



NO FRAUD-NO FRAY: OPC'S CORPORATE VEIL TO STAY!

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Introduction: [1]

Today entrepreneurship has become a lucrative prospect and a fast career path amongst young professionals. Gone are the days where business was limited to a traditional format or family run ventures. Today, startups are emerging across an incredible range of sectors, from sustainable home decor brands, personalised pet nutrition to K-pop merchandise, handmade resin art, Korean skincare and stationery, and even eco-friendly packaging solutions.

However, amidst this entrepreneurial enthusiasm, one important decision can make a big difference in how smoothly and efficiently things run: **choosing the right form of business organisation**. Whether it's a sole proprietorship, partnership firm, LLP, private limited company, or the increasingly popular One Person Company (OPC), the legal form you adopt plays a critical role in defining compliance requirements, managerial flexibility, tax implications, and liability exposure.

Statistics indicate that about 67,168 OPCs have been incorporated in India as on 30th April 2025, of which, 1531 were registered during April, 2025.[2]

Imagine a young filmmaker with a bold vision, limited resources, and no co-founders or partners. Instead of starting a sole proprietorship with unlimited liability or the complexities of finding shareholders for a private company, he registers his venture as an OPC a One Person Company under Section 2(62) of the Companies Act, 2013. This relatively modern structure introduced by Companies Act 2013 recently came under judicial scrutiny in the Bombay High Court's decision in Innovative Film Academy Private Limited vs. Endemol India Private Limited[3], a case that placed the legal boundaries of OPCs in the highlight during a high value entertainment industry dispute.

[1] The article reflects the general work of the authors and the views expressed are personal. No reader should act on any statement contained herein without seeking detailed professional advice.

[2] [Number of One Person Company \(OPC\) in India as on 30th April 2025](#)

[3] COMMERCIAL ARBITRATION PETITION (L) NO. 22714 OF 2024



This is a landmark order that acknowledges the legal framework of OPC entity and limited liability of its sole member. The Article aims to dive deep into the judicial decision to understand the legal intricacies.

Innovative Film Academy Private Limited vs. Endemol India Private Limited

Facts of the Case

10th March 2021: A production agreement was entered into between Innovative Film (an OPC incorporated by the single director Mr. Sarvana Prasad) (hereinafter referred to as Innovative OPC). and Endemol India whereby Endemol was entrusted for carrying out production, editing, post-production and delivery of episodes of popular cooking show 'Masterchef' in Tamil, Telugu, Kannada and Malayalam languages.

2021-2023: Endemol produced episodes in Tamil and Telugu and issued four invoices amounting to around Rs.15.93 crores. Out of this, Rs. 4.45 crores were paid by Innovative (OPC), and Rs.1.08 crores were offset against amounts payable under a different agreement. The remaining Rs.10.40 crores became a matter of dispute, leading Endemol to initiate arbitration proceedings.



Arbitration Proceedings

10th July 2024: Due to non-payment, Endemol initiated arbitration. Under section 17 of Arbitration and Conciliation Act 1996[4], the Arbitral Tribunal passed an interlocutory order favouring Endemol, requiring both Innovative (OPC) and Mr. Sarvana Prasad to:

- make a wide array of disclosures pertaining to all the assets, company details, interests in other companies or partnerships, income tax returns, profit and loss statements etc.
- deposit the due amount of 10.40 crores to be deposited by both Innovative (OPC) and Sarvana Prasad in a fixed deposit account in a nationalized bank until final disposition of the arbitration.
- disclose details of all bank accounts held by them since March 2019.

Endemol heavily relied on the 'confirmation Letter' dated 11 July 2022 signed by Prasad, wherein Innovative (OPC) confirmed the balance overdue of 10.40 crores. Endemol contended that Prasad was the signatory to contracts executed by Innovative in his capacity as the sole director of the OPC as well as the correspondence by Innovative (OPC) was by Prasad and was thus liable along with Innovative (OPC).

Appeal before Bombay High Court

This interlocutory order by Arbitral Tribunal was successfully challenged through **Section 37(2)(b) (Appealable Orders)** of Arbitration and Conciliation Act 1996 which expressly allows a party to appeal to a court against an order of an arbitral tribunal that grants or refuses to grant an interim measure under Section 17.

[4] Number of One Person Company (OPC) in India as on 30th April 2025



Observations:

On 3rd July 2025, the Bombay High Court opined that:

- Justice SOMASEKHAR SUNDARESAN notably pointed out the convenient ignorance of the type of entity under which Innovative Film was incorporated i.e. One Person Company (OPC). He quoted that
- *“Such a legal framework was explicitly introduced into the law, in a departure from the conventional concept that it takes at least two individuals to keep each other “company”. By such construct, the Companies Act enabled the creation by a sole individual, of a body corporate that is an artificial juridical person. Even perpetual existence has been envisaged – the OPC does not come to an end with the death of the sole shareholder since he would need to nominate another individual who would become the sole shareholder of the OPC, which continue as such. By such creation of legal fiction, the OPC is meant to create a framework whereby, individuals who need the protection of limited liability can ring fence their personal liability and personal assets from the risks involved in the business run by them.”*
- *The landmark case of Saloman vs Saloman and Co. limited was also quoted to showcase how in case of an enterprise with status of separate legal entity, lifting of corporate veil is not a possibility where there is no trace of illegality/fraud but only monetary overdue sums. B Today, as a matter of Indian company law, the concept of the OPC is now a matter of special corporate law policy of India introduced into the Companies Act to enable individual entrepreneurs to ring-fence their assets from exposure to liability arising out of the conduct of business by the OPC formed by them.*



- **The Impugned Order makes a significant error in treating Mr. Sarvana Prasad and Innovative Film as one and the same in terms of liability towards Endemol. It does not distinguish between the OPC and its director by directing both Prasad and Innovative to make the deposit and requiring each of them to fully disclose their personal assets, liabilities, tax filings, and ownership stakes in any business.**
- The Impugned Order provides no justification as to why Prasad, a private individual, is being made personally responsible or asked to share such detailed personal information and make the deposit.
- *“Innovative being a limited liability company totally undermines the ability to direct Prasad to meet obligations by way of interim relief since there cannot arise final relief that fastens Innovative’s liabilities on to Prasad. Therefore, in my opinion, the Impugned Order cannot be sustained in relation to the directions issued against Prasad of making a deposit and providing disclosures.”*

While partly allowing the appeal and granting relief to Mr. Prasad from the deposit and disclosure liabilities, **the learned Justice added that, the legal framework of OPC explicitly protects such sole shareholder by limiting the liability as for any other company.**



Salient Features of OPC:

- A type of Private Limited company which can be established by a single person.
- Is a separate legal entity, has perpetual succession and limited liability.
- The liability of the member is limited to his/her shares, and he/she is not personally liable for the loss of the company. Thus, the creditors can sue the OPC and not the member or director.
- Only an Indian citizen and resident in India for at least 182 days in the preceding financial year shall be eligible to be member or nominee of OPC.
- Nominee must be appointed, and their consent shall be duly undertaken.
- Cannot be converted into section 8 company with charitable objects.
- Restricted from carrying out Non-Banking Financial Investment activities including investment in securities of a body corporate.

Conclusion:

Thus, this ruling significantly reaffirms the legislative intent behind the concept of corporate separateness and limited liability in the context of OPCs, ensuring that the sole shareholder is not arbitrarily burdened with personal liability. This aligns with lenient penalty regime under section 446 (b) of the Companies Act, 2013, capping penalties at no more than half of those applicable to other companies, subject to a maximum of ₹2,00,000 for the OPC and ₹1,00,000 for the officer in default, per default.



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