

MKG CA EDUCATION

LIST OF
IMPORTANT
CASE LAWS
BASED ON
COMPANIES ACT

PART 1

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PART 1

<u>CASE LAW</u>	<u>FACTS OF THE CASE</u>	<u>DECISION</u>
<p>Macaura v. Northern Assurance Co. Limited (1925)</p>	<p>Macaura (M) was the holder of nearly all (except one) shares of a timber company. He was also a major creditor of the company. M Insured the company's timber in his own name. The timber was lost in a fire. M claimed insurance compensation.</p>	<p>Held, the insurance company was not liable to him <u>as no shareholder has any right to any item of property owned by the company,</u> for he has no legal or equitable interest in them.</p>
<p>Salomon Vs. Salomon and Co Ltd</p>	<p>In this case one Salomon incorporated a company named "Salomon & Co. Ltd.", with seven subscribers consisting of him self, his wife, four sons and one daughter.</p> <p>This company took over the personal business assets of Salomon for £ 38,782 and in turn, Salomon took 20,000 shares of £ 1 each, debentures worth £ 10,000 of the company with charge on the company's assets and the balance in cash.</p> <p>His wife, daughter and four sons took up one £ 1 share each.</p> <p>Subsequently, the company went into liquidation due to general trade depression.</p> <p>The unsecured creditors to the tune of £ 7,000 contended that Salomon could not be treated as a secured creditor of the company, in respect of the debentures held by him, as he was the managing director of one-man company, which was not different from Salomon and the cloak of the company was a mere sham and fraud.</p>	<p>"The Company is at law a different person altogether from the subscribers to the memorandum,</p> <p align="center">And</p> <p>though it may be that after incorporation the business is precisely the same as it was before and the same persons are managers, and the same hands receive the profits,</p> <p>the company is not in law the agent of the subscribers or trustees for them.</p> <p>Nor are the subscribers, as members, liable, in any shape or form, except to the extent and in the manner provided by the Act."</p> <p><u>Thus, this case clearly established that company has its own existence and as a result, a shareholder cannot be held liable for the acts of the company even though he holds</u></p>

		<p><u>virtually the entire share capital.</u></p> <p><u>The whole law of corporation is in fact based on this theory of separate corporate entity.</u></p>
<p>Daimler Co. Ltd. vs. Continental Tyre & Rubber Co</p>	<p>A company with the name Continental Tyre and Rubber Co. Ltd. was registered in England. The object of this company was to sell tyres in United Kingdom, which were manufactured in Germany by a German company. Majority of the shares of this company were held by Germans. Besides this, all the directors of the company were German residents. When the First World War broke out, the company filed a suit to recover a trade debt.</p>	<p>The court came to the conclusion that the company was an enemy company because the effective control of the company was in the hands of Germans who were alien enemy. Hence, the claim of the company was disallowed on the ground that it was against public policy to allow alien enemies to trade by using the corporate veil.</p>
<p>S.Berendsen Ltd. vs. Commissioner of Inland Revenue</p>	<p><u>Where question of the controlling interest is in issue.</u></p>	
<p>Juggilal vs. Commissioner of Income Tax AIR (SC)].</p>	<p><u>Where corporate entity is used to evade or circumvent tax, the Court can disregard the corporate entity</u></p>	

<p>Dinshaw Maneckjee Petit</p>	<p>The assessee, Sir Dinshaw who was a very rich man, was earning huge dividend and interest income. He formed four private companies and entered into an agreement with each company to hold a block of investment as his agent. Under the arrangement the income received was credited in company's account and the company handed the amount back to him as a loan (which was never repaid). In this way he divided his income in four parts in order to reduce his tax liability.</p>	<p>The court ignored the corporate entity of these companies and held that the company was nothing more than the assessee himself. Sir Dinshaw was held the owner of total income and liable to pay tax.</p>
<p>The Workmen Employed in Associated Rubber Industries Limited, vs. The Associated Rubber Industries Ltd.</p>	<p>A new company was formed with no assets of its own except those transferred to it by the principal company. The new company had no business of its own, it received dividend on shares transferred to it by the principal company. Thus, the principal company was able to reduce its gross profits and consequently the amount of bonus payable to workman was also reduced.</p>	<p>The Supreme Court rejected the independent status of the new company and directed that the amounts paid to the new company as dividend shall also be taken into account while determining the gross profits of the principal company.</p>
<p>Merchandise Transport Limited vs. British Transport Commission (1982)</p>	<p>A transport company wanted to obtain licences for its vehicles, but could not do so if applied in its own name. It, therefore, formed a subsidiary company, and the application for licence was made in the name of the subsidiary. The vehicles were to be transferred to the subsidiary company.</p>	<p>Held, the parent and the subsidiary were one commercial unit and the application for licences was rejected.</p>

<p>Gilford Motor Co. vs. Horne</p>	<p>Horne was appointed as a managing director of Gilford Motor Co. with the condition that he would not solicit or entice away the customers of the company, so long as he was in the employment of the company and afterwards. After leaving the company, Horne formed another company which was to carry on the same business. This new company of Horne solicited the customers of Gilford Motor Co. Ltd. In a suit filed by Gilford Motor Co. Ltd. against Horne to restrain him from soliciting the business, the court came to the conclusion that Horne had created the company for his own benefit and to solicit the customers of his employer's company.</p>	<p>The court issued an injunction against Horne and his new company and held that the new company was a mere cloak for the purpose of enabling the defendant to commit a breach of his contract that he would not solicit the business of his employer's company.</p>
<p>Narendra Kumar Agarwal vs. Saroj Maloo,</p>	<p>The Supreme court has laid down that the right of a guarantee company to refuse to accept the transfer by a member of his interest in the company is on a diuerent footing than that of a company limited by shares. The membership of a guarantee company may carry privileges much diuerent from those of ordinary shareholders</p>	