
CORPORATE LAW CHALLENGES IN E-COMMERCE AND ONLINE MARKETPLACE

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ABSTRACT

This paper analyses the doctrine of piercing and lifting the corporate veil within Indian jurisprudence, a fundamental exception to the Salomon rule of separate legal personality. The study finds that the corporate veil is increasingly treated not as an absolute right, but as a qualified privilege conditional upon lawful conduct.

The analysis is structured to demonstrate that exceptions have evolved through a dual mechanism. Firstly, Judicial Discretion has developed equitable grounds to prevent the corporate form from being used as a sham or façade to evade pre-existing legal or contractual obligations (e.g., in cases of tax evasion or fraud). Secondly, Statutory Mandate explicitly bypasses the veil in modern legislation. This paper examines specific grounds under the Companies Act, 2013 (such as fraudulent trading under Section 339) and extends to sectoral laws.

The research highlights the critical impact of digital commerce, where the challenges posed by e-commerce platforms necessitate new legal responses. This is evident in the regulatory focus on the Single Economic Entity doctrine under the Competition Act, 2002, and the imposition of severe financial penalties under the DPDP Act, 2023. The conclusion asserts that these legal developments collectively mandate a shift toward Digital Compliance Governance at the board level. The corporate veil remains intact only where its preservation serves the interest of justice and upholds a comprehensive duty of corporate and sectoral compliance. A key suggestion is that stakeholders, including regulatory agencies and commercial entities, should meticulously scrutinize the advantages and restrictions—along with associated difficulties—involved in digitizing the foundational aspects of company law and corporate listing and governance requirements."

Keywords: Corporate veil, Companies Act 2013, Competition Act 2002, DPDP Act 2023, Consumer Protection Act 2019

Introduction: -

Driven by a combination of India's fluid regulatory landscape and the growing intricacy of modern commerce, corporate legal management has undergone substantial transformation over recent decades." Historically, the Indian corporate sector operated under a relatively simple legal framework, primarily guided by the Companies Act of 1956. During this period, most businesses were small or medium-sized enterprises with limited exposure to complex corporate laws, international trade regulations, or sophisticated risk management practices. Legal management in such organizations was largely reactive, with legal advisors being consulted primarily to resolve disputes or ensure compliance with basic statutory requirements. The year 1991, marked by the liberalization of the Indian economy, ushered in a new era that significantly altered the landscape for those engaged in corporate legal management. The opening up of markets, inflow of foreign investment, and rapid expansion of industries necessitated a more structured approach to legal governance within corporations. Companies were now exposed to a broader range of regulatory obligations, including securities law compliance under the Securities and Exchange Board of India (SEBI), labour law adherence, environmental regulations, and tax reforms. This period saw the beginning of proactive legal management practices, as corporations recognized the importance of aligning business strategies with regulatory compliance to mitigate legal risks and ensure long-term sustainability.¹ Globalization and technological advancements have also influenced corporate legal management practices in India. Multinational corporations operating in India brought with them global best practices in corporate governance, contract management, and legal risk assessment. Simultaneously, the emergence of digital technologies has transformed how legal departments operate, enabling more efficient document management, contract lifecycle tracking, and compliance monitoring. Legal management has gradually become an integral part of corporate strategy, ensuring that organizations can navigate complex regulatory landscapes while maintaining operational efficiency and stakeholder confidence. E-business is the broader umbrella under which e-commerce operates; consequently, these digital platforms are essential components of both mobile commerce (m-commerce) and mobile business (m-business) environments². These digital platforms offer a strategic means to deploy electronic customer

¹ Margie Acharya, Suja Nayar, & Urvashi Sharma, *An Analysis of Legal Management Practices in Corporate India: Challenges and Opportunities*, 3 JAAFR Res. J. 210 (2025), <https://rjwave.org/jaafrr/papers/JAAFR2508019.pdf>.

² S. Tiwari & S. Buse, *Digital Business Models: Concepts, Drivers and Future Challenges*, 12 J. of Mgmt. Info. Sys. 45, 52 (2007).

relationship management (e-CRM) methodologies, thereby facilitating both the acquisition and sustained retention of clients.

Overview on E-Commerce: -

"The fundamental definition of e-commerce centers on the use of electronic networks, like the Internet, to carry out the trade and exchange of goods or services." (Watson et al., 2008; Tiwari & Buse, 2007; Chinasubarrao, 2016; Sen et al., 2015³). The genesis of these digital platforms traces back to the early 1970s, commencing primarily as B2B (Business-to-Business) e-commerce facilitated through telephone-based modem connections. It grew rapidly in the late 1990s because of the ease of using online credit worldwide (Watson et al., 2008). This evolution through phases until it got reinvented from 2006 to present using Internet technologies. The field of e-commerce is functionally categorized into various models distinguished by the parties involved in the transaction. Table 1⁴ outlines these fundamental classifications.

E-commerce has rapidly established itself as the most streamlined method for executing commercial dealings, functioning as a key innovation driving the creation of a truly global marketplace⁵. This digital mechanism encompasses transactions across commercial and corporate entities, including online payments, sales, purchases, banking activities, and reservations⁶.

"E-commerce infrastructure involves a range of essential digital components, such as targeted internet marketing, mobile commerce capabilities, mechanisms for online transaction and electronic fund processing, and systems that enable automated data interchange and sophisticated inventory management⁷." The complete online system of developing, selling, delivering, servicing and paying for merchandise and services is also included in e-commerce.

Despite the economic drive toward e-commerce, corporate ethics and governance frameworks face new pressures, primarily because firms and financial institutions prioritize adopting digital solutions to maximize profitability. This pursuit is motivated by the promise of reduced

³ Watson et al., 'E-Commerce and its Impact on Global Trade' (2008); Tiwari & Buse, *Digital Economy and Law* (2007); Chinasubarrao, 'The Concept of E-Commerce' (2016); Sen et al., *Modern Corporate Law* (2015).

⁴ K Trever, *The E-Commerce Revolution: A Legal Perspective* (LexisNexis 2009).

⁵ K Trever, *The E-Commerce Revolution: A Legal Perspective* (LexisNexis 2009).

⁶ Kabango & Asa, 'The Legal Framework of Digital Transactions' (2006).

⁷ Kabango & Asa, 'The Legal Framework of Digital Transactions' (2006).

operational costs, broader service scalability, accelerated transactions, and improved overall business performance⁸.

