Unveiling the Dynamics of One-Person Companies: A Comprehensive Analysis and Strategic Insights

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1. Abstract:

Clause (62) "**One-person Company"-** The Companies Act, 2013 introduces a new type of to the existing list i.e. apart from forming a public or private limited company, the Act enables the formation. of a new entity a 'one-person company' (OPC). An OPC means a company with only one person as its member.
The emergence of One Person Company is a move that would encourage corporatization of small and medium businesses and entrepreneurship with a simpler legal regime so that the small entrepreneur is not compelled to devote considerable time, energy, and resources on complex legal compliances. This will not only help to contribute to economic growth, but also generate employment opportunity. One Person Company has blessed with concessional compliance requirements and legal formalities under the Companies Act, 2013. With the implementation of the Companies Act, 2013, a single national person can constitute a Company, under the One Person Company (OPC) concept.
Along with benefits this form of organization has many limitations as well which can become hindrance for growth.

2. Introduction:

With increasing use of information technology and computers, emergence of the service sector, it is time that the entrepreneurial capabilities of the people are given an outlet for participation in economic activity. Such economic activity may take place through the creation of an economic person in the form of a company. Yet it would not be reasonable to expect that every entrepreneur who can develop his ideas and participate in the marketplace should do it through an association of people. We feel that it is possible for individuals to operate in the economic domain and contribute effectively. To facilitate this, the Committee recommends that the law should recognize the formation of a single person economic entity in the form of 'One Person Company'. Such an entity may be provided with a simpler regime through exemptions so that the single entrepreneur is not compelled to fritter away his time, energy, and resources on procedural matters.
One person company is a concept introduced in India by the Companies Act, 2013. The concept opens up new vistas of business opportunities and particularly spectacular possibilities for sole proprietorships and entrepreneurs who can enjoy the advantages of limited liability, and the benefit of separate legal entity as well

3. Objectives of the Study:

3.1. Identify and analyze the dynamics of One-person organization.
3.2. Examine legal requirements and compliances of One Person company compares to other business forms.
3.3. Identify the challenges faced by the one-person company and strategies to overcome.

4. Genesis and global view:

One person companies are in existence in certain countries. In India this concept has been mooted by the Ministry of Corporate Affairs by allowing One Person Companies in India in line with UK, China, USA, Australia, Singapore, Qatar, Pakistan and several other countries. It is a right thinking in right direction by the Ministry of Corporate Affairs. One Person Companies have been in existence in UK for several years now. China allowed formation of OPCs as recent as in 2005. A few other countries have also given the legal status for OPCs.

4.1. United Kingdom:

Historically, United Kingdom is the first one, which paved the way to the one-man company through a precedent set in its famous case Saloman v. Saloman & Co. (1897) AC 22. Section 7 of the UK Companies Act, 2006 deals with the method of forming a company. It provides that,

(1) A company is formed under this Act by one or more persons—

(a) subscribing their names to a memorandum of association (see section 8), and

(b) complying with the requirements of this Act as to registration (see sections 9 to 13).

(2) A company may not be so formed for an unlawful purpose.

4.2. United States of America:

In the USA several States permit the formation of a single member Limited Liability Company (LLC).

4.3. Singapore:

Singapore permits One Person Company under Companies Amendment Act of 2004.

4.4. China:

China introduced One Person Company in 2005.

4.5. UAE: United Arab Emirates recognizes the concept of One Person Company.

4.6. Turkey:

According to Turkish Commercial Code since 2012 a joint stock company or limited liability company may be established with one or more shareholders. The code also sets forth certain obligations and conditions for such companies. In addition, limited liability companies and joint stock companies can have a board of directors that consists of only one board member.

4.7. Pakistan: Single Member Companies Rules, 2003 of Pakistan provide for incorporation of single member company.

4.8. Origin of the concept in India:

The concept of OPC was mooted, in the report of Dr. J.J. Irani Committee. The Irani Committee briefly referred to OPC in its report. The concept of 'One Person Company' may be introduced in the Act with following characteristics:

(a) OPC may be registered as a private Company with one member and may also have at least one director.

(b) Adequate safeguards in case of death/disability of the sole person should be provided through appointment of another individual as Nominee Director. On the demise of the original director, the nominee director will manage the affairs of the company till the date of transmission of shares to legal heirs of the demised member.
(c) Letters 'OPC' to be suffixed with the name of One Person Companies to distinguish it from other companies."

4.9. Indian Entrepreneurship after OPC concept:

The concept of OPC is still in its nascent stages in India and would require some more time to mature and to be fully accepted by the business world. With the passage of time, the OPC mode of business organization is all set to become the most preferred form of business organization especially for small entrepreneurs. The benefits emanating from this concept are many, to name a few –

- Minimal paperwork and compliances
- Ability to form a separate legal entity with just one member.
- Provision for conversion to other types of legal entities by induction of more members and amendment in the Memorandum of Association.

