legally in OPC)\. When a sole member cum director gives loan to the company, it is deductible in profit, which results in less calculated tax liability[195].
11. The main purpose for incorporating this attribute in the act was benefit to small industrialists and to bring them into a planned and control sector. This will show a positive reflection in the development of the country[196].

[190] Bhosale, S. (2012). One Person Company: soon to be reality. LawZ. Volume: 11, No.04, Issue 128. Retrieved on January 4. 2015 at 1:36 AM. http://www.academia.edu/1254510/One_Person_Company_soon_to_be_reality
[191] Bag, A. (2014). One Person Company – A New Age Concept. Sheroes. Retrieved on January 6, 2015 at 7:19 PM. http://sheroes.in/articles/one-person-company-a-new-age-concept/NTIy
[192] Ibid.
[193] Dani, R. (2014). One Person Company – Legal Provisions & Brief Comparison. Taxguru.in. Retrieved on January 4, 2015 at 2:27 PM. http://taxguru.in/company-law/person-company-legal-provisions-comparison.html
[194] Jain, A. (2011). One Person Company – A New Business Ownership Concept. Tapuriah Jain & Associates – Chartered Accountant. Retrieved on January 1, 2015 at 12:52 PM.
[195] Mehra, P. (2014). 10 reasons why start-ups should choose One Person Company (OPC) as their form of business. Quick Company Register A Company Online. Retrieved on January 6, 2015 at 7:34 PM. http://www.quickcompany.in/advice/10-reasons-why-start-ups-should-choose-one-person-company-opc-as-their-form-of-business
[196] Zanwar, M. (2014). One Person Company, Under New Companies Act 2013. SAN Corporate Advisor P ltd. P – 10 Para 4. Retrieved on January 1, 2015 at 1:02AM. http://www.slideshare.net/ANANDGAWADE1/one-person-company-opc-under-new-companies-act-2013?qid=eb1c4b91-dfaa-41fc-8ce2-ccf3bae6d94a&v=qf1&b=&from_search=1

6.6 Does it Really Benefit Small Entrepreneurs?

The question "Does it really benefits the small entrepreneurs?" is a mark on the very existence of the One Person Company (OPC), as it is the core purpose of compiling and incorporating in the Act. This question has the power of leaving the benefit offered aimless if it doesn't stands strong in all circumstances.

Unfortunately there are certain state of affairs where its purpose is defeated. Some of them encountered are as follows:

6.6.i Limited Benefit To A Particular Class

A small entrepreneur who is young and does not poses any previous experience, wishes to start a business having well defined structure of OPC with a brilliant and innovative idea faces lots of problem. Being the sole member i.e. investor he first faces problem of capital accumulation and to overcome this he can only raise funds through loans. Any money lenders, be it private or banks before granting a loan checks the credit accountability and repayment sources of the company. Existence of the fact that he/she is a first timer, accountability is not a major issue, but repayment source is. Except the idea, the company does not usually possesses any asset to present for security and as a guarantee for repayment. He has only one option in this scenario is to take loans for specific purposes like for purchasing machinery, land etc., but to this also biggest speed breaker is the down payment. If some – how company manages to arrange for down payment, again the problem is of instalments with high interest rates. To this breathe of relief is limited liability, but this feature cannot be wrongly taken as tool to evade from liabilities incurred. Because if done then it will crash the money market at once.

On the other hand big or established entrepreneurs who already possesses an experience of conducting their business does not encounters such difficulty in arranging capital for their venture. They have means to arrange for credit themselves and apart from that they can partially or fully finance it from their past earnings.

Being ahead in experience they have knowledge of carrying business in such a manner to earn profit in a quick and righteous manner while the small entrepreneurs might take time in doing so. Use of such tried techniques by the established and big entrepreneurs will lead them to quick success on the contrary, the new ones will try, test innovate and analyse each techniques and methods.

From the above stated analysis it is clear that the benefit is limited to only a section of people that is big and establish entrepreneurs and not well scattered to all classes and especially to young and small entrepreneurs.

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Hence hypothesis no. 5 "Limited benefit of concept of OPC to a particular class of entrepreneurs i.e. rich and experienced" is verified."

6.ii Taxation Policy Bliss or Curse

Tax is the amount of profit or income given to the government or any other authorised agency in return of the infrastructure provided by them. Tax is the income of the government which is used by the state to develop the country, pay salaries to the government officials etc. It is compulsory to pay tax by all eligible person and non-payers are severally punished according to the concerned taxing law[197].

The Companies Act, 2013 or Rules or any other taxing laws do not prescribe taxing of One Person Company's (OPC), therefore it is considered as a private company but just for taxing purpose. According to taxing laws enacted in India, Indian companies are taxed on a rate of 30% of the net profit and surcharge is also added[198].

Where a company shows less than 18.5% tax amount of the profit in its books of account, a tax called Minimum Alteration Tax (MAT) is applied. In such a situation the tax charged shall be at a flat rate of 18.5 % of the profits disregarding the surcharge as per revised rates in 2014[199].

Dividend Distribution Tax (DDT) is the tax that is applied to the distribution of dividend to the debenture holder. The dividend which is given in the hands of the holders is tax free, as the company pays it on behalf of them. At present for the year of 2014-15 is 16.995%[200].

Foreign companies are taxed at a rate of 40% of the profit earned[201]. This rate makes the foreign companies rethink of their decision of incorporating a subsidiary company in India.

On the contrary, taxing policy in sole proprietorship concern is at better and profitable position as compared to the OPC. Sole proprietorship concerns are taxed on basis of the slabs of profit earned from 10% to 30%. Besides taxing on the basis of profit, even the age of the entrepreneur is a factor for deciding the rate. Minimum profit for taxing is INR. 2, 50,001/- (Rupees Two Lakh, Fifty Thousand and One Only). All these factors are absent in taxing of an OPC structure which is also a discouragement to the small entrepreneurs[202].

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197 Direct and Indirect Taxes. (2011). Statistical Year Book. Ministry of Statistics and Programme Implementation. Retrieved on January 3, 2015 at 3:43 PM. http://mospi.nic.in/Mospi_New/upload/statistical_year_book_2011/SECTOR-1-INDIA%20AN%20OVERVIEW/CH-06-DIRECT%20&%20INDIRECT%20TAXES/DIRECT-INDIRECT%20TAX-WRITEUP.pdf

198 Intelligent Legal Risk Management Solution (iPleaders). (2014). National University of Judicial Science. Retrieved on January 2, 2015 at 5: 46 PM. http://startup.nujs.edu/login

199 Ibid.

200 Ibid.

201 Ibid.

202 Kanoi, S. (2014). Income Tax Rate Chart / Slab for AY 2015-16 / FY 2014-15. Taxguru.in. Retrieved on January 4, 2015 at 3: 11 PM. http://taxguru.in/income-tax/income-tax-rate-chart-assessment-year-201516-financial-year-201415.html

All these taxes makes the option of One OPC an undesirous option because of a simple reason that, what is earned is largely been taken by the government in form of different taxes. What is left after paying off taxes is insufficient to discharge its credit liabilities, payment for stocks etc. Any person who indulges itself in business is primarily for one reason, which is for earning profit and fulfilling of its needs. But a huge amount of taxes block these profits. There are very few situations that the money is left for the sole director cum sole member to utilize that money for business development and expansion.