Table 1: Types of E-Commerce⁹

Type	Definition	Examples
Business-to-Consumer (B2C)	This model describes online commercial interactions where businesses directly target and sell goods or services to individual end-users.	Amazon, Global AdMart
Business-to-Business (B2B)	This is the dominant form of electronic commerce, characterized by transactions focused on the sale of products or services between two separate firms.	Food trade, Supplier Centric
Consumer-to-Consumer (C2C)	This platform facilitates trade between two end-users, typically supported and enabled by an intermediary online marketplace.	eBay Inc., Craigslist, sales groups on social media platforms like Facebook and YouTube
Peer-to-Peer (P2P)	This technology allows internet users to directly exchange files and resources using their personal computing devices without relying on a central server for transfer.	BitTorrent Software, Napster music file-sharing
Mobile Commerce (M-Commerce)	This category encompasses commercial transactions conducted through portable wireless digital devices, a practice frequently observed in markets like Japan and Europe.	[No example needed, definition is clear]

⁸ Kabango & Asa, 'The Legal Framework of Digital Transactions' (2006).

⁹ K Trever, The E-Commerce Revolution: A Legal Perspective (LexisNexis 2009).

E- Commerce and compliance: -

Compliance is the observance of norms which include legislation, industry standards and statutes by an organization (Gasser and Haeusermann,2007). The core of this paper lies in assessing e-commerce compliance by identifying and addressing areas where regulatory risks are most concentrated¹⁰. The legal order to digitization is concerned with risks as follows¹¹:

- i. IT Security: IT security is concerned with virus, spyware, hacking or theft of data or hardware. Effective safeguarding of information and related systems must be harmonized with a dual structure of control: mandatory legal requirements and voluntary industry codes of practice.
- ii. Data Privacy: Data privacy has to be adhered to when processing customer and employee data. The regulatory challenges explored here necessarily hold implications for corporate policies that restrict or prohibit private employee email usage.¹²
- iii. Consumer Protection: Consumer protection laws need to be observed in ecommerce.
- iv. Intellectual Property: Intellectual property (IP) issues introduce significant risk, particularly the potential for copyright infringement liability on the part of online intermediaries, often resulting from violations perpetrated by their own customers¹³. Corporate governance is defined as the mechanism through which companies are guided and managed (EIU, 2002¹⁴), corporate governance encompasses the complex web of relationships uniting the board of directors, management, shareholders, auditors, and other key organizational stakeholders¹⁵.

E-commerce has fundamentally altered the landscape, creating a profound impact on how corporate entities manage their ethics and oversight." For instance, the

¹⁰ K Trever, *The E-Commerce Revolution: A Legal Perspective* (LexisNexis 2009).

¹¹ Memory Rukasha & Felix Bankole, *Impact of e-Commerce on Corporate Governance and Ethics*, CONF-IRM 2019 Proceedings, art. 40 (2019), <https://aisel.aisnet.org/confirm2019/40>

¹² Muna Dahiyat, *The Impact of E-Commerce on Corporate Governance*, 15 J. Corp. L. & Bus. 301, 315 (2011).

¹³ Hossein Ghasemi & Esmacil Zahedias, *The Role of IT Governance in Organizational Performance*, 24 Info. Sys. Mgmt. 55, 60 (2012).

¹⁴ M. Bebhuck et al., *The Board's Duty to Manage Digital Risks*, 35 Harv. L. & Tech. Rev. 101, 115 (2014).

¹⁵ Kabango & Asa, *'The Legal Framework of Digital Transactions'* (2006).

advance in technology and the rise in Internet technology provide increased adequate platforms for e-commerce transactions globally¹⁶. A direct consequence of this development has been the enablement of widespread growth in the e-commerce sector alongside a corresponding emergence of new public policy initiatives¹⁷." The rise of e-commerce has directly influenced the methods used to govern, control, and strategically orient corporate operations¹⁸. (Bebchuck et al., 2014¹⁹) stated that well-governed organizations with e-commerce perform better thus emphasizing on the need for good corporate governance. Deficient corporate governance can precipitate severe organizational dysfunction, manifesting in issues like mismanagement, bureaucratic inefficiency, financial wastage, inconsistent service delivery, operational bottlenecks, and asset misappropriation (or theft). Kabango and Asa (2006²⁰), Glasser and Haeubermann (2007) and Duh et al. (2012) identified factors which affected e-commerce which in turn had a bearing on corporate governance and ethics. These include trust, security, fraud and hacking, awareness and perceived usefulness by customers as well as perceived quality. Consumers' trust that electronic information on retailers' websites is accurate about products or services and credit card numbers are protected on online purchase transactions.²¹

The Corporate Veil: Principle and Origin

The Corporate Veil is the fundamental legal barrier that separates a company's identity from the people who run it (directors) or own it (shareholders). "It functions as a legal mechanism, established in law as a fiction rather than a material entity."

The Core Principle: Separate Legal Entity²²

- **What it means:** Once a company is legally incorporated, the law treats it as an entirely **separate person** or entity—a "**juristic person**"—distinct from its creators. "As a

¹⁶ Muna Dahiyat, *The Impact of E-Commerce on Corporate Governance*, 15 J. Corp. L. & Bus. 301, 315 (2011).

¹⁷ K Trever, *The E-Commerce Revolution: A Legal Perspective* (LexisNexis 2009).

¹⁸ Memory Rukasha & Felix Bankole, *Impact of e-Commerce on Corporate Governance and Ethics*, CONF-IRM 2019 Proceedings, art. 1, at 3 (2019).

¹⁹ M. Bebhuck et al., *The Board's Duty to Manage Digital Risks*, 35 Harv. L. & Tech. Rev. 101, 115 (2014).

²⁰ Kabango & Asa, 'The Legal Framework of Digital Transactions' (2006).

²¹ Kabango & Asa, 'The Legal Framework of Digital Transactions' (2006).

²² *Doctrine of Corporate Veil/Separate Legal Entity*, Taxmann Blog (Apr. 28, 2021, 10:15 AM), <https://www.taxmann.com/post/blog/doctrine-of-corporate-veil-separate-legal-entity>

distinct legal entity, the company is entitled to own assets, formalize contractual obligations, and appear as a separate party in any legal action.

- **The Result (Limited Liability):** This separation ensures that the liabilities and debts of the company are *the company's alone*. "The financial liability of directors and shareholders is typically limited, thereby safeguarding their individual assets from the corporation's debts and insolvency." This is the **immunity** that your paper argues is being eroded.

The Origin: The Salomon Case

"The legal doctrine of the separate corporate personality received its definitive establishment from the House of Lords in the pivotal case of *Salomon v. A Salomon & Co Ltd* [1897] AC 22²³."

