E-NEWSLETTER

Volume: 2, Issue: 1 | January 2026

TUHIN & PARTNERS
NEXUS OF LAW & BUSINESS

TUHIN & PARTNERS
NEXUS OF LAW & BUSINESS

TABLE OF CONTENTS

CONTRIBUTORS

Editor
Fouzia Fariha

Research Intern
Provat Bala

Research Associate
Md. Kowshik Shahriar

Research Intern
Achia Akter

Research Intern & Graphics Designer
Abdullah Al Motrood Yeasir

Regulatory and Tax Evasion Through Complex Corporate Structures

Introduction:

In today's world of commerce, corporate structures have grown increasingly sophisticated, often operating through layered subsidiaries, holding companies, and complex ownership arrangements. While such structures may be utilized for legitimate purposes such as risk management, investment facilitation, and operational efficiency, they are also susceptible to abuse.

The strategic use of shell companies and artificial corporate arrangements has enabled the concealment of beneficial ownership, tax evasion, customs duties, and statutory obligations.[1] This misapplication of complex corporate structures presents a significant challenge for regulators, tax authorities, and courts, which must strike a delicate balance between upholding the principle of separate legal corporate personality and preventing its misuse as a pretext for regulatory and fiscal evasion.

Key Discussion:

The increasing use of shell companies and multi-layered subsidiary structures has evolved as a prominent tactic to evade regulations and tax. They are more than often exploited to conceal beneficial ownership.[2] A beneficial owner refers to an individual who is ultimately vested with the control of a legal entity. Shell companies often exist on paper only and are used to conceal the ultimate beneficial ownership by masking the origin of the transactions. Termed as business revenue, illegal funds may be deposited into a shell company's bank account where the funds are then transferred between multiple accounts across different jurisdictions. As a result, tracing the origin of the fund becomes difficult as it goes through complex layers, until they are withdrawn or reinvested as clean money.[3] Thus, the identity of the ultimate beneficiaries and the source of transaction remain hidden.[4] Under the Companies Act, 1994, obligations relating to the maintenance of share registers seek to enhance transparency, however disclosure of beneficial ownership is yet to be explicitly addressed.

The corporate veil is not an iron curtain.[5] Corporate entities are sometimes structured as a mechanism to shield controlling individuals from liability. In response, Courts and tax regulators have relied on statutory grounds besides fraud and misrepresentation, to pierce through the corporate veil in case of tax evasion as well.[6] Veil lifting is commonly invoked when a company is established or operated as a sham, facade, or vehicle to evade tax, defeat statutory obligations, or commit fraud. In such circumstances, courts disregard corporate separateness to identify the real controllers and impose liability accordingly. Additionally, to counter artificial corporate arrangements, tax authorities have progressively adopted a substance-over-form approach. This shift is reflected in general anti-avoidance rules under the income tax legislation[7], which empower authorities to disregard transactions lacking commercial substance and re-characterize them based on their real economic effect. These provisions signal a move away from rigid formalism, and towards regulatory scrutiny grounded in country's economic reality.

With the judicial approach complementing the legislative anti-avoidance measures, the principle that corporate personality cannot be used as a tool for illegality is therefore reinforced. This in turn, has significantly heightened compliance risks for corporate groups and promoters. With electronic tax management provision being introduced[8], enhanced disclosure requirements, expanded investigatory powers, and judicial willingness to look beyond formal structures have curtailed the scope for aggressive tax planning and exploitation of legal loopholes.

Concluding Remarks:

As we continue to recognize corporate autonomy indispensable in the commercial arena, the growing approach to prefer substance over form, statutory anti-avoidance measures, and judicial veil-lifting reflects a broader commitment to protecting the integrity of regulatory and fiscal systems. For corporate entities simultaneously, this indicates an increased compliance burden, compelling them to operate through genuine commercial substance, and adherence to both the letter and spirit of the law.

