CORPORATE ENTITIES AND ECONOMIC DEVELOPMENT: A STUDY UNDER INDIAN SCENARIO

Meenu Sharma¹; Prof Sachin Rastogi²

¹Research Scholar, Amity Institute of Advanced Legal Studies, Noida (UP) under the supervision of Prof(Dr.) Sachin Rastogi, Amity Institute of Advance Legal Studies, Amity University, Noida (UP)
²Research Supervisor, AIALS, Amity University, Noida

ABSTRACT

The Research topic titled as “Corporate Entities and Economic development: A study under Indian Scenario” is a topic of essence keeping in view the expanded horizons of trade and business especially in post globalization era. In addition to economic growth, the objective of the topic is to understand the evolutionary development of Corporate entities. It is also of concern as to what extent the corporation entities can be resource for economy of a country whether by virtue of taxation and/or providing employment opportunities, besides production of goods and providing services to divergent sector of society. It is seen that the business sector usually is categorized into goods and service sector. In India the agriculture and Industrial /Business sectors address the economy and satisfies the requisite need of consumers, producers, and all other concerned subjects of state. The aspects in India from the initial stage of independent are reflected in different policies and programs including five years plans of the Government from time to time. Though this being the position and object for industrial and agriculture expansion towards economic development, yet there have been challenges for regulation and control mechanism towards Corporate Governance activities which in consequence leads for economic development. The respective laws vide which corporation(s) has / have been created itself provides the regulatory mechanism and under some circumstances beyond same. The laws in the context have been changed/amended from time to time as reflected from the companies Act 1956 with repeal in 2013 and further amendment thereafter to address the deficiencies in the form of loopholes. When one glances at the past, it is seen that even the Ancient period reminds us as to how the developed countries have made developing and least developed countries their colonies on the strength of trade. The best example of which is East India Company and English based corporation of later 16th century coming to India 1600 A.D. onwards. Same happened in case of French, Dutch and Portugal corporations who started then operating within India from far flung areas of the country origin in European Continent. In this way the trade and business assume importance for economic development most of which is carried by Corporations or Companies including other entities like Society, Trust, Joint Family, partnership, Limited Liability Partnership so on and so forth including proprietorship. Though the research topic visualizes divergent Regulatory mechanism under different statues and as such research topic poses the question like what are different business entitle and the Regulatory Mechanism for them as control device? Secondary Whether the divergent Regulations Mechanism be consolidated in the name of the business in a single Statute. Accordingly, the research is concentrating on Research Question and analyzing same on the strength of primary and secondary source of data by adopting Doctrinal Methodology where by once source of the data is collaborated with other source for arriving as conclusions and finding, which is being dealt while evaluating content/data in the body of Research Topic referred hereinbefore.

Key words: Corporate Governance, Legal Entities, Business, Regulatory Mechanism, Consolidation, Companies, Industry and Agriculture.

I. INTRODUCTION:

The Research topic in relation to Corporate Entities and Economic development concerns the growth of given economy for which Indian corporate entities are subject of study under these writings. The topic has its own importance in view of the expanded horizons of trade and business especially in post globalization era since
In addition to economic growth, the objective of the topic is to understand the evolutionary development of Corporate entities like Society, Trust, Joint Family, partnership, Limited Liability Partnership so on and so forth including proprietorship. The trade in its present scenario encompasses all the referred entities, besides few more like association of person etc. Trade and business assume importance for economic development most of which is carried by Corporations or Companies including other entities as referred. When one glances at the past, it is seen that even the Ancient period reminds us as to how the developed countries have made developing and least developed countries their colonies on the strength of trade. The best example of which is East India Company and English based corporation of late 17th century coming to India since 1600 A.D onwards. Same happened in case of Dutch, Portuguese and Indian corporations who started operating within India from far flung areas of the country of origin in European Continent. From foreign trading companies/corporations and/or entities they aspired for political control in the result the battle of Buxur provided opportunity for East India company to have Diwani rights for them in the areas of the than Bengal including Mursheedabad and other areas. The trading activity which not only provide economic growth but also in consequence have other attributes of development and control for which the history is witness especially as far as Indian sub-continents is concerned. That being the reason that the government soon after independence made their policies clear for protection of Agriculture and expansion of Industries with an object towards economic development. It was observed by experts that Five year plans were focused on making India self-sufficient, enable Industrial growth and ensure that development went beyond the urban areas and reached the interior parts of the country. In the process the different legislations got the birth covering both Industrialization and Agriculture as a field of activity/protection and expansion. By now with the creation of Nitti Ayog, the Five year Plans have been put to an end replaced by three year action plan on 15 year vision document till 2030.