- **Simplified Facts:** "The core facts illustrate that Mr. Salomon created a limited liability company from his shoe trade²⁴, maintaining nearly complete control as the principal director and shareholder alongside his immediate family members. "He also loaned money to the company, making him a secured creditor. When the company went bankrupt, unsecured creditors argued that the company was just a "sham" for Mr. Salomon, and he should not be allowed to take the assets ahead of them."²⁵
- **Simplified Ruling:** "The final ruling by the House of Lords affirmed that the company had been legitimately incorporated under statute and consequently existed as a separate and distinct legal personality. It didn't matter that Mr. Salomon was essentially the sole owner and controller. His claim as a secured creditor was valid, and he was paid first.
- **The Takeaway:** The corporate veil is **absolute**. Even a one-person company is legally distinct from that person.

²³ 'Salomon v. Salomon & Co Ltd: Establishing Corporate Personality and Limited Liability' (Casemine, 17 Nov 1896) <https://www.casemine.com/commentary/uk/salomon-v.-salomon-&-co-ltd:-establishing-corporate-personality-and-limited-liability/view> accessed [29 September].

²⁴ 'Salomon v Salomon – Case Summary' (LawTeacher.net) <https://www.lawteacher.net/cases/salomon-v-salomon.php> accessed [29 September].

²⁵ *Salomon v Salomon – Case Summary*, LawTeacher.net, <https://www.lawteacher.net/cases/salomon-v-salomon.php>

Director's Duties: Section 166, Companies Act, 2013²⁶

Section 166 is the Statutory Code of Conduct for every company director in India. It defines the minimum standard of behaviour and professionalism required. The two most critical duties are:

1. Duty of Good Faith (Section 166(2))

This duty is about honesty, loyalty, and purpose. It is incumbent upon every director to conduct themselves and the company's affairs with the highest degree of ethical integrity and moral probity."

2. Duty of Due Care, Skill, and Diligence (Section 166(3))

This duty is about competence and professionalism. It is the key link to your argument about digital compliance.

The Critical Link to E-commerce Liability

The bare act does not mention "e-commerce" or "cybersecurity," but the two duties above provide the ground for liability:

Breach of S. 166(3) (Due Care): A director who ignores the massive financial risk (₹250 Crore fines) posed by the DPDP Act is failing to exercise due care and diligence. This negligence is the legal failure.

Breach of S. 166(2) (Good Faith): A director who approves or allows a corporate structure to evade FDI policy or CCI rules is acting in a manner that is not in the "best interest of the community" or the company's long-term health, exposing the company to regulatory disaster. This is the improper conduct that allows the court to lift the veil.

Judicial Grounds for Piercing the Corporate Veil (9 Key Situations)**1. Fraud or Improper Conduct**

The courts consistently pierce the corporate veil when the company is used as a **mere shield**

²⁶ Companies Act, 2013, No. 18 of 2013, § 166 (India), https://www.indiacode.nic.in/show-data?actid=AC_CEN_22_29_00008_201318_1517807327856&orderno=170

or a **fraudulent device** to evade existing legal or contractual obligations. This exception targets the deliberate misuse of the separate legal entity principle.

Evading Contractual Restraint: The landmark case is **Gilford Motor Co Ltd v. Horne**²⁷. Mr. Horne, after leaving his employment, was bound by a non-compete clause. To bypass this, he incorporated a company to conduct the same business. The court saw the company as a **"mere cloak or sham"** and lifted the veil to enforce the injunction against Mr. Horne personally.

Company as a "Façade": Similarly, in **Jones v. Lipman**²⁸, the defendant, Mr. Lipman, contracted to sell land but then formed a company to which he transferred the land, claiming he could no longer complete the sale personally. The court ruled the company was the **"creature of the defendant, a mask which he holds before his face,"** and ordered both Mr. Lipman and the company to complete the sale.

2. Benefit of Revenue / Evasion of Tax

Courts have established that the separate legal entity of a company cannot be exploited as a **colourable device** or a systematic arrangement designed solely to **avoid or reduce tax liability**. When a company is created not for genuine business purposes but merely as a legal entity to channel income and escape taxation, the veil is pierced to fix the liability on the individual beneficiary.

- **Case Law: In re Sir Dinshaw Maneckjee Petit (1927)**²⁹

Principle: The assessee, a wealthy individual, formed four private companies to hold his investments. These companies performed no real business; their only function was to receive his dividends and interest, which were then immediately handed back to him as purported "loans." This scheme was designed to divide his income and avoid paying the higher **super-tax**.

²⁷ *Gilford Motor v Horne* [1933], UOLLB (July 3, 2024), <https://uollb.com/blogs/uol/gilford-motor-v-horne-1933#:~:text=The%20case%20underscores%20the%20court's,structures%20to%20perpetrate%20fraud%20or.>

²⁸ *Jones v Lipman* [1962], UOLLB (July 9, 2024), <https://uollb.com/blogs/uol/jones-v-lipman-1962>.

²⁹ *In Re: Sir Dinshaw Maneckjee Petit*, LawBhoomi (Sept. 28, 2025), <https://lawbhoomi.com/in-re-sir-dinshaw-maneckjee-petit/>

Ruling: The court disregarded the corporate form, holding that the companies were nothing more than the **assessee himself** disguised as legal entities. The transactions were **not genuine** business dealings but a façade to evade tax obligations. The income was therefore treated as the assessee's personal income.

3. Enemy Character

The corporate veil is judicially disregarded during hostilities to determine the **real character** of a company, preventing it from functioning as a conduit for the enemy state. The court ignores the company's place of incorporation and looks at the nationality of the persons who hold effective control.

- **Case: Daimler Co Ltd v. Continental Tyre and Rubber Co (GB) Ltd (1916)**³⁰

Principle: Continental Tyre was an English-incorporated company, but its shares (except one) and its directors were German residents. Daimler, which owed money to Continental, refused payment, fearing it would constitute **"trading with the enemy."**

Ruling: The House of Lords held that to decide if a company is an enemy alien, the court is entitled to **lift the corporate veil** to ascertain the nationality of those who are in **de facto control** of its affairs. Since the control rested with German nationals, the company was deemed to possess an **"enemy character,"** making the payment illegal.

4. Where the Company is a Sham or a Façade (Evasion of Contractual Obligation)

The court will pierce the veil when a company is created or used merely as a **"device," "cloak," or "sham"** to avoid pre-existing personal legal or contractual obligations. The key is the dishonest motive to use the corporate structure to evade personal liability.