OPC was made to promote small entrepreneurs like artisans, weavers, potters etc. to organise them into corporate domain and develop. But the taxing policy makes it very tough for these people to enter into the framework as they are largely uneducated to understand the policy and evaluate the viability in their venture. Taxing policy is major drawback and is widely criticised by the scholars[203].

Hence hypothesis no. 1 "A one person company does not aim at relaxing taxation policy which is stumble for opting this as a structure" is verified.

6.6.iii Cost

A company is required to get itself registered compulsorily[204]. For registration there are various forms which are required to be presented before Registrar of Companies (ROC) with prescribed fees. If e-forms are submitted then online payments are to be made in the account of ROC. The fee charged is called as the incorporation cost. This cost is not recurring in nature, it is one time cost. The fees charged are stated in "The Companies (Registration offices and fees) Rules, 2014"[205]. The following fees is required for e-forms:

Forms	Purposes	Fees prescribed for
INC 1	Reservation of name	INR. 1,000/- (Rupees One Thousand Only)[206].
INC 2 (In Case of Having Share-Capital)	Incorporation	Depends on the authorised share capital of the company. It ranges from INR. 200/-

[203] Harsh. (2014). One Person Company Disadvantages in India. Easylaw.in. Retrieved on January 4, 2015 at 1:25 AM. http://www.easylaw.in/articles/one-person-company-disadvantages-india

[204] Company Secretary (CS) Module. (2014). One Person Company (OPC). The Institute of Company Secretaries of India. Retrieved on January 1, 2015 at 12:46 AM. https://www.icsi.edu/Docs/Webmodules/ONE%20PERSON%20COMPANY.pdf

[205] Chapter VI-The Companies (Registration of Charge) Rule, 2014 Government of India Ministry of Corporate Affairs Notification. (2014). Companies Act 2013 –The Companies (Registration of Charge) Rule, 2014. Taxguru.in. Retrieved on January 4, 2015 at 4:00 PM. http://taxguru.in/company-law/companies-act-2013-companies-registration-charges-rules-2014.html

[206] Chirimar, S. (2014). New E-Forms Under Companies Act, 2013. S Dhanpal & Associates. Retrieved on January 10, 2015 at 5:14 PM. http://www.sircoficai.org/downloads/cpe-materials/NEW-E-FORMS-UNDER-COMPANIES-ACT-2013-part-2.pdf

		(Rupees Two Hundred Only) – INR. 500/- (Rupees Five Hundred Only)[207].
INC 2 a. MOA	Incorporation	INR. 2,000/- (Rupees Two Thousand Only) where share capital is below INR.10,00,000/- (Rupees Ten Lakhs Only). INR. 2,000/- (Rupees Two Thousand Only) + INR. 200/- (Rupees Two Hundred Only) for every INR. 10,000/- (Rupees Ten Thousand Only) after first INR.10,00,000/- (Rupees Ten Lakh Only) till INR. 50,00,000/- (Rupees Fifty Lakh Only)[208].
INC 2 b. AOA	Incorporation	Depends on the authorised share capital of the company. It ranges from INR. 200/- (Rupees Two Hundred Only) – INR. 500/- (Rupees Five Hundred Only)[209].
INC 4	Changes regarding name of nominee	Depends on the authorised share capital of the company. It ranges from INR. 200/- (Rupees Two Hundred Only) –

[207] Instruction Kit for eForm INC-2. (2014). Ministry of Corporate Affairs Government of India. Retrieved on January 4, 2015 at 4:13 PM. http://www.mca.gov.in/MCA21/dca/help/instructionkit/NCA/Form_INC-2_help.pdf
[208] Annexure Table of Fees pursuant to rule 12 of the Companies (Registration of Offices and Fees) Rules, 2014. (2014). Ministry of Corporate Affairs. Retrieved on January 4, 2015 at 4:03 PM. http://www.mca.gov.in/Ministry/pdf/Fee_Schedule.pdf
[209] Instruction Kit for eForm INC-2. (2014). Ministry of Corporate Affairs Government of India. Retrieved on January 4, 2015 at 4:13 PM. http://www.mca.gov.in/MCA21/dca/help/instructionkit/NCA/Form_INC-2_help.pdf

		INR. 600/- (Rupees Six Hundred Only)[210]. Penalty is also charged on day basis for delay made which varies from 2 times to 12 times of normal fees[211].
INC 21	Declaration by the member	Depends on the authorised share capital of the company. It ranges from INR. 200/- (Rupees Two Hundred Only) – INR. 600/- (Rupees Six Hundred Only)[212]. Penalty is also charged on day basis for delay made which varies from 2 times to 12 times of normal fees[213].
INC 22	Notice regarding registered office	Depends on the authorised capital of the company. It ranges from INR. 200/- (Rupees Two Hundred Only) – INR. 600/- (Rupees Six Hundred Only)[214].
DIR 12	Appointment of director (s) and their role in the company.	Depends on the authorised capital of the company. It ranges from INR. 200/- (Rupees Two Hundred Only) –

[210] Instruction Kit for eForm INC-4(One Person Company - Change in Member/ Nominee). (2014). Ministry of Corporate Affairs. Retrieved on January 4, 2015 at 4:26 PM. http://www.mca.gov.in/MCA21/dca/help/instructionkit/NCA/Form_INC-4_help.pdf
[211] Ibid
[212] Instruction Kit for INC-21(Application for Declaration prior to the commencement of business or exercising borrowing powers). (2014). Ministry of Corporate Affairs. Retrieved on January 4, 2015 at 4:21 PM. http://www.mca.gov.in/MCA21/dca/help/instructionkit/NCA/Form_INC-21_help.pdf
[213] Ibid
[214] Chirimar, S. (2014). New E-Forms Under Companies Act, 2013. S Dhanpal & Associates. Retrieved on January 10, 2015 at 5:14 PM. http://www.sircoficai.org/downloads/cpe-materials/NEW-E-FORMS-UNDER-COMPANIES-ACT-2013-part-2.pdf

		INR. 600/- (Rupees Six Hundred Only)[215].
DIR 3	Application for allotment of DIN	INR. 500/- (Rupees Five Hundred Only)[216].