Source: Gemini

1. Shishir Tiwari and Dr Axita Shrivastava, 'Shell Companies, Tax Evasion, and The Legal Framework In India' (2025) 5(5) Indian Journal Of Legal Review https://ijlr.iledu.in/wp-content/uploads/2025/04/V5I596.pdf accessed 11 January 2026.
2. Pragati Garg and Vanshika Gupta, 'Governance of shell corporations and their role in enabling white-collar crimes' (2025) 11(9) International Journal of Law https://www.lawjournals.org/assets/archives/2025/vol11issue9/11196.pdf accessed 11 January 2026.
3. Antony Bellingall, 'Shell Companies: The Hidden Players in Money Laundering' (Idenfo, 26 February 2025) https://idenfo.com/shell-companies-the-hidden-players-in-money-laundering/ accessed 11 January 2026.
4. Matilda Gillis, 'Shell Companies and Exposing Beneficial Ownership: Testing The Boundaries Of The International Commitment To Fight Corruption' (2019) 20 Melbourne Journal of International Law https://law.unimelb.edu.au/__data/assets/pdf_file/0011/3567440/Gillis.pdf accessed 11 January 2026.
5. Tom Spencer, 'Finding the Wisdom of Salomon' (2012) 40(2) Australian Business Law Review; Wallersteiner v Moir [1974] 1 WLR 991.
6. Vodafone International Holdings BV v. Union of India, MANU/SC/0051/2012, [167, 168].
7. Snehasish Barua, 'New tax law will be beneficial through comprehensive digitisation' The Business Standard (9 June 2023) https://www.tbsnews.net/analysis/new-tax-law-will-be-beneficial-thru-comprehensive-digitisation-646910 accessed 11 January 2026.
8. Income Tax Act 2023, s 328.

Director and Promoter Liability in Fraud and Insolvency

Introduction:

Fraud and insolvency often influence each other, with fraudulent activities potentially leading to insolvency, and insolvency creating opportunities for fraud. Corporate insolvency, therefore, poses serious legal risks for directors and promoters, particularly where mismanagement, concealment of assets, or deceptive transactions are involved. The Companies Act, 1994 outlines the circumstances under which directors and promoters may incur personal liability for company debts and prescribes penalties for fraudulent conduct, including fines and imprisonment, aimed at ensuring accountability and protecting creditors' interests.

Key Discussion:

Duty and liability of Directors and promoters in the event of insolvency of a company:

Directors manage a company's affairs for its benefit and act as trustees and agents, as established in Great Eastern Railway Company V. Turner,[1] They are generally not personally liable for company debts unless fraud or gross negligence is proven, Hasan Mahmud Raja v. Muhammad Iabal Sharif. The Company Act 1994 outlines their duties and liabilities.[2] including specific responsibilities in the event of insolvency.

A. Duty of diligence: The directors' actions must be in the best interest of the company and its creditors, avoiding any actions that could worsen the insolvency situation.[3]

B. Calling a general shareholders' meeting: In the event of significant losses that reduce net assets to below 50% of the share capital, the directors must convene a meeting to take necessary actions under Section 96 of the Companies Act 1994.[4]

C. Filing for insolvency proceedings: if the company is insolvent, directors are required to file for insolvency proceedings within two months of becoming aware or having to be aware of the insolvency.

These statutory and fiduciary obligations become particularly significant when a company is facing financial distress. At this stage, directors must shift their focus from shareholder interests to the protection of creditors and the preservation of company assets. Failure to comply with these heightened duties may result in personal liability, civil sanctions, or criminal consequences under the Companies Act 1994.

Neglecting to fulfil the duties or presence of fraudulent, misrepresentation, wrongful trading, can result in various liabilities for directors:

A company director has fiduciary duties to the company, and negligence or fraudulent misrepresentation can lead to personal liability under the Companies Act 1994 in Bangladesh, especially during insolvency. The key liabilities for directors include:

- Commercial Liability: Disqualification from future administrative roles and removal from office through shareholder resolution or judicial order.
- Civil Liability: Accountability to the company, creditors, and third parties for damages due to negligent management, potentially requiring compensation.
- Insolvency Liability: Personal risk for exacerbating insolvency or acting fraudulently, which can endanger personal assets.
- Criminal Liability: In cases involving fraud, asset stripping, or the falsification of documents, directors may face criminal charges that can result in imprisonment and financial penalties.[5]
- Disqualification of directors: A director who fails to meet legal responsibilities may be disqualified from their role by a court or regulatory authority, either temporarily or permanently.[6]

Concluding Remarks:

A director must act in good faith, exercise due diligence, avoid conflicts of interest, maintain confidentiality, and ensure compliance with laws. Negligence or fraudulent activities can lead to insolvency and legal liabilities. Therefore, directors must understand their legal obligations to mitigate risks.

Source: agamalaw.in

1. Great Eastern Railway Co v Turner (1872) LR 8 Ch App 149, 152.
2. LACSB, Directors' Duties and Liabilities in Bangladesh: Legal Responsibilities and Risks (LACSB, 19 March 2023) https://www.lacsb.com/post/directors-duties-and-liabilities-in-bangladesh-legal-responsibilities-and-risks accessed 10 January 2026.
3. Begbies Traynor Group, What are a director's legal duties and responsibilities while insolvent? (Begbies Traynor Group) https://www.begbies-traynorgroup.com/insolvency/what-are-a-directors-legal-duties-and-responsibilities-while-insolvent accessed 10 January 2026.
4. Companies Act 1994 (Bangladesh), s 96.
5. LetsLaw, The Liability of Directors in Corporate Insolvency Situations (LetsLaw, 29 September 2025) https://letslaw.es/en/liability-directors-corporate-insolvency/ accessed 10 January 2026.
6. Legal And Consultancy Services Bangladesh (LACSB), Directors' Duties and Liabilities in Bangladesh: Legal Responsibilities and Risks (LACSB, 19 March 2023) https://www.lacsb.com/post/directors-duties-and-liabilities-in-bangladesh-legal-responsibilities-and-risks accessed 10 January 2026.