- **Case Law: Gilford Motor Co Ltd v. Horne**³¹ (1933) The Court of Appeal held that the new company, J.M. Horne & Co Ltd, was a mere **sham** or a **façade** used by Mr. Horne to breach his personal contractual covenant. The court granted an injunction

³⁰ Bhavesh Khillare, *Daimler Co. Ltd. vs. Continental Tyre & Rubber Co. Ltd. (1916)*, Scribd (Sept. 28, 2025), <https://www.scribd.com/document/587733921/DAIMLER-CO-LTD-VS-CONTINENTAL-TYRE-RUBBER-CO-LTD-1916>

³¹ *Gilford Motor v Horne [1933]*, UOLLB (July 3, 2024), <https://uollb.com/blogs/uol/gilford-motor-v-horne-1933#:~:text=The%20case%20underscores%20the%20court's,structures%20to%20perpetrate%20fraud%20or>

against both Mr. Horne and the new company, effectively **piercing the corporate veil** to prevent the misuse of the corporate form for dishonest purposes.

5. Company Avoiding Legal Obligations (Evasion of Statute or Liability)

Courts will disregard the corporate personality when the company is specifically and deliberately used to escape existing statutory liabilities, judicial orders, or other clear legal obligations. This principle prevents the abuse of the corporate structure as a mere **shield against the law**.

- **Case: Delhi Development Authority (DDA) v. Skipper Construction Co. (P) Ltd. (1996)³²**

Facts in Brief: The owners/directors of Skipper Construction Co. formed several subsidiary companies. They manipulated the corporate structure to siphon off funds received from flat purchasers and, simultaneously, evaded payment of large dues owed to the DDA for land acquisition. The court noted the company was being used by the directors as a **cloak** to divert funds and evade payment obligations.

Ruling: The Supreme Court of India affirmed that where a corporate entity is being used to commit a **fraud or improper conduct**, such as evading its liabilities or statutory duties, the court is fully justified in **lifting the corporate veil**. The court held the individuals (the controlling directors) personally liable for the company's debts, stating that the corporate entity was merely the **alter ego** of the controlling individuals.

6. Where the Subsidiary is an Agent or Alter Ego of the Holding Company

Courts will lift the corporate veil when a subsidiary company is created or maintained merely as a department, agent, or extension of its holding (or parent) company, and not as a genuinely independent business. In this situation, the parent is liable for the acts of its 'puppet.'

- **Case : Merchandise Transport Ltd. v. British Transport Commission (1961)³³**

³² Shraddha Patil, *Delhi Development Authority vs Skipper Construction Company (P) Ltd. & Another*, LawFoyer (Aug. 30, 2024), <https://lawfoyer.in/delhi-development-authority-vs-skipper-construction-company-p-ltd-another/>

³³ *Merchandise Transport Ltd. v. British Transp. Comm'n*, [1962] 2 Q.B. 173 (Eng.), available at <https://www.casemine.com/judgement/uk/5b2885912c95cd34a362a1c0>.

Facts in Brief: Merchandise Transport Ltd. (the parent) held a license to operate vehicles. To overcome regulatory restrictions and expand its operational area, the parent company created a subsidiary company that technically owned the vehicles. The primary question was whether the court should treat the subsidiary as the independent owner of the vehicles or as a mere **agent** of the parent company to secure a legal advantage.

Ruling: The court examined the reality of the situation. It found that the subsidiary was merely a **façade or agent** for the parent company, created solely to bypass the licensing regulations and operate outside the parent's restrictions. Therefore, the court **pierced the corporate veil** and treated the activities of the subsidiary as the activities of the parent company itself, ensuring the regulatory intent was not defeated.

7. Where the Company is a Simple Agent of the Shareholders

The corporate veil will be lifted when the company, despite its separate legal personality, is found to be acting as a mere **agent or puppet** of its principal shareholders. This ground is particularly relevant when the company lacks any independent business purpose and exists solely to execute the decisions and further the personal interests of its members.

- **Case Law: F.G. Films Ltd. (1953)³⁴**

Facts in Brief: An American film company produced a film in India under the name of an English-incorporated company, F.G. Films Ltd., which was a private company. The English company had a capital of £100, and virtually all its shares and funding were provided by the American company. The English company claimed the film was "British" because it was made by a "British company" (due to its registration in England) to qualify for production subsidies.

Ruling: The court lifted the veil and held that the English company was merely a **nominee** and **agent** for the American company. The English company had no real business, no staff, and no funds of its own; it was entirely controlled and financed by the American firm. Its sole purpose was to act as a **tool** for the American company to claim a benefit it was not legally entitled to. The film was therefore declared **not British**.

³⁴ *Re F.G. (Films) Ltd.*, [1953] 1 W.L.R. 483 (Eng.), available at <https://www.casemine.com/judgement/uk/5b2885912c95cd34a362a1c0>.

8. The Principle of Public Policy

This serves as a judicial '**catch-all**' ground. The court has the inherent power to lift the corporate veil whenever the strict adherence to the separate legal entity principle would lead to a result that is plainly **contrary to public interest** or undermines the established policy of the law.

- **Case: Delhi Development Authority (DDA) v. Skipper Construction Co. (P) Ltd. (1996)**³⁵ The Court emphasized that no person can be allowed to exploit the privilege of incorporation to commit financial fraud or to use the company as a **legal instrument of crime**. The decision to hold the controlling individuals personally liable was thus a necessary measure to uphold public morality and the integrity of the law.

9. Economic Offences and Criminal Intent

The courts will pierce the corporate veil in cases involving serious economic crimes or offences that require proof of a **guilty mind (mens rea)**. The principle here is that the individual who committed the offence cannot hide behind the corporate entity to escape criminal liability.

- **Case Law: Santanu Ray v. Union of India (UOI) (1989)**³⁶

Principle: In this case, which involved economic offences, the court was concerned with identifying the individuals who were truly responsible for the company's criminal acts. The court held that where a company is accused of an offence requiring a specific intent, the court must lift the veil to look at the **intent of the person who controls the affairs** of the company.

Application: The judicial focus shifts from punishing the company (which is often only penalised with a fine) to holding the **controlling directors or officers** personally accountable, ensuring that the privilege of limited liability is not used as a safe harbour for committing crimes like fraud, corruption, or other regulatory violations.

³⁵ Shraddha Patil, *Delhi Development Authority vs Skipper Construction Company (P) Ltd. & Another*, LawFoyer (Aug. 30, 2024), <https://lawfoyer.in/delhi-development-authority-vs-skipper-construction-company-p-ltd-another/>

³⁶ *Santanu Ray v. Union of India (UOI)*, A.I.R. 1989 Cal. 377 (India), available at <https://indiankanoon.org/doc/1549927/>

Statutory Grounds for Lifting the Corporate Veil

1. Reduction of Minimum Number of Members (Section 3A)

This ground deals directly with a breach of the fundamental requirements for incorporation.