The above stated cost is the bare cost for the forms, it does not include the cost for creating them. These documents are usually prepared by or under supervision of CA (Chartered Accountant), CS (Company Secretary), CWA (Cost and Work Accountant) or a lawyer[217]. These people in today’s world charge heavily for their input. The charges paid regarding the forms may not be a burden to the sole member, but the fees charged by the professionals are very high[218]. Many of them charge in 5 digit per hour and if they draft all these documents then their fees can easily cost more than INR.50,000/- (Rupees Fifty Thousand Only), which is half the minimum requirement of share capital.

Hence the hypothesis no. 2 “The incorporation cost of One Person Company (OPC) is high due to government charges, appointment of CA (Chartered Accountant) or CS (Company Secretary)” is verified.

Apart from the charges paid by the One Person Company (OPC) at the time of incorporation which is paid once only, there are charges which a company has to pay every year. These charges are called as recurring charges. Every special resolution passed by the company should be presented before the Registrar of Companies (ROC) in form no. MGT[219] 14. The form is to be accompanied with the stipulated fees. Fees depends on the share capital of the company and varies from INR. 200/- (Rupees Two Hundred Only) to INR. 600/- (Rupees Six Hundred Only)[220].

All the costs including incorporation cost, fess to professionals and recurring makes the option of One Person Company an expensive affair which is not viable for small entrepreneurs like artisans, potters, weavers, etc. to invest all at one time just to get the status of company. On the contrary sole proprietorship organisation can be formed without being registered[221]. There is an available alternative arrangement to OPC that is sole proprietorship without spending a penny.

215 Ibid.
216 Ibid.
217 Intelligent Legal Risk Management Solution (iPleaders). (2014). National University of Judicial Science. Retrieved on January 2, 2015 at 5: 46 PM. http://startup.nujs.edu/login
218 Harsh. (2014). One Person Company Disadvantages in India. Easylaw.in. Retrieved on January 4, 2015 at 1:25 AM. http://www.easylaw.in/articles/one-person-company-disadvantages-india
219 Management and Administration.
220 Chirimar, S. (2014). New E-Forms Under Companies Act, 2013. S Dhanpal & Associates. Retrieved on January 10, 2015 at 5:14 PM. http://www.sircoficai.org/downloads/cpe-materials/NEW-E-FORMS-UNDER-COMPANIES-ACT-2013-part-2.pdf
221 Supra Note 218.

6.7 Lacks Working Environment

Directors in the company are responsible for the decisions made in the company. These decisions decide the fate and gives direction to the company. For making correct choices for the company a director should be unconditionally expert of all the subjects be it production, marketing, accounts, etc. to supervise all the employees and bring a change or innovation in it. It is believed that a person can be "jack of all trades but master of none". This phrase means a person can have knowledge of all the streams, in our case be it production, manufacturing, etc. but he cannot have detailed knowledge or expertise of all these fields. From this it can be inferred that the director cannot be proficient in all the fields for prompt and accurate decisions. This may hamper the decision making process of the company. On the other hand if a company has more than one director, the decisions can be more apt and accurate.

More director develops a feeling of completion amongst them which is normal and human nature[222]. It has been observed in our lives also, that competition always brings best out of a person. In a company only with one director suffers from the lack of advantages offered by competition as there is no co-director to give the sole-director a competition and bring out best out of him. This form makes the sole director lethargic and reduces creativity[223].

A person controlling and playing all the roles in a company can work from home only. Working not in the office does not defines the ground rules and system of working. An environment of working can be felt only in office not at home or any place else as there are different deviations and attractions. These deviations does not helps a person to concentrate on the work[224].

When the sole director is not at work due to his ill health or any other reason, then there is no one who can take his place officially. The decision to be taken remains pending till he comes and is in state of mind to take decision[225].

Where a single person takes decision, his mental state at that time plays a key role. If he is not in a good mood due to any reason then his decisions will also affect. This can be only avoided by having more than one person in such a position in the company to take decision as they can discuss about it and come to a sound choice.

Where a company having more than one share, can distribute these shares to the employees in lieu of their work done, this is called as Employee Stock Option (ESO). This distribution of shares gives the employees a feeling that they are also a part of the company and whatever work

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[222] Chellew, M., & Gillespie, A. (2009). Cooperation in humans: competition between groups and proximate emotions. Elsevier. Retrieved on 5, 2015 at 11:24 AM. http://www.zoo.ox.ac.uk/group/west/pdf/Burton-Chellew_etal_10.pdf
[223] Weese, S. (2003). In An One Person Company, The Break Room Is Always Empty. Rhyming Planet Inc. Retrieved on January 4, 2015 at 2:10 AM.
[224] Ibid.
[225] Ibid.

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they will do will in turn benefit them only. This felling of ownership will boost their performances. But because of having only one member in the One Person Company (OPC), it cannot exercise this option[226].

The demerits of not having a working environment in an OPC can only be eliminated by having more than one member and a systematic working regime in a companies.

6.8 Conversion

OPC can be converted into other form of company i.e. private or public company but only after completing two years of its incorporation. This bar creates a hurdle on the development and restricts the freedom of the company to convert itself[227].

There is a mandatory provision of converting an OPC to private or public company in "Rule 6 (2) of The Companies (Incorporation) Rules, 2014. If the paid up capital crosses the limit of INR.50,00,000/- (Rupees Fifty Lakhs Only) or average turnover goes beyond the limit of INR.2,00,00,000/- (Rupees Two Crores Only), it has to get itself convert to public or private company"[228]. This provision is unjust to the small entrepreneurs who has just entered the corporate set [229].

The limit of INR. 50, 00,000/- (Rupees Fifty Lakhs Only) is very low, because the company at the present phrase had just moved from under-developed to the developing stage. Due to this forced conversion to other form of company incurs heavy charges towards the Registrar of Companies (ROC) and to professional to draft the documents like Article of Association (AOA), Memorandum of Association (MOA), etc. This is observed as hurdle towards the ongoing development of the company.

The second condition for conversion is its turnover. The turnover exceeding INR.2,00,00,000/- (Rupees Two Crores Only) will lead to convert an One Person Company (OPC) to other form of company. In today's world, where an entrepreneur wishes to buy a land for his manufacturing unit or a land earlier on which the company was paying rent, has to spend a minimum of INR. 50, 00,000/- (Rupees Fifty Lakhs Only) or even more than a crore. From this annual turnover the company has to reinvest in the company for its development and expansion

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[226] Intelligent Legal Risk Management Solution (iPleaders). (2014). National University of Judicial Science. Retrieved on January 2, 2015 at 5: 46 PM. http://startup.nujs.edu/login
[227] One Person Company. (2014). Altacit Global. PP 17 – 19. Retrieved on January 3, 2015 at 2:47 PM. http://www.slideshare.net/altacitglobal/one-person-company-37565314?related=4
[228] Zanwar, M. (2014). One Person Company, Under New Companies Act 2013. SAN Corporate Advisor P ltd. P – 8. Retrieved on January 1, 2015 at 1:02AM. http://www.slideshare.net/ANANDGAWADE1/one-person-company-opc-under-new-companies-act-2013?qid=eb1c4b91-dfaa-41fc-8ce2-ccf3bae6d94a&v=qf1&b=&from_search=1
[229] Intelligent Legal Risk Management Solution (iPleaders). (2014). National University of Judicial Science. Retrieved on January 2, 2015 at 5: 46 PM. http://startup.nujs.edu/login

which will be very difficult for sole member to do so as he has by law a compulsion of converting itself into other form of company.