Commercial Court Ordinance 2026

(Ordinance No. 1 of 2026)
Gazetted: 1 January 2026

Introduction:
On January 1, 2026, Bangladesh gazetted the Commercial Court Ordinance (hereafter 'the Ordinance'), paving a significant path to achieving commercial justice through a modern approach in commercial dispute resolution. Prior to the Ordinance, commercial disputes involving local trade, businesses or foreign investments were primarily filed and adjudicated under the Code of Civil Procedure, 1908 and the Contract Act, 1872, through ordinary civil courts. While these frameworks provided legal remedies, they were not designed to address the growing sophistication, urgency, and technical nature of modern commercial disputes.

As Bangladesh is set to graduate from the Least Developed Country (LDC) status, ensuring a reliable, efficient, and investor-friendly dispute resolution mechanism is a vital step. The Ordinance attempts to fill this institutional gap by introducing specialized courts dedicated exclusively to commercial disputes.

Key Discussion:
Traditionally, civil courts in Bangladesh have been predominantly catering to land-centric disputes including property disputes, family matters, and general civil litigation. Commercial disputes essentially require commercial literacy, financial understanding, and sector-specific expertise, which traditional civil courts were neither structured nor trained to provide. This Ordinance emerges as an efficient solution, allowing the adjudication of at least 24 various kinds of commercial disputes, including those involving banks, financial institutions, subscription and investment contracts, joint ventures, insurance, and intellectual property. Under the Ordinance, the required number of commercial courts shall be determined at the district level, and the territorial jurisdiction of such courts shall be decided in consultation with the Supreme Court subject to any adjustments as may be needed. The presiding officers of these specialized courts shall be appointed from the Bangladesh Judicial Services with preference to those having advanced qualifications in commercial law or previous experience in adjudicating commercial disputes. The commercial courts formed under the Ordinance are mandated to conclude the trial of a dispute within 90 days from the date fixed for its final hearing. Besides the 24 types of disputes provided for adjudication under the Ordinance, the Supreme Court Secretariat may assign any other commercial dispute under the commercial courts' jurisdiction from time to time via notification.
The prevalent prolonged litigation timeline for commercial disputes discouraged both foreign direct investment (FDI) and high-value local investments in the past. As a result, investors opted for arbitration despite its high costs and limited accessibility for small or domestic businesses. The Ordinance addresses these structural deficiencies by establishing specialized courts with exclusive jurisdiction over commercial disputes. It stipulates time-bound procedures, mandatory pre-institution mediation, strict timelines for filing pleadings, and case management hearings, all aimed at expediting commercial dispute resolution. By providing a distinct avenue for commercial litigation beyond the general civil court system, the Ordinance separates commercial justice from ordinary civil justice which was long overdue in Bangladesh's legal landscape.

Pros:
The most significant advantage of this Ordinance is the specialization that it offers. Judges presiding over the Courts shall be chosen for having knowledge grounded in commercial law or trained in commercial dispute resolution. This enhances the comprehension of the matters in dispute as well as the quality and consistency of judgments, which is essential for building long-term investor confidence. Commercial courts offer a cost-effective and reliable forum for resolution as opposed to arbitration. The Ordinance also promises faster disposal of cases with strict deadlines for written statements, limited adjournments, summary judgments, and active case management. Thus, making commercial justice accessible and attainable, particularly for small and medium enterprises.

Cons:
Despite its promise, no legislation is without limitations. The success of commercial courts shall largely depend on judicial capacity, training, and institutional resources. Without adequate preparation, specialization may exist on paper only. Concerns may also emerge regarding uniformity and accessibility, especially in districts with limited judicial infrastructure. Finally, coordination between commercial courts and existing civil courts during the transition phase especially regarding the transfer of pending cases, may pose practical challenges if not carefully navigated.

Concluding Remarks:
A predictable and efficient commercial dispute resolution system is a key indicator assessed by international investors and development partners. The Ordinance effectively aligns with Bangladesh's LDC graduation goals. By upholding commercial justice, Bangladesh can position itself as a more reliable destination for FDI inflows, which have historically remained below potential despite the country's strong potential. If effectively enforced, it can enhance investor confidence and support Bangladesh's transition toward a competitive post-LDC economy.