- **Provision:** **Section 3A** of the Companies Act (2013, India) states that if, at any time, the number of members of a company (other than a One Person Company) is reduced:

The statutory minimum for a **Private Company** is two members, and the threshold for a **Public Company** is seven members. Should the company continue commercial operations for over six months after its membership drops below the relevant legal minimum, a severe penalty applies. The resulting consequence is that any individual who remains a member during this period and possesses knowledge of the reduced count will face **personal liability** for all corporate debts incurred throughout that time.

2. Failure to Refund Application Money (Section 39)

This ground is vital for investor protection and applies when a company improperly retains funds after a failed public issue.

- **Provision:** **Section 39** (of the Companies Act, 2013, or similar provisions in the 1956 Act) deals with the allotment of shares. If a company fails to receive the minimum subscription within the specified period after opening a public offer, the law requires the entire application money to be **refunded** immediately.
- **Consequence:** If the company fails to refund this money within the prescribed time, the **directors** are made **jointly and severally liable** to repay the money with interest. The corporate veil is bypassed to hold the directors personally responsible for this statutory default.
- **Case Law:** **Sahara India Real Estate Corporation Ltd. v. SEBI (2012)**³⁷

Application: While this case primarily deals with regulatory powers over public deposits, the underlying principle is the enforcement of investor protection laws, which often involve the

³⁷ *Sahara India Real Estate Corp. Ltd. v. SEBI*, (2012) 10 S.C.C. 603 (India), available at <https://indiankanoon.org/doc/158887669/>

lifting of the veil. The Supreme Court effectively pierced the corporate veil to ensure that the individuals controlling the Sahara companies were held personally responsible for the failure to refund monies raised from the public through Optionally Fully Convertible Debentures (OFCDs), underscoring the severity of non-compliance with capital market regulations.

3. Misdescription of the Company (Section 12)

This ground imposes personal liability on officers of the company if the company's name and essential details are not correctly mentioned on official documents, preventing the misuse of the corporate identity.

- **Provision: Section 12** of the Companies Act mandates that the company's name and other prescribed details (e.g., CIN) must be clearly displayed on all its business letters, billheads, and other official publications.
- **Consequence:** If any director, officer, or agent of the company signs or issues any such document where the name of the company is **not properly or fully mentioned**, that person is held **personally liable** to the holder of the document for any amount due, unless the company itself pays it.
- **Case Law: Hendon v. Adelman (1973)**³⁸

Application: In this case, the directors of a company signed a cheque that failed to properly spell out the full name of the company as registered. The court held the directors **personally liable** for the amount of the cheque because they violated the statutory requirement to include the company's full, correct name on a negotiable instrument. This demonstrated the swift lifting of the corporate veil based on a literal reading of the statute.

4. Fraudulent Trading (Section 339)

This is one of the most powerful statutory provisions allowing the court to lift the veil and impose personal liability on individuals who use the company to defraud creditors.

- **Section 339 of the Companies Act, 2013**³⁹ (the successor to Section 542 of the 1956

³⁸ *Hendon v. Adelman*, [1973] 117 Sol. Jo. 631 (Eng.), available at <https://lawessential.com/corporate-law/f/personal-liability-of-director-and-members>.

³⁹ Companies Act, 2013, No. 18, §339 (India).

Act) becomes operative during the winding-up process if evidence suggests that the company's operations were conducted with the intention of defrauding creditors or for any other fraudulent aim. Should this be established, the **National Company Law Tribunal (NCLT)** possesses the authority to hold any individual **personally accountable** for contributing to the company's assets, provided those individuals were knowing participants in the fraudulent conduct of the business.

- **Case Law : Official Liquidator, Supreme Bank Ltd. v. P.A. Tendulkar (1973)⁴⁰**

Application: Though this case centered on the misfeasance provisions (related to breach of duty/negligence), the Supreme Court's ruling strongly affirmed that directors could be held **personally liable** for losses resulting from gross negligence, misconduct, or allowing fraudulent activities. The judgment emphasizes that a director cannot "shut his eyes" to fraudulent practices and will be held accountable if their negligence enabled the fraud, directly supporting the spirit of the fraudulent trading section.

5. Investigation of Ownership and Control (Section 216)

The legislature provides the power to pierce the veil to ascertain the true individuals who control the company's policy and management, especially in the context of major public issues or regulatory breaches.

- **Provision: Section 216** of the Companies Act, 2013 (and previous equivalent sections) grants the Central Government (through inspectors) the power to investigate the company's affairs and report on the **membership of the company** and other matters for the purpose of determining the **true persons** who are, or have been, financially interested in the success or failure of the company, or who have or had the ability to control its policy.

Application Context: Sahara India Real Estate Corporation Ltd. v. SEBI (2012)⁴¹

The Supreme Court's ruling, which necessitated the repayment of thousands of crores to the

⁴⁰ *Official Liquidator, Supreme Bank Ltd. v. P.A. Tendolkar*, (1973) 1 S.C.C. 602 (India), available at <https://indiankanoon.org/doc/1426409/>

⁴¹ *Sahara India Real Estate Corp. Ltd. v. SEBI*, (2012) 10 S.C.C. 603 (India), available at <https://indiankanoon.org/doc/158887669/>

public, required a fundamental piercing of the veil to identify the **true beneficiaries** and the **ultimate controllers** of the group structure (Sahara and its subsidiaries). The regulatory action and subsequent judicial directions were predicated on the state's power to look past the nominal shareholders and directors to uncover the chain of ownership and control, which is the very essence of the power granted under Section 216.

6. Liability for *Ultra Vires* Acts (Breach of Authority)

While modern company law has significantly curtailed the original effect of the *ultra vires* doctrine, the principle of accountability for acts outside the company's objective remains. Individuals can be held personally liable for transactions that clearly exceeded the company's legal capacity or the director's defined authority.

- **Principle:** Though Section 4(1)(c) of the Companies Act, 2013 (read with Section 245 on class actions) has softened the doctrine, directors and managers remain under a statutory **fiduciary duty** to ensure the company's assets are used only for its legitimate business and purposes. Any officer who causes the company to enter into a transaction that is clearly **beyond its powers** or the powers of the Board can be made personally accountable for the resultant losses.
- **Case Law Context: Weeks v. Propert (1873)**⁴²

Application: In this older but foundational case, the directors of a railway company were held **personally liable** because they obtained a loan which was **outside the company's power** as defined by its incorporating act (an *ultra vires* act). This case established that when a director breaches their implied warranty of authority by acting beyond the company's charter, the corporate shield is ineffective, and the individual must compensate the injured third party.