The provision of converting is acceptable but the limit laid by the legislators is very low and leaves the company in no position to develop and expand itself.

6.9 Possible Misuse

One of the restriction imposed on One Person Company (OPC) is the limit to which a person can setup one. According to Rule 3 (2) of The Companies (Incorporation) Rule 2014 "one person can form only one OPC"[230]. This restriction is harsh on the incorporators.

India being a country famous for it's "under the table deals" stands on the 85 rank in "Transparency International (TI)'s Corruption Perception Index 2014 (CPI 2014)"[231]. Under this ranking system it has been suggested to pass "The Benami Transaction (Prohibition) Bill" as early as possible[232]. This shows that world is aware of Indians technique to escape from any rule of law, be it tax or the Rule 3 (2).

It is possible in future that people incorporate a One Person Company (OPC) in the name of their family member or any person of trust to avail the benefits offered. To avoid this anonymous incorporation there is a need to legislate such laws to disclose these companies and punish its incorporators. Mere stating a restriction is not enough.

Tax evasion is not a new term to Indians. It is quite possible that incorporator just on paper show that the company owe a debt to him/her and escape from liability of tax as loan given to the company is deductible from profit and not accounted for tax liability.

Hence hypothesis no. 4 "Anonyms Company, a possible misuse of an One Person Company (OPC)" is verified.

[230] Companies Act, 2013 Incorporation Of Companies And Matters Incidental Thereto. (2014). The Institute of Company Secretaries of India. P – 3 Para 6. Retrieved on January 8, 2015 at 12:15 PM. http://www.icsi.edu/portals/0/INCORPORATION%20OF%20COMPANIES.pdf

[231] Corruption Perception Index – 2014. (2014). Transparency International India. Retrieved on January 8, 2015 at 12:47 PM. http://transparencyindia.org/pdf/Press_Release_CPI_3-12-14.pdf

[232] Ibid.

CHAPTER – 7

RECOMMENDATIONS AND CONCLUSIONS

7.1 Recommendations

Only stating problem and not recommending solutions for them, defeats the purpose of a research.

- Separate taxation guidelines should be notified by the legislators which should be less or equal to the sole proprietorship so that small entrepreneurs can get the benefit what legislators aimed to provide them.
- Cost of incorporation and filing special resolution is high due to the fees charged by the professionals like CA (Chartered Accountant), CS (Company Secretary), etc. There should be some rules to stop these professionals to charge unreasonable fees or a service by the government can be made available to the incorporators in form of legal aid for a nominal charge.
- Conversion to the other form of company i.e. private or public company on surpassing turnover of rupee two crore or capital exceeds rupees fifty lakhs mandatorily, is limiting the freedom offered to the director cum member. The limit should be revised frequently according to the inflation in the country.
- Two year is specified after which a company can voluntarily convert its structure to any other form of companies. The limit should be removed and the decision when to convert the structure should be in the hands of the director.
- "The Benami Transaction (Prohibition) Bill" should be passed as soon as possible, to take precaution for a possible misuse of establishing an anonymous one person company.
- As practised by UK, public companies should also be allowed to be established by a single director.
- Government should initiate a step and arrange a system for easy finances to One Person Companies (OPC). They should make some schemes as they have made for boosting agriculture sectors like low interest rate loans etc. and should give loans on ideas rather demanding for a security.
- Government should give subsidies to small entrepreneurs in electricity, water supply, etc.

7.2 Conclusions

Dr. J.J. Irani and his committee presented the concept of OPC in the year 2005. It was brought after witnessing its success in other countries. The concept is still not in its full action, since the act has not been published in the official gazette. It wouldn't be wrong if we say that the new organisational structure has received a tremendous response, only in eight months of its introduction 478 companies were registered having total capital of INR.11.95 Crores (Rupees Eleven Crores and Ninety Five Lakhs Only). The aim of incorporating was to systematise the unsystematised sectors and for small entrepreneurs development. The focus relied was on giving the small entrepreneurs benefit of companies which they cannot receive while being in sole proprietorship. After analysing all the laid provisions for the One Person Company (OPC), it is very clear that these provisions are inadequate and have loop holes.

On the contrary there are some merits and advantages awarded to the small entrepreneurs. It is a blend of the best features of sole proprietorship and Joint Stock Company (JSC). The major benefits is of limited liability and full control in the hands of the incorporator. The small, unestablished entrepreneurs on whose head a sword of unlimited liability hangs is removed from introduction of this organisational structure.

The very first and the highlighted drawback of OPC is its taxing policy, which makes the entrepreneurs to rethink their decision. The tax to be paid under sole proprietorship is only one i.e. Income Tax but, in OPC he has to pay three types of tax after which profit remains is scant.

Another drawback widely discussed is the cost invested to incorporate an OPC is relatedly high to give an encouragement to small entrepreneurs. The core burden on the shoulders of the incorporator is the fees charged by the professionals like CA (Chartered Accountant), CS (Company Secretary), etc. It is obvious that the benefit of the concept is majorly to the rich and big entrepreneurs as they already have resources to establish the company on the other hand the small entrepreneurs only have idea with them.

Certain missuses is possible out of which one is of setting up anonyms OPC's. An established rule states that "one person can form only one company", violation to this can be done by forming companies in the name of its family members. This can also be called as Benami Companies or Anonyms Companies. Tax can also be evaded by investing in these companies by way of loans only on papers, as paying tax on loans to company is exempted.

On a concluding note after critically analysing the concept of OPC, it would not be unjust to comment that the laws legislated are merely laid down but not guarded by punitive measures. It is commendable that the legislators have at least thought of incorporating this concept of new organisational structure to Indian laws but, it is essential to detail the rules regarding the structure and add punishments for breach which presently are not sufficient.

