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ONE PERSON COMPANY- GROWTH AND RELEVANCE IN TODAY'S TIME

Abstract

This article aims at explaining the concept of One Person Company (OPC), it's growth and relevance in today's time. In the historical time, there was no concept of one person company. According to Companies Act 1956, at least 7 members were required to establish a Public Limited Company and 2 members were required in terms of shareholders to validate that company, so there was no existence of One Person Company. The concept of one person company was introduced in Companies Act, 2013. One person company and Sole proprietorship differs from each other but they are generally assumed to be same, as they both involves single and only one person owning the business. There is difference in them i.e., one person company is a separate legal entity and has its own separate assets and liabilities, no one else is liable to pay the debts other than the person owning the business. But, in the case of sole proprietorship, they and their proprietors are same person and their assets are used in case to fulfil the business's liabilities. Author, in this paper is trying to understand and express its views because this topic is impacting economic growth of the country. This paper will provide basic understanding of the concept, it's relevance in present time and its concept.

Introduction

In India the recommendation for One Person Company was given in Dr J.J Irani Committee Report in 2005. This recommendation was done to escalate entrepreneurship and market places. It thought to contribute in the economy of the country. It gave a route to small entrepreneurs and traders to start their own business in micro-economic industry and expend with the opportunities that were lined up ahead. One Person Company could give all the privileges as of a private limited company to those small start-ups like bank loan, status, a separate identity, protection of business in the market, etc.

This magnificent and revolutionary concept was introduced under The Companies Act, 2013. It was defined under Sub-Section 62 of Section 2 of the respective act[1]. It reads it as:

"One Person Company means a company which has only one member"

It will likewise be critical to take note of that Section 3 of the given act[2] arranges One Person Company as a Private Company for every one of the lawful purposes with just a single part. Every one of the arrangements identified with the privately owned business are relevant to a One Person Company, except if in any case explicitly prohibited. The single exception in the case given by the Act to an OPC is that as per the principles as it were "Naturally Born" Indian who is additionally an occupant of India is qualified to consolidate an OPC. Which means subsequently, the benefits of an OPC must be gotten by those Indians who are normally conceived and furthermore an occupant of India. At the equivalent, it will likewise be worth focusing on that an individual can't frame in excess of 5 One-person Company.

One Person Company under the act is defined to have a separate legal entity with a perpetual succession that is needed to be registered according to the provisions of The Companies Act, 2013. The liability for the repayment of the debt or the loan is solely limited to the OPC, unlike the case of Sole Proprietorship. The Nominee for the One Person Company should be a natural person and a resident of India, that means the person stayed in India for more that 182 days during the immediately preceding year. The legal status of OPCs gave as a separate legal entity gave them right to avail for the loans from any bank in the country. Reserve Bank of India stated and ordered all other banks in its circular on July 2013, to finance the priority sector that is agriculture, transport, export-import, electricity and other fields that are really essential. As, OPC has its roots in all these fields majorly so now they can utilise the opportunities by availing the loans from the respective banks and expend their business in their respective fields.

Advantages and Prohibitions to an OPC

[1] The Companies Act, 2013
[2] The Companies Act, 2013

There are pros and cons of everything out there. Similarly, in the case of One Person Company there are pros or advantages like exemption from the legal compliances board meetings, voting's, etc. There is also an exemption for the business transactions via postal ballot. The appointment for a company secretory is also not important in the case of OPC.[3] According to The Act[4], if the paid-up share capital of one person company exceeds the limit of Rs.50 lakh or the turnover of Rs.2 crore in three preceding years, then the given company will no more be considered as an OPC and will have to compulsorily convert into either to a private company or public company.

Along with the advantages, one person company has to deal with some disadvantages in the form of prohibitions. Like, it is totally prohibited for one person company to carry any non-banking financial activity, or converting any kind of subsidy into Employ Stock Scheme. The Companies Act, 2013 prohibits one person to have more than one OPC or become a nominee for more than one OPC. The government of Indian had restricted foreign investments into OPCs. There is no difference in the tax payment as the income tax act does not give OPCs a special slab, it has put it in same slab as of private or public company had to pay the tax of 30% on total income.

Growth of One Person Company

The concept of One Person Company is still new for the Indian entrepreneurs though very revolutionary. Such type of concept needs time to grow to be in running with full efficiency, but with the passage of time one person company will be the most successful idea in the history of Indian economic state. Small business visionaries will grow in Indian business, be it weaver, merchants, artisan's, small to mid-level business people, OPC is proved to be brilliant future for them to develop and to get an acknowledgment internationally. The explanation for it is the consolidation of same is less administrative work, less paper work, one individual can form an organization with no additional shareholders, and if the part will add investors, he should simply to change the Memorandum of Association and record it beforehand. Foreign Investors will manage one part to set up a corporate relationship and not with a score of shareholders/directors where there are more possibilities for uniqueness in ideas, concept and so forth for a business to develop. Any foreign organization who wishes to set up in India

[3] Available at: https://economictimes.indiatimes.com/small-biz/legal/the-one-man-show-understanding-the-concept-of-one-person-company/articleshow/72195134.cms?from=mdr [Last Accessed on 20th July, 2021].
[4] The Companies Act, 2013

through an Investment, through a consolidation or through a Joint venture should simply lock the arrangement with the individual from an OPC, and the venture will be relied upon to begin sooner with more successful outcomes. In forthcoming years, the effect of an OPC will be wonderful and it is a promising future for Indian Entrepreneurship. Expectedly, there will be acceptable Foreign Investments, Joint Ventures, and Mergers and so forth. In the future years the impact of one person companies will be more remarkable in the field of Indian entrepreneurship. Its relevance in today's time is mesmerising as it had put a huge contribution to uplift the economic status of the country.

Conclusion

The concept of one person company is set to arrange and organize a path way for the unorganised sectors and other entities to be regulated in the same manner as public and private sectors are. OPC at a shallow level is by all accounts basic and appealing, yet it manages a lot of its defect like inconveniences and limitations. In this way, bringing about sluggish advancement of little business people or rather it tends to be seen that it has by implication debilitate them to try and consolidate an OPC. But it will favour and try to raise the foreign funding that is being received by the nation. One Person Company is next enormous thing in India, and it will be great for the monetary conditions in India through its little to medium measured business. A One Person Company will have the openness to focus on the business sectors, executing of business places in a corporate structure, advances, banks and so on straightforwardly, there will be no agent demanding the shares in the profit earned. This has certainly become among the best gifts for the individual business visionaries who for such a long time needed to collaborate with a co-partner to begin their undertaking which might have been pretty much as energetic as the organizer. It has been a sound and inviting move.