Liability under the Competition Act, 2002

The Competition Act, 2002, frequently disregards the separate legal identity of group companies and individuals to effectively regulate market behavior. The veil is lifted here under the principle of the "**Single Economic Entity**" or "**Enterprise**" doctrine.

⁴² *The Doctrine of Ultra Vires (Company Law)*, Lawrouter (July 23, 2020), <https://lawrouter.wordpress.com/2020/07/23/the-doctrine-of-ultra-vires-company-law/>.

1. The Single Economic Entity (SEE) Doctrine

For the purposes of the Competition Act, the "**Enterprise**" is the relevant unit of analysis. This unit is often interpreted to encompass a holding company and its subsidiaries, or even related individuals, if they do not act independently but follow instructions from a central control.

- **Application to Corporate Groups:** The Competition Commission of India (CCI) and the appellate tribunals (like the NCLAT) frequently look through the corporate structure to find a single, integrated economic unit. If a subsidiary has no genuine freedom to determine its course of action and merely implements the instructions of its parent company, they are treated as one single entity.

2. Analysis of Section 3 (Anti-Competitive Agreements)

Section 3⁴³ prohibits agreements, decisions, or practices that cause or are likely to cause an **Appreciable Adverse Effect on Competition (AAEC)** within India.

- **Lifting the Veil:** The veil is lifted here to ensure that a parent company cannot use a separate subsidiary to enter into a cartel or a price-fixing agreement while shielding the parent from liability.
 - If a group of companies acts in concert to fix prices (cartel), the CCI will hold the entire group, including the parent, jointly and severally liable, effectively ignoring the legal separation of the incorporated entities.

3. Analysis of Section 4 (Abuse of Dominant Position)

Section 4⁴⁴ prohibits an **Enterprise** from abusing its dominant position in a relevant market.

- **Lifting the Veil to Identify Control:** When determining which entity is "dominant," the CCI assesses the power of the entire **group** over which the dominant entity has control.

⁴³ The Competition Act, 2002, No. 12 of 2003, India Code, https://www.indiacode.nic.in/handle/123456789/2010?view_type=b

⁴⁴ The Competition Act, 2002, No. 12 of 2003, India Code, https://www.indiacode.nic.in/handle/123456789/2010?view_type=b

- Crucially, when a finding of abuse is made, the CCI can impose penalties not just on the company, but also on the **"persons in charge"** of the company, such as the directors, key managerial personnel, or even controlling shareholders.
- **Penal Provision:** The CCI can impose penalties based on the **turnover or assets of the entire group** of which the defaulting entity is a part, rather than just the turnover of the individual company. This is a direct statutory lifting of the veil to ensure the penalty is deterrent and proportionate to the group's real economic strength.

Liability under the Digital Personal Data Protection Act, 2023 (DPDP Act)

The DPDP Act imposes a robust framework of compliance, accountability, and severe penalties, necessitating a closer look at the corporate veil when significant breaches occur.

1. Duties of Significant Data Fiduciaries (SDFs)

The DPDP Act establishes special, enhanced compliance obligations for a **Significant Data Fiduciary⁴⁵ (SDF)** (as categorized by the Central Government based on volume of data, risk to rights, national security, etc.).

- **Enhanced Duties:** These duties go beyond general data fiduciaries and include:

Significant Data Fiduciaries are subject to heightened obligations that exceed those imposed on general fiduciaries. These responsibilities necessitate the designation of a **Data Protection Officer (DPO)**, the mandatory engagement of an **Independent Data Auditor⁴⁶**, and the execution of **Data Protection Impact Assessments (DPIA)** along with **regular security audits**. These duties are so fundamental to the business operation that their breach indicates a systemic failure of governance, often traceable to the company's highest managerial levels.

2. Role and Accountability of the Data Protection Officer (DPO)

The DPO appointed by an SDF is a direct channel for accountability, effectively bypassing the

⁴⁵ The Digital Personal Data Protection Act, 2023, No. 22 of 2023 (India), <https://www.meity.gov.in/static/uploads/2024/06/2bf1f0e9f04e6fb4f8fef35e82c42aa5.pdf>.

⁴⁶ The Digital Personal Data Protection Act, 2023, No. 22 of 2023 (India), <https://www.meity.gov.in/static/uploads/2024/06/2bf1f0e9f04e6fb4f8fef35e82c42aa5.pdf>.

corporate hierarchy on matters of compliance.

- **Role and Liability:** The DPO acts as the primary contact point for grievance redressal and the Data Protection Board of India (DPBI). The DPO is responsible for the overall compliance of the company. In the event of a breach, the DPBI's inquiry will scrutinize the DPO's diligence, which subsequently opens the door to examining the company's directors who appointed and supervised the DPO.

3. Penalty up to ₹250 Crores and the Lifting of the Veil

The most direct threat to limited liability is the massive financial liability imposed by the DPDP Act⁴⁷.

- **Maximum Penalty:** The Act specifies penalties for various breaches, with the maximum penalty reaching up to **₹250 Crores** (for failure to take reasonable security safeguards to prevent a personal data breach).
- **Implication for the Veil:** When a company faces a penalty of this magnitude, it may severely compromise its solvency, forcing it into liquidation. At this point, the veil is *functionally* lifted, as the massive statutory penalty drains the corporate assets, forcing creditors and courts to examine the conduct of the directors and officers who allowed the breach to occur. The penalty itself, while imposed on the company, directly reflects the legislature's intent to treat data breaches as an absolute corporate failing.

Link to Section 166(3) of the Companies Act, 2013

This massive statutory penalty creates a direct and immediate link to the **duties of directors** under the Companies Act, which is the mechanism for imposing personal liability on the controlling individuals.

- **Provision: Section 166(3)** of the Companies Act, 2013, mandates that a director of a company shall "**exercise his duties with due and reasonable care, skill and diligence and shall exercise independent judgment.**"

⁴⁷ The Digital Personal Data Protection Act, 2023, No. 22 of 2023 (India), <https://www.meity.gov.in/static/uploads/2024/06/2bf1f0e9f04e6fb4f8fef35e82c42aa5.pdf>.