BIBLOGRAPHY

Aggrawal, M. (2014). Incorporation of One Person Company (OPC). MAK Biz Advisors from http://www.slideshare.net/meghaaggarwal94/incorporation-of-one-person-company-under-companies-act-2013

Annexure Table of Fees pursuant to rule 12 of the Companies (Registration of Offices and Fees) Rules, 2014. (2014). Ministry of Corporate Affairs. http://www.mca.gov.in/Ministry/pdf/Fee_Schedule.pdf

Bag, A. (2014). One Person Company – A New Age Concept. Sheroes from http://sheroes.in/articles/one-person-company-a-new-age-concept/NTIy

Banerjee, A. (2011). Joint Stock Company from http://www.slideshare.net/aritrabanerjee1/jsc-10114759

Bhosale, S. (2012). One Person Company: soon to be reality. LawZ. Volume: 11, No.04, Issue 128 from http://www.academia.edu/1254510/One_Person_Company_soon_to_be_reality

Business Law. (2014). Business Law. Directorate of Distance Education-Guru Jambheshwar University of Science & Technology, Hisar – Haryana (India). P – 2 from http://www.ddegjust.ac.in/studymaterial/bba/bba-201.pdf

Business Law. (2014). Business Law. Directorate of Distance Education-Guru Jambheshwar University of Science & Technology, Hisar – Haryana (India). PP 8 – 9 from http://www.ddegjust.ac.in/studymaterial/bba/bba-201.pdf

Chapter VI-The Companies (Registration of Charge) Rule, 2014 Government of India Ministry of Corporate Affairs Notification. (2014). Companies Act 2013 –The Companies (Registration of Charge) Rule, 2014. Taxguru.in from http://taxguru.in/company-law/companies-act-2013-companies-registration-charges-rules-2014.html

Chellew, M., & Gillespie, A. (2009). Cooperation in humans: competition between groups and proximate emotions. Elsevier from http://www.zoo.ox.ac.uk/group/west/pdf/Burton-Chellew_etal_10.pdf

Chirimar, S. (2014). New E-Forms Under Companies Act, 2013. S Dhanpal & Associates from http://www.sircoficai.org/downloads/cpe-materials/NEW-E-FORMS-UNDER-COMPANIES-ACT-2013-part-2.pdf

Companies Act, 2013 Incorporation Of Companies And Matters Incidental Thereto. (2014). The Institute of Company Secretaries of India. P – 3 Para 6 from http://www.icsi.edu/portals/0/INCORPORATION%20OF%20COMPANIES.pdf

Corruption Perception Index – 2014. (2014). Transparency International India from http://transparencyindia.org/pdf/Press_Release_CPI_3-12-14.pdf

Company Secretary (CS) Module. (2014). One Person Company (OPC). The Institute of Company Secretaries of India from https://www.icsi.edu/Docs/Webmodules/ONE%20PERSON%20COMPANY.pdf

Dalmia, P. (2010). As per the class room discussion in Shri Sathya Sai Vidhya Vihar, Indore (M.P.). Audit is an analysis of the Financial Statement by qualified auditors to ascertain true position of the company for making important financial decisions, payment of taxes etc.

Dalmia, P. (2010). As per the class room discussion in Shri Sathya Sai Vidhya Vihar, Indore (M.P.). An account is a systematic chronological entry of inflow and outflow in the business.

Dani, R. (2014). One Person Company – Legal Provisions & Brief Comparison. Taxguru.in from http://taxguru.in/company-law/person-company-legal-provisions-comparison.html

Direct and Indirect Taxes. (2011). Statistical Year Book. Ministry of Statistics and Programme Implementation from http://mospi.nic.in/Mospi_New/upload/statistical_year_book_2011/SECTOR-1-INDIA%20AN%20OVERVIEW/CH-06-DIRECT%20&%20INDIRECT%20TAXES/DIRECT-INDIRECT%20TAX-WRITEUP.pdf

FAQ On One Person Company. (2014). Ministry of Corporate Affairs Government of India from http://www.mca.gov.in/MinistryV2/OPCfaq.html

Gahrana, A. (2014). Conversion of Private Company into One Person Company. AishMGahrana Law Governance Responsibility from http://aishmghrana.me/2014/09/23/conversion-of-private-company-into-one-person-company/

Gupta, S. (2015). This technique has been suggested to the researcher from his mentor while conducting a class on 3rd of January 2015. Observatory method includes the research conducted on existing literature, rules, review of literature and drawing conclusion from collected data after analyzing.

Gupta, S. (2015). This technique has been suggested to the researcher from his mentor while conducting a class on 3rd of January 2015. Content Analysis method includes analyzing the data collected and drawing inferences out of it.

Gupta, V. (2002). The President's role. Times of India.

Haney, L. (2003). Business Organization and Combination - An Analysis of the Evolution and Nature of Business Organization in the United States and a Tentative Solution of the Corporation and Trust Problems. Botoche Books Kitchener. Revised edition of 1913, ISBN:

978-1144359612, PP 26 – 58 from http://socserv2.socsci.mcmaster.ca/econ/ugcm/3ll3/haney/BusinessCombination.pdf

Harsh. (2014). One Person Company Advantages in India. Easylaw.in from http://www.easylaw.in/articles/one-person-company-advantages-india

Harsh. (2014). One Person Company Disadvantages in India. Easylaw.in from http://www.easylaw.in/articles/one-person-company-disadvantages-india

Instruction Kit for eForm INC-2. (2014). Ministry of Corporate Affairs from http://www.mca.gov.in/MCA21/dca/help/instructionkit/NCA/Form_INC-2_help.pdf

Instruction Kit for eForm INC-4(One Person Company - Change in Member/ Nominee). (2014). Ministry of Corporate Affairs from http://www.mca.gov.in/MCA21/dca/help/instructionkit/NCA/Form_INC-4_help.pdf

Instruction Kit for INC-21(Application for Declaration prior to the commencement of business or exercising borrowing powers). (2014). Ministry of Corporate Affairs from http://www.mca.gov.in/MCA21/dca/help/instructionkit/NCA/Form_INC-21_help.pdf

Intelligent Legal Risk Management Solution (iPleaders). (2014). National University of Judicial Science from http://startup.nujs.edu/login

Jain, A. (2011). One Person Company – A New Business Ownership Concept. Tapuriah Jain & Associates – Chartered Accountant.

Jain, T.R., & Khanna, O.P. (2006). Economic Concepts and Methods. India, New Delhi : V.K. (India) Enterprises. ISBN: 81-88597-18-X, PP 1-39.

Kanoi, S. (2014). Income Tax Rate Chart / Slab for AY 2015-16 / FY 2014-15. Taxguru.in from http://taxguru.in/income-tax/income-tax-rate-chart-assessment-year-201516-financial-year-201415.html

Katinka, B. (2010). Concept Of Single Member Companies In The Light Of Eu Harmonization – A Comparative Analysis Of Serbis, Germany, United Kingdom. Central European University, Hungary. PP 54 – 58 from file:///C:/Users/Ishita/Downloads/beretka_katinka.pdf

Kedia, S. (2014). The New Company Act 2013. CS (Company Secretary) Professional Program.