Salomon v A Salomon and Co Ltd [1897] AC 22

Summary:
Salomon v A. Salomon & Co. Ltd is considered a landmark and fundamental decision in the history of company law. The doctrine of "Separate Legal Entity / Corporate Personality" was established for the first time in this case. The House of Lords unanimously declared that a company, once registered under the Act, exists as a legal entity completely separate from its founders or shareholders. Even if one person holds almost all the shares in the company and practically controls the company, the company will still be considered a separate person in legal terms. This judgment strengthened the concept of limited liability of shareholders and created a solid foundation for legal protection in taking risks in business. Almost all the fundamental principles of modern corporate law have been developed based on this case.

Facts of the Case:
Aron Salomon was a successful boot and leather manufacturer who ran his business as a sole proprietorship. In 1892, he converted it into a limited liability company, A. Salomon & Co. Ltd, under the Companies Act 1862. To meet the minimum seven-member requirement, Salomon made six family members shareholders. He owned 20,001 of the 20,007 shares, while the others held one share each. Salomon sold his business to the company in exchange for shares and secured debentures, making him a secured creditor. Later, due to market downturns and financial difficulties, the company suffered losses and went into liquidation. After paying secured creditors, there were insufficient funds for unsecured creditors. The liquidator claimed the company was merely Salomon's personal business in disguise and sought to hold him personally liable for its debts.

Issues:
1. Whether the company was a mere 'front' or 'agent' for Salomon's personal business?
2. Whether Salomon was personally liable for the debts of the company?
3. Validity of Salomon's debentures under the Companies Act, 1862?

Ruling:
The Court of Appeal, declaring the company to be a myth, reasoned that Salomon had incorporated the company contrary to the true intent of the then Companies Act, 1862, and that the latter had conducted the business as an agent of Salomon, who should, therefore, be responsible for the debt incurred in the course of such agency.

The House of Lords, however, upon appeal, reversed the above ruling, and unanimously held that, as the company was duly incorporated, it is an independent person with its rights and liabilities appropriate to itself, and that "the motives of those who took part in the promotion of the company are absolutely irrelevant in discussing what those rights and liabilities are". Thus, the legal fiction of "corporate veil" between the company and its owners/controllers was firmly created by the Salomon case.

Implications:
Commencing with Salomon v A. Salomon & Co Ltd, the principle of separate legal personality (SLP) has been followed in cases like Macaura v Northern Assurance Co., Lee v Lee's Air Farming Ltd, and Farrar. This legal fiction establishes that a company exists independently from its shareholders. Consequently, the company's rights, obligations, and liabilities are distinct from those of its members, who are liable only to the extent of their capital contributions, "limited liability." This framework enables individuals to pursue economic purposes collectively while protecting personal assets. Companies can own property, contract, raise capital, invest, sue, and be sued in their own name, and they continue to exist even after members' deaths.

Exceptions to Veil Protection
SLP is not absolute; courts may pierce the corporate veil in certain circumstances, notably agency, fraud, façade, group enterprise, and injustice. In Adams v Cape Industries, these equitable exceptions were clarified. Subsequent cases, including Caterpillar Financial Services (UK) Ltd v Saenz Corp Ltd, Stone & Rolls v Moore Stephens, and Akzo Nobel v The Competition Commission, illustrate judicial application of these principles. Statutory exceptions further extend veil piercing.

Salomon Rule Reinforced
Despite the erosion of SLP through exceptions, courts have reaffirmed its core. In Bank of Tokyo v Karoon, the Court of Appeal rejected the "single economic unit" theory, emphasizing the legal distinction from economics. VTB Capital Plc v Nutritek International Corporation confirmed veil piercing is a limited equitable remedy. Most notably, Prest v Petrodel restricted lifting the veil to the "concealment principle" (sham) and "evasion principle" (fraud), declining to pierce the veil on the facts and thereby reinforcing the Salomon rule.

Conclusion:
All in all, the Salomon ruling remains predominant and continues to underpin English company law. While sham, façade and fraud primarily trigger the invocation of the veil's piercing exception in limited circumstances, these grounds are not exhaustive, and much is left to the discretion and interpretation of the courts on a case-to-case basis.

TUHIN & PARTNERS
NEXUS OF LAW & BUSINESS

Our Services

To read our e-newsletter please visit https://tnp.legal/enewsletter/ or Scan

Corporate Office:
Flat G2 (6th Floor), House # 94,
Road # 10,Block # D, Niketan,
Gulshan-1, Dhaka-1212

Registered Office
Office No. 305 (2nd floor),
3/B, Purana Paltan, Dhaka-1000

TUHIN & PARTNERS
NEXUS OF LAW & BUSINESS

E-mail Address:
hello@tnp.legal

Website:
www.tnp.legal