- **The Chain of Accountability:**

1. The DPDP Act imposes a massive penalty (up to ₹250 Crores) on the company for a data breach.
2. This penalty constitutes a massive loss to the company's assets and, by extension, to its creditors and shareholders.
3. The liquidator, or even the shareholders/creditors, can then initiate **misfeasance proceedings** against the directors under the Companies Act.
4. The argument will be that the failure of the company to implement the SDF duties and the subsequent payment of the huge DPDP penalty demonstrates a clear **breach of the director's duty of due diligence and care** under **Section 166(3)**.

- **Conclusion:** By imposing such a crushing statutory fine, the **DPDP Act provides the trigger** for the **Companies Act (Section 166(3)) to effectively pierce the veil**, allowing the courts to hold directors personally liable for the company's losses arising from the failure to comply with data protection law.

Liability under the Consumer Protection Act, 2019 (CPA)

The CPA, 2019⁴⁸, is powerful because it adopts a broad, results-oriented approach to accountability, targeting both the **e-commerce entity** and the individuals endorsing misleading practices.

1. Liability of E-Commerce Entities

The CPA and its associated rules (specifically the **Consumer Protection (E-Commerce) Rules, 2020**⁴⁹) impose direct liability on e-commerce companies, stripping away the defense that they are merely **intermediaries**.

⁴⁸ The Consumer Protection Act, 2019, No. 35 of 2019, <https://www.indiacode.nic.in/handle/123456789/15256>.

⁴⁹ Consumer Protection (E-Commerce) Rules, 2020, G.S.R. 462(E) (India), [https://thc.nic.in/Central%20Governmental%20Rules/Consumer%20Protection%20\(E-Commerce\)%20Rules,%202020.pdf](https://thc.nic.in/Central%20Governmental%20Rules/Consumer%20Protection%20(E-Commerce)%20Rules,%202020.pdf).

- **Definition and Direct Liability:** The CPA defines an **e-commerce entity**⁵⁰ and holds it accountable for various failures:
 - **Failure to Disclose Information:** An e-commerce entity is liable if it fails to disclose information regarding the seller, customer care contact details, country of origin, or grievance redressal mechanism.
 - **Improper Use of Data:** Liability is imposed if the entity uses consumer data without explicit consent.
 - **Failure to Ensure Guarantees:** For inventory-based e-commerce models, the entity is directly liable for the quality of goods and services sold.

Veil-Piercing Effect: By holding the corporate entity (the e-commerce company) **directly liable** for the integrity of its platform and services, the CPA prevents the entity from hiding behind layers of technology or contract law.

2. Misleading Advertisements and Endorsers

The CPA goes further by directly targeting individuals who promote misleading commercial speech.

- **Provision:** The Act prohibits **misleading advertisements** and provides that the **Central Consumer Protection Authority (CCPA)**⁵¹ can issue directions or impose penalties.
- **Liability of Individuals:** The CCPA can impose a penalty of up to **₹10 Lakh** (and higher for repeat offences) on the:
 - **Manufacturer or Service Provider** for the misleading advertisement.
 - **Advertiser** (the person who commissioned the ad).

⁵⁰ Press Release, *Consumer Protection Act, 2019 to Strengthen Provisions for Consumer Protection*, Press Info. Bureau (India) (Aug. 2, 2023), <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1945167>.

⁵¹ Central Consumer Protection Authority (CCPA), *Min. of Consumer Affs., Food & Pub. Distrib.* (India), <https://dca.gov.in/ccpa/>.

- **Endorser** (the celebrity or public figure who appears in the ad).

Veil-Piercing Effect: This provision explicitly bypasses the corporate veil by imposing liability **personally** on individuals—namely the endorsers and the persons responsible for the corporate decision to advertise. This is a direct statutory measure that ensures individual accountability for corporate misconduct that harms the public.

3. Unfair Trade Practices (UTP)

The Act defines and penalizes specific acts of corporate misconduct as **Unfair Trade Practices (UTP)**.

- **Definition:** Examples of UTPs include falsely representing the quality of goods, hoarding, destroying goods, or making misleading warranties.
- **Consequence:** Any person or entity found to have engaged in a UTP can face severe penalties, including fines and, in some cases, imprisonment for company officers. The District, State, and National Consumer Commissions have the power to award compensation that can bankrupt the company, again leading to scrutiny of the directors under the Companies Act for misfeasance.

The CCI Investigation and the 'Colourable Device' Argument

The Competition Commission of India (CCI) investigation in Case No. 40 of 2019⁵² regarding the conduct of Flipkart and Amazon provides one of the most significant modern illustrations of a regulatory body seeking to pierce the corporate veil based on the argument of a "**colourable device**" used for **evasion of statute**.

1. The Core Evasion Strategy: The Marketplace Façade

The central regulatory challenge faced by the CCI was the structure of foreign investment in Indian e-commerce. Foreign Direct Investment (FDI) policy restricts foreign-owned entities from operating in an **inventory-based model** (where the e-commerce company owns the

⁵² Delhi Vyapar Mahasangh v. Flipkart Internet Pvt. Ltd., Case No. 40/2019 (Comp. Comm'n of India May 16, 2022), <https://www.cci.gov.in/images/antitrustorder/en/4020191652260285.pdf>.

goods). Foreign entities are permitted only in the **marketplace model** (where the platform only connects buyers and independent sellers).

The accusation leveled against Flipkart and Amazon by the complainant (Delhi Vyapar Mahasangh) was that the marketplace structure was a **mere façade** or a "colourable device" designed to circumvent the mandatory restrictions of the FDI policy.

2. The Single Economic Entity (SEE) Doctrine

To pierce this corporate structure, the CCI relied heavily on the **Single Economic Entity (SEE)** doctrine, which prioritizes economic reality over legal form.

- **Rationale for Piercing:** The CCI argued that the e-commerce platforms (the parent entities) exerted **decisive influence** and **control** over a select few "preferred sellers" (e.g., Cloudtail/Appario for Amazon and WS Retail/Flipkart India for Flipkart).
- **Lack of Independence:** Despite being separately incorporated, these preferred sellers lacked genuine commercial autonomy. Their decision-making power—especially concerning pricing, inventory management, and deep discounting—was alleged to be dictated by the platforms.
- **Conclusion of Evasion:** By controlling these key sellers, the platforms were, in economic terms, effectively controlling the inventory and sales process, making the entire operation **inventory-based** in reality, thus violating FDI rules and creating an unfair competitive landscape in violation of **Sections 3 and 4** of the Competition Act.

3. Mechanisms Used to Mask the Reality

The investigation focused on several specific contractual and operational mechanisms that demonstrated the lack of independence and the use of the corporate layers as a "colourable device."