Kenessey, Z. (1987). The Primary, Secondary, Tertiary And Quaternary Sectors Of The Economy. U.S. Federal Reserve Board. PP 359 – 363 from http://www.roiw.org/1987/359.pdf

Kumar, K. (2014). One Person Company Final from http://www.slideshare.net/Saiganesh1919/one-person-company-final

Madaan, A. (2014). Condition of Cops/Police in India – An Analysis. Unpublished Online off Campus Summer Internship Program II. Prof. Ranbir Singh Legal Research Centre , Shajapur (India).

Mani, R. (2011). One Person Company. Bizand legis from http://www.slideshare.net/BizandLegis/opc-one-person-company

Mehra, P. (2014). 10 reasons why start-ups should choose One Person Company (OPC) as their form of business. Quick Company Register A Company Online from http://www.quickcompany.in/advice/10-reasons-why-start-ups-should-choose-one-person-company-opc-as-their-form-of-business

Misra, V.N. (2001). Prehistoric human colonization of India. Indian Academy of Sciences. Vol. 26, No. 4, P 491 from http://www.ias.ac.in/jbiosci/nov2001/491.pdf

Mohan, A. (2014). Concept of One Person Company – An Analysis. Taxman's Tax Research.

Nagpal, R. (2012). E-Commerce. Asian School of Cyber Laws.

Naiyyar, S. (2014). OPC under The New Companies Act. http://www.slideshare.net/sameernaiyyar/one-person-company-40240528

Nettle, D., & Romaine, S. (2000). Vanishing Voices: The Extinction of World's Languages. Oxford University Press USA 2000. ISBN: 0198031181, 9780198031185, PP 102 – 103.

Nova. (1996). The History Of Money. Public Broadcasting Service from http://www.pbs.org/wgbh/nova/ancient/history-money.html

Novojuris. (2014). One person company- New Concept introduced in Companies Act, 2013 from http://www.slideshare.net/Novojuris/one-person-company-30306942

One Person Company. (2014). Altacit Global from http://www.slideshare.net/altacitglobal/one-person-company-37565314?related=4

Paranjape, N. (2014). The New Company Law. Central Law Agency Allahabad. 6th Edition, PP 41 – 46. Retrieved on 2 2015 at 1:43 PM

PTI (Press Trust of India). (2014). India sees setting up of 478 one-person companies till August. The Economic Times from http://economictimes.indiatimes.com/news/company/corporate-trends/india-sees-setting-up-of-478-one-person-companies-till-august/articleshow/44875373.cms

Renfrew, C. (2008). Prehistory-The Making of The Human Mind. New York: Modern Library. ISBN: 978-0812976618

Saluja, R. (2014). One Person Company. Lunawat & Co.

Section 1 (3). (2014). The Companies Act 2013 (18 of 2013). Universal Law Publishing Co. Pvt. Ltd. New Delhi (India). 6th Edition.

Section 2 (16). (2014). The Companies Act 2013 (18 of 2013). Universal Law Publishing Co. Pvt. Ltd. New Delhi (India). 6th Edition.

Section 2 (20). (2014). The Companies Act 2013 (18 of 2013). Universal Law Publishing Co. Pvt. Ltd. New Delhi (India). 6th Edition.

Section 2 (21). (2014). The Companies Act 2013 (18 of 2013). Universal Law Publishing Co. Pvt. Ltd. New Delhi (India). 6th Edition.

Section 2 (22). (2014). The Companies Act 2013 (18 of 2013). Universal Law Publishing Co. Pvt. Ltd. New Delhi (India). 6th Edition.

Section 2 (34). (2014). The Companies Act 2013 (18 of 2013). Universal Law Publishing Co. Pvt. Ltd. New Delhi (India). 6th Edition.

Section 2 (40). (2014). The Companies Act 2013 (18 of 2013). Universal Law Publishing Co. Pvt. Ltd. New Delhi (India). 6th Edition.

Section 3 (1). (2014). The Companies Act 2013 (18 of 2013). Universal Law Publishing Co. Pvt. Ltd. New Delhi (India). 6th Edition.

Section 149. (2014). The Companies Act 2013 (18 of 2013). Universal Law Publishing Co. Pvt. Ltd. New Delhi (India). 6th Edition.

Section 193. (2014). The Companies Act 2013 (18 of 2013). Universal Law Publishing Co. Pvt. Ltd. New Delhi (India). 6th Edition.

Single Member Limited Liability Companies. (2014). Small Business & Self-Employed. International Revenue Service from http://www.irs.gov/Businesses/Small-Businesses-&-Self-Employed/Single-Member-Limited-Liability-Companies

Suzuki, S. (2001). Experts and Possibilities. Academic Research: Quotes for Talks, Introduction, and lunchtime Banter from http://www-stat.wharton.upenn.edu/~steele/Rants/Academic-Resarch-Quotes.html

Thakur, R. (2010). As per discussion in class of Business Studies in XI standard at Sri Sathya Sai Vidhya Vihar, Indore. A business organization is to organize, systematize the working to maximize profit and harmonize and co-operate with other existing entrepreneurs in the same field.

The Companies (Incorporation) Rules. (2014). Ministry of Corporate Affairs Government of India from http://220.227.161.86/32978clcgc22720-cp2.pdf

The Companies Act, 2013. (2013). Ministry of Corporate Affairs Government of India from http://www.mca.gov.in/MinistryV2/companiesact.html

Trochim, W. (2006). Deduction & Induction. Research Method Knowledge Base from http://www.socialresearchmethods.net/kb/dedind.php

Understanding Where You Stand. (2012). A Simple Guide to Your Company's Financial Statements. Illionis Small Business Development Centre. P – 3 from

e

http://www.wbdc.org/Portals/0/Resources%20and%20Tools/Understanding%20Your%20Business%20Financial%20Statements.pdf

Vasavani, R. (2013). A Project Report on Debentures from http://www.slideshare.net/rajvasavani/debentures-ppt?qid=81c75150-c378-4782-a21d-efd0575fbbf8&v=qf1&b=&from_search=1

Vibhute, K., & Aynalem, F. (2011). Legal Research Methods-Teaching Material. Justice and Legal System Research Institute. PP 15 – 18.

Weese, S. (2003). In An One Person Company, The Break Room Is Always Empty. Rhyming Planet Inc.