Corporate /Business Entities in Relation to Economy:

It is a historical fact that most of the developed countries have industrial base with modern technology. The land mass of a country may be less in comparison to agriculture-based sovereignty. Singapore for that matter has 728 square km area in comparison to India’s 3,287,263 square kilometres yet is economically better. Even the area of Germany stands at 357,387 square kilometers less than that of India’s, yet it is considered as giant because of its Industrial / Technological development and expansion. The Indian Corporate though contributing towards economy but there much more is expected of them. The corporate/business entity in the context can be categorized in different ways like those falling under statutory companies as an corporate entity and those whose business is monitored at individual/group level but as an entity they stand at different footing than corporation/companies. In this category, the proprietorship and/or joint family business and/or partnership business can be placed. In between the two category of Business entities suggested, there are number of entities like limited liability partnership, association of persons, societies, trust so on and so forth.

The business entity so referred in one way provide employment opportunity at respective centers including Metro, Urban, Semi Urban and Rural areas of country. Thus forms service sector both organized as well as unorganized producing goods and providing services to divergent sector of society. On the other, all the entities are subject to various compliances including revenue and taxation to the government as an accretion to consolidated fund of India. In the process, the Government concerned is expected to utilize the fund for economic growth of the country including toward priority sectors as social obligation and for eradication of poverty in compliance to directives principle of state policy as provided in the constitution of India. In this way, there exist a relation both direct and indirect between corporate and other business entities with economic development of country. What is needed for proper utilization of funds as generated by corporate/business entity is the adherence to Constitutional mandate and constitutionalism, meaning thereby that the state and its agencies, including public servants and public sector, ought to act in accordance with policies and set norms without allowing any leakage of funds and/or syphoning of the money. From the data’s gathered from Economic Survey of India and other sources, India is world’s fourth largest natural resource country. The Mining sector alone contributes 11% of Country’s Industrial GDP and 2.5 of the total GDP. The service sector though largest accounts for 54.77% of total India’s GVA of 183.43 lakh Crores in Indian Rupee. The Industrial sector contributes 27.48% while Agriculture and allied sectors share 17.70%. Thus the Industrial Component to income forming part of the national is arrived at 27.48% by 2019-20. Despite this, the Industry and Service sectors share is lower than the world’s average 30% for the Industry sector and 63% for services sector. Both on the theoretical side as well as by adopting the practical attitudes of analyzing data’s and figures, it can conveniently be said that the corporate/business entities are wheel of economy, driving it forward in combination with agriculture under Indian scenario. But still much more is expected from corporate entities. In this way, the it can be deduced that corporation/
business entities are the source for Indian economy and as such reflecting true spirit of the research topic under deliberation.

Sectors of Economy:

It is seen that the business sector usually is categorized into Goods and Service sector. In India the agriculture and Industrial /Business sectors address the economy and satisfies the requisite need of consumers, producers, and all other concerned subjects of state. The sectors of economy basically being agriculture and industry, besides services etc but Indian scenario recognized other areas also which contributed to Indian Economy. In the industry itself one may find service sector like Transport, Tourism, Banking, Insurance, and other areas. The industry also provides and produces goods including marketing of the goods which finally entered into market and dealt at both wholesale as well as retail level. The Covid-19 has opened other areas of business activity like ecommerce, online sale as a mode and methodology in transacting business. Whatever may be the mode the manufacturing is in fact source of services coupled with the raw material as means of production. All the sectors of Economy lead toward and adds to national Economy which becomes measuring rod for understanding the development of country.

Plans and Policies:

The aspects of Indian Economy from the initial stage of independence are reflected in different policies and programme including five years plans of the Government from time to time. Though this being the position and object for industrial and agriculture expansion towards economic development, yet there have been challenges for Regulation and Control Mechanism towards Corporate Governance activities which in consequence leads for economic development. The first five year plan provides the Indian economy among others in its industrial and agriculture sector. With Index of Industrial Production 1951-72 showing overall index of 58.7 for 1951 by keeping index at 100 in 1960 which proceeded and increased to 199.4 in year 1972. Thereafter the progression is upward. Traditionally India had different Industries including those involved in Iron and Steel, Textile, Jute, Sugar, Cement and Paper. To this some new Industries joined like Petrochemicals, Automobiles, Information Technology, besides Banking & Insurance. The different Industrial sectors prima facie speak about the industrialization under Indian scenario. Till now Indian has witnessed twelve five-year plans with some short plans like rolling plan during mid-eighties of 20th century. In this way there is no doubt to arrive at finding that the Indian economy is a planned economy based on five-year plans and also the policies there to with expert consultations and advice. The Indian methodology of Economic Development of country as a whole and eradication of poverty is dependent on planned economy without any ipse dixit on the issue. All these aspects are not purely economic and/or based on administrative formulations but are in consonance with the constitutional principles as enshrined especially in the directives principles as a social welfare measure where by state addresses economic avenues of its subjects in a civilized and conducive manner. The year 2015 gave birth to Niti Ayog putting end to five year planned economy. But this does not deviate the state in adopting other than planned economy.