Mechanism of Evasion	Regulatory Implication
Preferential Treatment	Providing these key sellers with exclusive benefits, deep discounts, access to platform data, and favourable logistics, making competition impossible for smaller, truly independent sellers.
Exclusive Deals	Agreements for private labels and exclusive brand launches were routed through these preferred sellers, demonstrating a collective rather than independent entity.
Structural Links	Investigation sought to confirm interlocking directorships, common email domains, and complex financial arrangements that showed de facto control over the preferred seller's day-to-day operations and management.

The core regulatory argument was that the separate incorporation of the platforms and the preferred sellers was not for legitimate business distinction but was specifically intended to **evade the application of FDI laws** and mask anti-competitive behaviour. By treating the platforms and their preferred sellers as a single **"Enterprise"** under the Competition Act, the CCI attempted to hold the entire economic unit accountable for the abuse.

The **Competition Commission of India (CCI)** case (No. 40 of 2019) regarding Amazon and Flipkart stemmed from a finding that there was a *prima facie* violation of the Competition Act due to alleged anti-competitive practices like deep discounting and preferential treatment given to select sellers. After the CCI ordered an investigation, the companies secured a judicial stay from the High Court, arguing the initial order lacked sufficient basis. However, in 2022, the **Supreme Court of India overturned the High Court's stay**, upholding the CCI's power to conduct the investigation whenever a *prima facie* case is established. This decisive ruling **cleared the way for the investigation to proceed**, affirming the regulatory process and underscoring that the platforms must comply with the inquiry; the final judgment on whether the companies are guilty of contravention is yet to be pronounced by the CCI after reviewing the investigation report.

The WhatsApp Data Policy Dispute Analysis

The core of the dispute⁵³ revolves around the distinction between data sharing with **Facebook (Meta)** for Indian users (which was previously optional but became mandatory) and the data sharing practices in Europe (which remained optional due to the GDPR). This mandatory

⁵³ Manasvini Singh & Yashika Aggarwal, *Analysing CCI's Order on WhatsApp's 2021 Privacy Policy: A New Era for Data Protection and Competition Law Enforcement in India?*, Wolters Kluwer Competition Blog (May 30, 2022), <https://legalblogs.wolterskluwer.com/competition-blog/analysing-ccis-order-on-whatsapps-2021-privacy-policy-a-new-era-for-data-protection-and-competition-law-enforcement-in-india/>.

sharing in India created a legal framework where acceptance was necessary to continue using the service. The protracted dispute over **WhatsApp's Data Policy** (specifically the 2021 update) presents a strong case for viewing non-transparent or coercive data sharing as a form of **"fraud on the user"** or **"unconscionable conduct,"** akin to how courts lift the corporate veil to prevent evasion or unconscionable abuse.

1. The Argument for "Fraud on the User"

The legal concept of "fraud" involves intentional misrepresentation or concealment to induce reliance and cause injury. While direct fraud is hard to prove, the policy's structure resembles a "fraud on the user" in a socio-legal sense through **concealment and induced necessity**:

- **Concealment and Lack of Free Consent:** WhatsApp's initial value proposition was end-to-end encryption and data privacy. The policy update fundamentally changed this contract. By presenting the update as a **take-it-or-leave-it** condition for continued service, WhatsApp concealed the true nature of the transaction: the exchange of the user's personal data for the continuation of a communication service that has become essential.
- **Misrepresentation of Choice:** Users were given the *illusion* of choice (accept or delete the app), but since WhatsApp is often an indispensable utility for personal and professional life in India, the choice was **coerced**. This constitutes a form of "fraud" where the user's will is compromised under duress of losing connectivity.
- **Breach of Trust:** Forcing a policy change that monetizes user data, after years of operating on a privacy-centric trust model, is a **breach of the implied contract of trust**. This mirrors the judicial doctrine of lifting the corporate veil where a company acts as a **"sham or façade"** (e.g., Gilford Motor) to achieve an objective inconsistent with its stated purpose.

2. The Argument for "Unconscionable Conduct"

"Unconscionable conduct" occurs when a strong party takes unfair advantage of a weaker party's vulnerability, resulting in a transaction that is objectively unfair. This directly applies to the WhatsApp policy in several ways:

- **Gross Inequality of Bargaining Power:** WhatsApp (backed by Meta's vast resources and market dominance) holds overwhelming bargaining power against individual users. The terms were presented as a **non-negotiable adhesion contract**.
- **Unfair Terms:** The terms were grossly unfair because the user gains **zero additional service benefit** in exchange for the mandatory and pervasive sharing of their metadata, device data, and usage data with Meta's advertising infrastructure. The entire benefit accrues to the dominant party.
- **Dominant Position Abuse:** This conduct is comparable to the statutory grounds for piercing the veil under the **Competition Act, 2002**. The WhatsApp policy leveraged the company's **dominant market position** to impose an unfair condition (Section 4) on consumers, effectively abusing its monopoly status to extract a collateral benefit (data).
- **Breach of Fiduciary Duty:** Although not strictly a financial fiduciary, a platform that holds intimate personal data assumes a quasi-fiduciary duty toward its users. By prioritizing its commercial interest (data monetization) over the user's fundamental right to privacy, WhatsApp demonstrated an **unconscionable breach of duty**, reflecting the director misconduct that attracts personal liability under the Companies Act.

The WhatsApp data policy dispute showcases how digital platforms can use **structural coercion and non-transparency**—the digital equivalent of legal evasion—to extract value. By analyzing these practices through the legal lenses of "fraud on the user" and "unconscionable conduct," courts and regulators are justified in intervening to protect the consumer, mirroring the necessary judicial power to lift the corporate veil to uphold public interest and prevent misuse of legal privilege.

Conclusion: -

Although the landmark Salomon case unequivocally introduced the concept of separate legal personality, the courts and legislature have fundamentally evolved this principle through comprehensive judicial precedents and robust statutory interpretations, culminating in the doctrine of piercing or lifting the corporate veil. This evolutionary process has become acutely critical with the rise of e-commerce platforms and online marketplaces, which have instigated

a significant shift in India's corporate governance landscape. While technological advancement is indeed a boon in creating economic and employment opportunities, it is also a bane, generating complex legal challenges such as mass data privacy violations, security breaches, and the use of corporate structures to facilitate regulatory evasion. The severe liability mechanisms detailed in modern law underscore the ultimate synthesis of this legal evolution: the necessity for the corporate privilege to be secured by a proactive shift toward Digital Compliance Governance (DCG) at the board level.