Zanwar, M. (2014). One Person Company, Under New Companies Act 2013. SAN Corporate Advisor P ltd. from http://www.slideshare.net/ANANDGAWADE1/one-person-company-opc-under-new-companies-act-2013?qid=eb1c4b91-dfaa-41fc-8ce2-ccf3bae6d94a&v=qf1&b=&from_search=1

SPLITTING DIVERSE INFORMANTS (SDI)[233]

- **ARTICLES**

Chapter VI-The Companies (Registration of Charge) Rule, 2014 Government of India Ministry of Corporate Affairs Notification. (2014). Companies Act 2013 –The Companies (Registration of Charge) Rule, 2014. Taxguru.in from http://taxguru.in/company-law/companies-act-2013-companies-registration-charges-rules-2014.html

Dani, R. (2014). One Person Company – Legal Provisions & Brief Comparison. Taxguru.in from http://taxguru.in/company-law/person-company-legal-provisions-comparison.html

Gahrana, A. (2014). Conversion of Private Company into One Person Company. AishMGahrana Law Governance Responsibility from http://aishmghrana.me/2014/09/23/conversion-of-private-company-into-one-person-company/

Harsh. (2014). One Person Company Advantages in India. Easylaw.in from http://www.easylaw.in/articles/one-person-company-advantages-india

Harsh. (2014). One Person Company Disadvantages in India. Easylaw.in from http://www.easylaw.in/articles/one-person-company-disadvantages-india

[233] This method of "Splitting Diverse Informants (SDI)" is taught by the mentor of the research (Adv. Sonal Gupta) for better presentation of bibliography.

Jain, A. (2011). One Person Company – A New Business Ownership Concept. Tapuriah Jain & Associates – Chartered Accountant.

Kanoi, S. (2014). Income Tax Rate Chart / Slab for AY 2015-16 / FY 2014-15. Taxguru.in from http://taxguru.in/income-tax/income-tax-rate-chart-assessment-year-201516-financial-year-201415.html

Mehra, P. (2014). 10 reasons why start-ups should choose One Person Company (OPC) as their form of business. Quick Company Register A Company Online from http://www.quickcompany.in/advice/10-reasons-why-start-ups-should-choose-one-person-company-opc-as-their-form-of-business

Mohan, A. (2014). Concept of One Person Company – An Analysis. Taxman's Tax Research.

- **DIGITAL SOURCES**

Aggrawal, M. (2014). Incorporation of One Person Company (OPC). MAK Biz Advisors from http://www.slideshare.net/meghaaggarwal94/incorporation-of-one-person-company-under-companies-act-2013

Bag, A. (2014). One Person Company – A New Age Concept. Sheroes from http://sheroes.in/articles/one-person-company-a-new-age-concept/NTIy

Banerjee, A. (2011). Joint Stock Company from http://www.slideshare.net/aritrabanerjee1/jsc-10114759

Bhosale, S. (2012). One Person Company: soon to be reality. LawZ. Volume: 11, No.04, Issue 128 from http://www.academia.edu/1254510/One_Person_Company_soon_to_be_reality

Business Law. (2014). Business Law. Directorate of Distance Education-Guru Jambheshwar University of Science & Technology, Hisar – Haryana (India). P 2 from http://www.ddegjust.ac.in/studymaterial/bba/bba-201.pdf

Business Law. (2014). Business Law. Directorate of Distance Education-Guru Jambheshwar University of Science & Technology, Hisar – Haryana (India). PP 8 – 9 from http://www.ddegjust.ac.in/studymaterial/bba/bba-201.pdf

Chellew, M., & Gillespie, A. (2009). Cooperation in humans: competition between groups and proximate emotions. Elsevier from http://www.zoo.ox.ac.uk/group/west/pdf/Burton-Chellew_etal_10.pdf

Chirimar, S. (2014). New E-Forms Under Companies Act, 2013. S Dhanpal & Associates from http://www.sircoficai.org/downloads/cpe-materials/NEW-E-FORMS-UNDER-COMPANIES-ACT-2013-part-2.pdf

Companies Act, 2013 Incorporation Of Companies And Matters Incidental Thereto. (2014). The Institute of Company Secretaries of India. P – 3 Para 6 from http://www.icsi.edu/portals/0/INCORPORATION%20OF%20COMPANIES.pdf

Corruption Perception Index – 2014. (2014). Transparency International India from http://transparencyindia.org/pdf/Press_Release_CPI_3-12-14.pdf

Company Secretary (CS) Module. (2014). One Person Company (OPC). The Institute of Company Secretaries of India from https://www.icsi.edu/Docs/Webmodules/ONE%20PERSON%20COMPANY.pdf

Katinka, B. (2010). Concept Of Single Member Companies In The Light Of Eu Harmonization – A Comparative Analysis Of Serbis, Germany, United Kingdom. Central European University, Hungary. PP 54 – 58 from file:///C:/Users/Ishita/Downloads/beretka_katinka.pdf

Kenessey, Z. (1987). The Primary, Secondary, Tertiary And Quaternary Sectors Of The Economy. U.S. Federal Reserve Board. PP 359 – 363 from http://www.roiw.org/1987/359.pdf

Kumar, K. (2014). One Person Company Final from http://www.slideshare.net/Saiganesh1919/one-person-company-final

Mani, R. (2011). One Person Company. Bizand legis from http://www.slideshare.net/BizandLegis/opc-one-person-company

Naiyyar, S. (2014). OPC under The New Companies Act from http://www.slideshare.net/sameernaiyyar/one-person-company-40240528

Nova. (1996). The History Of Money. Public Broadcasting Service from http://www.pbs.org/wgbh/nova/ancient/history-money.html

Novojuris. (2014). One person company- New Concept introduced in Companies Act, 2013 from http://www.slideshare.net/Novojuris/one-person-company-30306942

One Person Company. (2014). Altacit Global from http://www.slideshare.net/altacitglobal/one-person-company-37565314?related=4

Saluja, R. (2014). One Person Company. Lunawat & Co.

Suzuki, S. (2001). Experts and Possibilities. Academic Research: Quotes for Talks, Introduction, and lunchtime Banter from http://www-stat.wharton.upenn.edu/~steele/Rants/Academic-Resarch-Quotes.html

Trochim, W. (2006). Deduction & Induction. Research Method Knowledge Base from http://www.socialresearchmethods.net/kb/dedind.php

Understanding Where You Stand. (2012). A Simple Guide to Your Company’s Financial Statements. Illionis Small Business Development Centre. PP – 3 from http://www.wbdc.org/Portals/0/Resources%20and%20Tools/Understanding%20Your%20Business%20Financial%20Statements.pdf

Vasavani, R. (2013). A Project Report on Debentures from http://www.slideshare.net/rajvasavani/debentures-ppt?qid=81c75150-c378-4782-a21d-efd0575fbbf8&v=qf1&b=&from_search=1

Vibhute, K., & Aynalem, F. (2011). Legal Research Methods-Teaching Material. Justice and Legal System Research Institute. PP 15 – 18.

Weese, S. (2003). In An One Person Company, The Break Room Is Always Empty. Rhyming Planet Inc.

Zanwar, M. (2014). One Person Company, Under New Companies Act 2013. SAN Corporate Advisor P ltd from http://www.slideshare.net/ANANDGAWADE1/one-person-company-opc-under-new-companies-act-2013?qid=eb1c4b91-dfaa-41fc-8ce2-ccf3bae6d94a&v=qf1&b=&from_search=1

- **E-BOOKS**

Haney, L. (2003). Business Organization and Combination - An Analysis of the Evolution and Nature of Business Organization in the United States and a Tentative Solution of the Corporation and Trust Problems. Botoche Books Kitchener. Revised edition of 1913, ISBN: 978-1144359612, PP 26 – 58 from http://socserv2.socsci.mcmaster.ca/econ/ugcm/3ll3/haney/BusinessCombination.pdf

Jain, T.R., & Khanna, O.P. (2006). Economic Concepts and Methods. India, New Delhi: V.K. (India) Enterprises. ISBN: 81-88597-18-X, PP 1-39.