The One Person Company concept holds a bright future for small traders, entrepreneurs with low risk-taking capacity, artisans, and other service providers.
The OPC would act as a launch pad for such entrepreneurs to showcase their capabilities in the global arena. The counterparts of Indian OPCs in Europe, United States and Australia have resulted in further. strengthening of the economies in the respective countries. OPCs in India are aimed at structured, organized business units, having a separate legal entity ultimately playing a crucial role in further. strengthening of the Indian economy.
OPC structure would be similar to that of a proprietorship concern without the ills generally faced by
The proprietors. One most important feature of OPC is that the risks mitigated are limited to the extent of the value of shares held by such a person in the company. This would enable entrepreneurial minded persons to take the risks of doing business without the botheration of litigations and liabilities getting attached to the personal assets. One Person Company has a separate legal identity from its shareholders i.e., the company and the shareholders are two different entities for all purposes. On the other hand proprietorship does not have a separate legal identity from its members.
The existence of a One Person Company is not dependent upon its members and hence, it has a perpetual succession i.e., death of a member does not affect the existence of the company and the Sole proprietorship is an entity whose existence depends on the life of its members and death, or any other contingency may lead to the dissolution of such an entity. In OPC the business head is the decision maker, he is not dependent on others for suggestions or implementation of suggestions etc., resulting in quicker and easier decision making. He is the sole person who runs the business and hence, the question of consensus or majority opinion etc., does not arise.

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5. Priority Sector Lending - Reserve Bank of India

Master Directions – Priority Sector Lending (PSL) – Targets and Classification.:

The Reserve Bank of India in its Master Circular RBI/FIDD/2020-21/72 Master Directions FIDD.CO.Plan.BC.5/04.09.01/2020-21 Instructed the Priority Sector Lending (PSL) guidelines issued to Commercial Banks in April 2015 and for UCBs in May 2018 respectively. With an objective to harmonize various instructions issued to Commercial Banks, SFBs, RRBs, UCBs and LABs; align these guidelines with emerging national priorities and bring sharper focus on inclusive development, it was decided to comprehensively review the PSL guidelines.

The revised guidelines also aim to encourage and support environmentally friendly lending policies to help achieve Sustainable Development Goals (SDGs). This review also took into account the recommendations made by the 'Expert Committee on Micro, Small and Medium Enterprises (Chairman: Shri U.K. Sinha) and the 'Internal Working Group to Review Agriculture Credit' (Chairman: Shri M. K. Jain) apart from discussions with all stakeholders. Further, these Master Directions encompass the revised guidelines on PSL for all Commercial banks, RRBs, SFBs, UCBs and LABs and, accordingly, supersede the earlier Master Directions on PSL issued separately for Scheduled Commercial Banks, RRBs, SFBs and guidelines issued for UCBs, respectively.

1. **Classification of enterprises**. –

An enterprise shall be classified as a micro, small or medium enterprise on the basis of the following criteria, namely: --

(i) a micro enterprise, where the investment in plant and machinery or equipment does not exceed one crore rupees and turnover does not exceed five crore rupees.

(ii) a small enterprise, where the investment in plant and machinery or equipment does not exceed ten crore rupees and turnover does not exceed fifty crore rupees; and

(iii) a medium enterprise, where the investment in plant and machinery or equipment does not exceed fifty crore rupees and turnover does not exceed two hundred and fifty crore rupees.

2. **Becoming a micro, small or medium enterprise**. --

(1) Any person who intends to establish a micro, small or medium enterprise may file Udyam

Registration online in the Udyam Registration portal, based on self-declaration with no requirement to upload documents, papers, certificates, or proof.

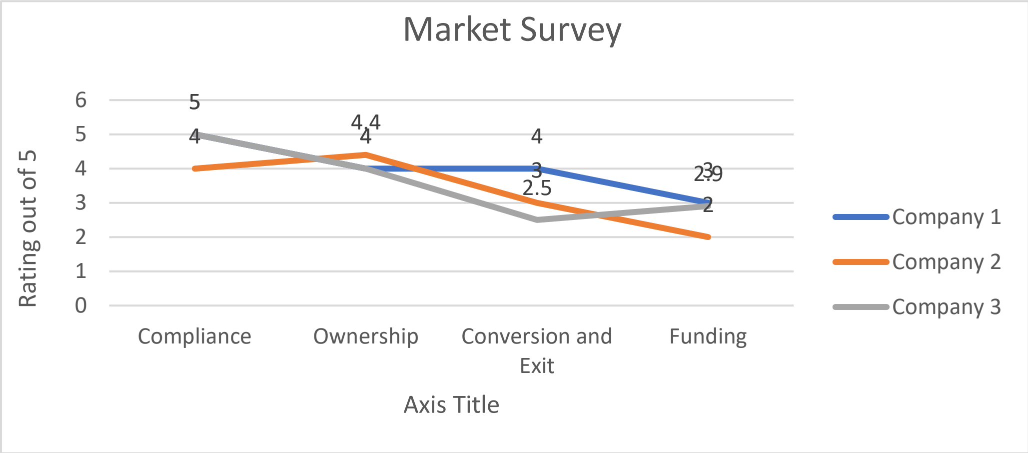
(2) On registration, an enterprise (referred to as ―Udyam‖ in the Udyam Registration portal) will be assigned a permanent identity number to be known as ―Udyam Registration Number

(3) An e-certificate, namely, ―Udyam Registration Certificate‖ shall be issued on completion of the registration process.