Regulations and Mechanism:

For the idea of Industrialization soon after independence, parliament passed law to protect and regulate the large manufacturing Industries involved in production of goods in consequence to development of Indian economy. The govt from time to time have shown concern for Industrial Development in India. In subsequent years, especially in 1985 law concerning sick industries was been passed to rehabilitate the industries which have become sick and which can be rehabilitated. The SICA 1985 has provided curative measure with a view to securing the timely detection of sick and potentially sick companies owing industrial undertaking. By this it is abundantly clear that the Indian scenario is more concerned with the protection of the industries and for generating the industrial goods including services so as to usher toward Economic Development. Side by side, the Companies are governed by Companies Act, 1956 while the corporations as creation of legislation(s), controlled by statutes under which they have been created as an entity. In addition, the industrial sector including corporation/company are regulated by different mechanism depending upon the manufacturing of particular product and or category of service they provide.

The respective laws vide which corporation(s) has/have been created itself provides the regulatory mechanism and under some circumstances beyond the said statutes. The laws in the context have been changed/amended from time to time as reflected from the companies Act 1956 with repeal in 2013 and further amendments thereafter to address the deficiencies in the form of loopholes.
Deviations and Dispute Settlement Process:
The industrial protection and expansion in India attain certainties decade after decade. There have been cases where the industries have become sick both because of internal and external causes. The industrial sickness has become cause of concern for state with the result laws and regulations were framed from time to time including those like relief undertaking which along with sick industries law pertain to rehabilitation as referred. It is also derived on the basis of data that the industry whether as corporate/company entities or otherwise have to adhere number of compliances under different regulatory mechanism. The Indian scenario presents divergent Regulatory Mechanism, firstly under the law by which the company/corporation is created, secondly under the laws which regulate the operation of company/corporation as an industry for production of goods and/or providing services. Disputes as arising in an industrial scenario can be those of workman and management, falling under the Industrial Dispute Act 1947 and other industrial laws including those concerning safety, wages, working hours and rest covering the manpower management and disputes there to. The dispute of defectin goods produced by the industry and/or deficiency in services as expected from industry, come within the purview of the consumer protection Act 1986. The law contained in the referred Act, is considered as a welfare measure and provides speedy remedy to the aggrieved party leading to either change of goods and/or compensation for the injury caused due to negligence of the opposite party whether corporation or company as the case may be. In addition to consumer disputes, the industries are governed by competition law as provided under the Indian competition Act, 2005. The competition Act prohibits anti-Competitive activities/agreements and mergers in the nature of dominant position including combinations which are cause for creating ‘appreciable adverse effect’ in the market. In this way, the competition law and the consumer law are market related with consumer concern. The companies/corporation are also governed by respective laws for regulatory compliances in submission of balance sheet/profit and loss account, besides, the documents for incorporation which includes memorandum of association and article of association. In Addition, for a listed company the issuance of prospects is must and ought to contain the true facts any false statement will leave the company and also its directors for civil and criminal liability. For enforcing the civil liability suit or proceeding are warranted in compliance to order 29 of Civil Procedure Code 1908 as amended by 1976. However, for criminal proceeding the Indian penal code defines corporation/company as a legal person in terms of section-11 of the Indian penal code the procedure for proceeding criminally is provided in section 305 of the Criminal Procedure Code. Accordingly, it can be deduced for the research that there are in numerable compliance which the industry as to adhere, the breach where of may expose the industry to penalties. It is seen than as far as penalty are concerned there is not much problem as same can be enforced against the corporation as an artificial person and for legal purposes as a juristic person. It is only in case corporal punishment that the issue become difficult to enforce with the result the doctrine of ‘alter ego’ sometimes proceeded to follow to resolve the issue and as such the managerial person having command and control and/or acquitted with facts becomes liable for an on behalf of corporation, identified the corporate entity to represent the corporation before the court in terms of 306 of the crpc 1976. The corporation under different laws especially under insolvency and bankruptcy laws is sometime subject to challenge. The law as such initially takes care for rehabilitation and finally if the rehabilitation failed for liquidation of the company as an industry. In short as already dealt and deliberated that under Indian scenario there are divergent regulatory compliance and industry is subject to different disputes of divergent nature.