Kedia, S. (2014). The New Company Act 2013. CS (Company Secretary) Professional Program.

Madaan, A. (2014). Condition of Cops/Police in India – An Analysis. Unpublished Online off Campus Summer Internship Program II. Prof. Ranbir Singh Legal Research Centre, Shajapur (India).

Misra, V.N. (2001). Prehistoric human colonization of India. Indian Academy of Sciences. Vol. 26, No. 4, PP 491 from http://www.ias.ac.in/jbiosci/nov2001/491.pdf

Nagpal, R. (2012). E-Commerce. Asian School of Cyber Laws.

Nettle, D., & Romaine, S. (2000). Vanishing Voices: The Extinction of World's Languages. Oxford University Press USA 2000. ISBN: 0198031181, 9780198031185, PP 102 – 103.

Paranjape, N. (2014). The New Company Law. Central Law Agency Allahabad. 6th Edition, PP 41 – 46. Retrieved on January 2 2015 at 1:43 PM.

Renfrew, C. (2008). Prehistory-The Making of The Human Mind. New York: Modern Library. ISBN: 978-0812976618.

- **GOVERNMENT DGITAL SOURCES**

Annexure Table of Fees pursuant to rule 12 of the Companies (Registration of Offices and Fees) Rules, 2014. (2014). Ministry of Corporate Affairs from http://www.mca.gov.in/Ministry/pdf/Fee_Schedule.pdf

Direct and Indirect Taxes. (2011). Statistical Year Book. Ministry of Statistics and Programme Implementation from http://mospi.nic.in/Mospi_New/upload/statistical_year_book_2011/SECTOR-1-INDIA%20AN%20OVERVIEW/CH-06-DIRECT%20&%20INDIRECT%20TAXES/DIRECT-INDIRECT%20TAX-WRITEUP.pdf

FAQ On One Person Company. (2014). Ministry of Corporate Affairs Government of India from http://www.mca.gov.in/MinistryV2/OPCfaq.html

Instruction Kit for eForm INC-2. (2014). Ministry of Corporate Affairs from http://www.mca.gov.in/MCA21/dca/help/instructionkit/NCA/Form_INC-2_help.pdf

Instruction Kit for eForm INC-4(One Person Company - Change in Member/ Nominee). (2014). Ministry of Corporate Affairs from http://www.mca.gov.in/MCA21/dca/help/instructionkit/NCA/Form_INC-4_help.pdf

Instruction Kit for INC-21(Application for Declaration prior to the commencement of business or exercising borrowing powers). (2014). Ministry of Corporate Affairs from http://www.mca.gov.in/MCA21/dca/help/instructionkit/NCA/Form_INC-21_help.pdf

Single Member Limited Liability Companies. (2014). Small Business & Self-Employed. International Revenue Service from http://www.irs.gov/Businesses/Small-Businesses-&-Self-Employed/Single-Member-Limited-Liability-Companies

The Companies (Incorporation) Rules. (2014). Ministry of Corporate Affairs Government of India from http://220.227.161.86/32978clcgc22720-cp2.pdf

The Companies Act, 2013. (2013). Ministry of Corporate Affairs Government of India from http://www.mca.gov.in/MinistryV2/companiesact.html

- **LECTURES**

Dalmia, P. (2010). As per the class room discussion in Shri Sathya Sai Vidhya Vihar, Indore (M.P.). Audit is an analysis of the Financial Statement by qualified auditors to ascertain true position of the company for making important financial decisions, payment of taxes etc.

Dalmia, P. (2010). As per the class room discussion in Shri Sathya Sai Vidhya Vihar, Indore (M.P.). An account is a systematic chronological entry of inflow and outflow in the business.

Gupta, S. (2015). This technique has been suggested to the researcher from his mentor while conducting a class on 3rd of January 2015. Observatory method includes the research conducted on existing literature, rules, review of literature and drawing conclusion from collected data after analyzing.

Gupta, S. (2015). This technique has been suggested to the researcher from his mentor while conducting a class on 3rd of January 2015. Content Analysis method includes analyzing the data collected and drawing inferences out of it.

Thakur, R. (2010). As per discussion in class of Business Studies in XI standard at Sri Sathya Sai Vidhya Vihar, Indore. A business organization is to organize, systematize the working to maximize profit and harmonize and co-operate with other existing entrepreneurs in the same field.

- **NEWSPAPERS**

Gupta, V. (2002). The President's role. Times of India.

PTI (Press Trust of India). (2014). India sees setting up of 478 one-person companies till August. The Economic Times from http://economictimes.indiatimes.com/news/company/corporate-trends/india-sees-setting-up-of-478-one-person-companies-till-august/articleshow/44875373.cms

- **SECTIONS**

Section 1 (3). (2014). The Companies Act 2013 (18 of 2013). Universal Law Publishing Co. Pvt. Ltd. New Delhi (India). 6th Edition.

Section 2 (16). (2014). The Companies Act 2013 (18 of 2013). Universal Law Publishing Co. Pvt. Ltd. New Delhi (India). 6th Edition.

Section 2 (20). (2014). The Companies Act 2013 (18 of 2013). Universal Law Publishing Co. Pvt. Ltd. New Delhi (India). 6th Edition.

Section 2 (21). (2014). The Companies Act 2013 (18 of 2013). Universal Law Publishing Co. Pvt. Ltd. New Delhi (India). 6th Edition.

Section 2 (22). (2014). The Companies Act 2013 (18 of 2013). Universal Law Publishing Co. Pvt. Ltd. New Delhi (India). 6th Edition.

Section 2 (34). (2014). The Companies Act 2013 (18 of 2013). Universal Law Publishing Co. Pvt. Ltd. New Delhi (India). 6th Edition.

Section 2 (40). (2014). The Companies Act 2013 (18 of 2013). Universal Law Publishing Co. Pvt. Ltd. New Delhi (India). 6th Edition.

Section 3 (1). (2014). The Companies Act 2013 (18 of 2013). Universal Law Publishing Co. Pvt. Ltd. New Delhi (India). 6th Edition.

Section 149. (2014). The Companies Act 2013 (18 of 2013). Universal Law Publishing Co. Pvt. Ltd. New Delhi (India). 6th Edition.

Section 193. (2014). The Companies Act 2013 (18 of 2013). Universal Law Publishing Co. Pvt. Ltd. New Delhi (India). 6th Edition.