One Person Company coming under any of the above categories may fall under priority sector lending. There is enormous scope for One Person Companies to leverage the benefits of priority sector lending.

6. **Market Survey:**

Researcher surveyed three company's data and ask to rate between 1 to 5 stars on different parameters such as:



1. **Compliance:**

All three organizations rated between 4 to 5 stars by considering below parameters:

Exemptions available to OPCs under the Companies Act, 2013
2. Section 96. Option to dispense with the requirement of holding an AGM.
3. Section 98. Power of Tribunal to call meetings of members.
4. Section 100. Calling of extraordinary general meeting.
5. Section 101. Notice of meeting.
6. Section 102. Statement to be annexed to notice.
7. Section 103. Quorum for meetings.
8. Section 104. Chairman of meetings.
9. Section 105. Proxies.
10. Section 106. Restriction on voting rights.
11. Section 107. Voting by show of hands.
12. Section 108. Voting through electronic means.
13. Section 109. Demand for poll.
14. Section 110. Postal ballot.
15. Section 111. Circulation of members' resolution.

2. Ownership:

Researcher finds that in case of One person Company there are no chances of dilution of ownership control. One member and one nominee led to no interference in decision making and so no time delays and disputes.

3. Conversion and Exit Strategy:

Experimenter find that If you anticipate significant growth or want to bring in further shareholders, Private Limited Company. Allows for further straightforward conversion and expansion. However, OPC may be a further suitable

option
If you prevision remaining a single- proprietor business without the need for fresh shareholders.

4. **Expansion and Fundraising:**

Researchers find that, use a Private Limited Company to raise funds or attract investors. It is generally more suitable. Private Limited Company. Companies have a separate legal identity and are perceived as more credible by investors, making it easier to secure external funding.

7. Findings:

1 OPCs would provide with new business idea to entrepreneurs.
2 OPC provides an outlet for the entrepreneurial impulses among the professionals.
3 OPC provides the advantage of limited liability, The prime reason for shareholders to incorporate the 'single-person company' is certainly the desire for limited liability.
4 OPCs are not proprietorship concerns; hence, they give a dual entity to the company as well as the individual, guarding the individual against any pitfalls of liabilities. This is the fundamental difference between OPC and sole proprietorship.
5 Unlike a private limited or public limited company (listed or unlisted), OPCs need not bother too much about compliances.
6 Sole proprietorship business could get converted into OPCs without any hurdle.
7 Capital requirement for OPCs is minimal to begin with. Being a recognized corporation, could well raise capital from others like venture capital financial institutions etc., thus graduating to a private limited company.
8 Rotation of auditor after expiry of term is not applicable in case of One Person Company.
9 There is no mandatory requirement of signing of Annual Return by auditor, The annual return of a One Person Company shall be signed by the company secretary, or where there is no company secretary, by the director of the company.
10 The provisions of Section 98 and Sections 100 to 111 (both inclusive), relating to the holding of general meetings, shall not apply to a One Person Company.
11 A One Person Company needs to have a minimum of one director.
12 For the purposes of holding Board Meetings, in case of a one person Company which has only one director, it shall be sufficient compliance if all resolutions required to be passed by such a Company at a Board meeting, are entered in the minutes-book, signed and dated by the member and such date shall be deemed to be the date of the Board Meeting for all the purposes under this Act. For other One Person Companies, at least one Board Meeting must be held in each half of the calendar year and the gap between the two meetings should not be less than 90 days.
13 The financial statements of a one-person company can be signed by one director alone. Cash Flow Statement is not a mandatory part of financial statements for a One Person Company. Financial statements of a one-person company need to be filed with the Registrar, after they are duly adopted by the member, within 180 days of closure of financial year along with all necessary documents.
14 The Board's report to be annexed to financial statements may only contain explanations or comments by the Board on every qualification, reservation or adverse remark or disclaimer made by the auditor in his report.

8. Suggestions:

- Only appointment of nominee is not sufficient protection in case of One Person Company.
- The limits relating to turnover and capital investment may be removed.
- A suitable tax mechanism may be provided in the Income Tax Act, 1961 so that sole owner can afford tax burden.
- Artificial persons should be allowed to form OPC this create
- The one person one company rule may be dropped. Sole owners may be allowed to incorporate more than one OPC.

9. References:

1. All You Wanted to Know About ONE PERSON COMPANY by Bharat Law House Pvt. Ltd.
2. Guide to One Person Company (OPC) incoporation managment and compliances 1st edn. 2014 CA RAjkumar S Adukia