II. CONCLUSION AND SUGGESTIONS:
Though the research topic visualizes divergent Regulatory mechanism under different statues and as such research topic poses the question like what are different business entitle and the Regulatory Mechanism for them as control device? Secondary Whether the divergent Regulations Mechanism be consolidated in the name of the business in a single Statute. Accordingly, the research is concentrating on Research Question and analyzing same on the strength of primary and secondary source of data by adopting Doctrinal Methodology where by once source of the data is collaborated with other source for arriving as conclusions and finding, which is being dealt while evaluating content/data in the body of Research Topic referred hereinbefore. The research has given rise to finding that the Indian scenario reflects various business entities both incorporated has legal entity capable to sue and to be sued and also the business entity in the ordinary course like proprietorship, partnership and joint family besides others. It is also seen that the business activity are governed by divergent regulatory mechanism depending upon the nature of business carried by such entity. There regulatory mechanism is also the entity specific, say for that matter for companies it is registrar of companies, for societies it is register of societies under the society’s registration Law. Thus, one visualized the regulatory mechanism for business operation and also regulatory mechanism for business entity, as such, both going parallel like a railway track. In this area there is a need for conversion and consolidated mechanism whereby all these divergences can lead and provide a
homogenous control mechanism. Though there may be some difficulties but the diversity in approach warrant unity at least at the apex level to usher unified control mechanism. Accordingly, the topic “Corporate Entities and Economic development: A study under Indian Scenario” has been dealt which reflects the dependence of economy on industry and agriculture though it is also seen that for developed country with limited land mass, the Industry has played an important role in economic development. While for India it is both industry and agriculture which are the pillar of Indian economy with the rest. In this way the issues raised have been dealt and deliberated under the referred caption.

III. REFERENCES

1. Battle of Buxar which happened on 22nd October, 1764 in North Eastern part of India (Present Bihar -Bengal) between forces of British East India Company and combined forces of Indian States including Nawabs of Bengal, Awadh, and the Mugal Empire. The victory to Company forces resulted in grant of Diwani in Bengal. From Trading company it started having Territorial annexations.

2. In India’s Five-year plan reflects the Government projections towards which the first five-year plan was presented before Parliament on 9th July, 1951. It is seen the targeted growth was projected at 2.1% but it recorded 3.6% for that year. The Plans were formulated by the then Planning Commission of India, which was established on 15th March, 1950. The Commission was not the creation of constitution and as such not a Constitutional body.

3.RAJEEV GOWDA, Chairman of the then Research Department of the Congress during the First Five year Plan.

4. Priority Sector includes Agriculture, Micro, Small and Medium Enterprises. Export Credit. Education and like others

5. Part IV, Directive Principles of State Policy especially its Article 39, 41,43,47,48 and the rest forming common obligations of state.


7. The Top performing sectors of Indian Economy are Agriculture, Industry, Services, Food Processing, Manufacturing and the rest. The other way is to categories the sectors into Primary Sector, Secondary Sector and Tertiary Sector. Some do Iso speak about 11 sectors of Economy like Information Technology, Health Care, Financials, Consumer Discretionary, Communication Services, Industries, Consumer Staples, Energy, Utilities, Real Estate and Materials.

8. The Industries Act, 1949

9. The Sick Industrial Companies(Special Provision) Act, 1985

10. An Act to make, in the public interest, special provisions with a view to securing the timely detection of sick and potentially sick companies owning industrial undertakings, the speedy determination by a Board of experts of the preventive, ameliorative, remedial and other measures which need to be taken with respect to such companies and the expeditious enforcement of the measures so determined and for matters connected therewith or incidental thereto.

11. vide the Minimum Wages Act, 1948


14. Section 3 of the Competition Act, 2005 says, ‘‘(1) No enterprise or association of enterprises or person or association of persons shall enter into any agreement in respect of production, supply, distribution, storage, acquisition or control of goods or provision of services, which causes or is likely to cause an appreciable adverse effect on competition within India.

15. (2) Any agreement entered into in contravention of the provisions contained in subsection (1) shall be void.

16. (2) Derry V. Peek (1886-90) All ER Rep

17. ORDER XXIX, Suits by or against Corporations Subscription and verification of pleading.—In suits by or against a corporation, any pleading may be signed and verified on behalf of the corporation by the secretary or by any director or other principal officer of the corporation who is able to depose to the facts of the case.

18. "305. Procedure when corporation or registered society is an accused.—(1) In this section, “corporation” means an incorporated company or other body corporate, and includes a society registered under the Societies Registration Act, 1860 (21 of 1860).

19. (2) Where a corporation is the accused person or one of the accused persons in an inquiry or trial, it may appoint a representative for the purpose of the inquiry or trial and such appointment need not be under the seal of the corporation.