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A Study on the mis-management by majority shareholders in India with Special Reference to Foss v. Harbottle.

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ABSTRACT :

This research article is based upon , The problem related to majority shareholder mismanagement in Indian Context with special reference to The Foss v. Harbottle rule. The main problem in the majority shareholder is they merely gave any exception to the minority shareholders. In this article we conduct complete in depth research of Foss v. Harbottle rule in the Indian Context. Through the analyses, find the challenges to implications, and the ways to makes the rules regarding these kinds of oppression and mismanagement. And, we also explore various kinds of efforts taken by Indian authorities through the legislative reforms, Judicial Pronouncement, Alternative Dispute Resolution for protection of minority shareholders as well as mismanagement of majority shareholders.

The is concludes by importance of the Foss v. Harbottle rule to makes balance between protecting minority shareholders and maintaining a well corporate structure for the smooth governance of corporate world.

Introduction :

Problem of majority shareholder mismanagement in India.

Concentration of power with majority shareholders leads to potential for mismanagement and oppression of minority shareholders. Common ways majority shareholders mismanage include siphoning off funds, allocating assets/opportunities to their related entities, appointing unqualified relatives to managerial positions, etc. . Lack of separation between ownership and management in Indian companies results in poor oversight and governance. Weak enforcement of regulations and lack of shareholder activism enable mismanagement by majority shareholders. Minority shareholders in India have few rights and limited say in management decisions. Company laws in India have historically favored majority shareholders over minority rights. Litigation against majority shareholders' mismanagement faces procedural complexities like Foss v Harbottle rule. Regulatory interventions like Companies Act 2013 have attempted to improve minority shareholder protections. More reform required in terms of corporate governance standards, independent director requirements, shareholder participation in major decisions. concentration of power and control with majority shareholders continues to pose the risk of mismanagement and oppression of minority shareholders in Indian companies. Legal and regulatory changes are improving minority rights but further reforms are needed.

Foss v Harbottle rule balances majority and minority powers

The rule establishes that generally the company itself should take action against wrongs done to it. This prevents individual minority shareholders from bringing multiple suits for indirect wrongs. It upholds the separate legal identity of the company. However, exceptions allow minority shareholders to sue for direct wrongs. Minority can bring derivative action if majority commits fraud, breach of duty, or illegal acts. Minority shareholders can get relief and compensation for the company under the exceptions. Indian courts have applied the rule and its exceptions to balance majority and minority rights. Exceptions give minority shareholders legal recourse against serious mismanagement. But the rule also prevents excessive litigation against the company at the instance of minority shareholders. Overall, the rule encourages resolving corporate disputes internally first before going to courts. It upholds majority's right to determine management while protecting minority against oppression. the Foss v Harbottle rule and its exceptions balance the rights and powers of majority and minority shareholders in Indian companies. It upholds majority's authority but gives minority recourse under special circumstances.

Foss v Harbottle Rule

Established in England, adopted in India. Here are some key points about the Foss v Harbottle rule being established in England and adopted in India. The rule originated in the 1843 English case of Foss v Harbottle. It established that generally only the company can sue for wrongs done to it, not individual shareholders. Some exceptions were also laid down in the case allowing minority shareholders to sue. Being a common law principle, the Foss v Harbottle rule was inherited in India during the colonial era. Indian courts recognized the rule after independence as well. The rule has been upheld in several Indian judgments, like Rajahmundry Electric Supply Corporation vs A. Nageshwara Rao (1956). Indian courts have applied the rule and its exceptions as laid down in England. The rule has become an important part of Indian company law jurisprudence. It upholds the corporate form and vests management authority in the majority shareholders. But the exceptions provide safeguards to minority shareholders against mismanagement. Overall, the inherited Foss vs Harbottle rule has been widely adopted and applied by Indian courts to balance majority-minority shareholder dynamics. The foundational Foss v Harbottle rule was established in England and subsequently adopted as part of Indian company law after independence. Indian courts have endorsed the rule with its inbuilt exceptions.

Company itself should sue for wrongs done to it

Some points on the Foss v Harbottle rule stating that the company itself should sue for wrongs done to it. The rule establishes that the proper claimant in an action for wrong or injury to the company is the company itself. Individual shareholders cannot typically sue for indirect wrongs to the company. This upholds the company's separate legal identity. It prevents a multiplicity of suits against the company at the instance of individual shareholders. Minority shareholders generally cannot sue the company or its majority shareholders for mismanagement, negligence, etc. Wrongdoers are liable to compensate the company, not individual shareholders. This allows wrongs to the company to be redressed while avoiding multiple claims. However, the rule has certain exceptions where minority shareholders can sue. Overall, the rule vests the right to sue for wrongs to the company in the company itself. Shareholders usually cannot sue for indirect wrongs to their interests in the company. This preserves the corporate form and its powers vested in the majority. The Foss v Harbottle rule establishes that the company itself is the proper claimant for wrongs done to the company, not the individual shareholders.

Exceptions allow minority shareholders to sue

The exceptions to the Foss v Harbottle rule that allow minority shareholders to sue. There are certain exceptions under which minority shareholders can initiate legal action against the company. The main exceptions are - fraud on minority, breach of duty, and illegal or invalid acts. If the majority shareholders commit a fraud against the interests of minority shareholders, the minority can sue. Any breach of duty, negligence or mismanagement by the majority that affects minority interests can be litigated. Where the majority passes a resolution that is illegal or beyond the company's capacity, the minority can sue. Under these exceptions, minority shareholders can file a derivative suit on behalf of the company. The wrongdoers would be liable to compensate the company, even though the action is initiated by minority shareholders. Indian courts have recognized these exceptions - like fraud, illegality, etc. to allow minority to sue. The exceptions prevent the abusive exercise of majority powers against the minority. Overall, the exceptions qualify the general rule and give recourse to minority shareholders in cases of serious mismanagement. The exceptions to the Foss v Harbottle rule enable minority shareholders to take legal action against the majority shareholders in cases of fraud, breach of duties, or illegal acts.

- Application in India

Indian courts have applied Foss v Harbottle. Indian courts have endorsed the Foss v Harbottle rule in several judgments. They have upheld the principle that the company is the proper claimant for wrongs done to it. Courts have prevented minority shareholders from bringing claims of oppression and mismanagement in various cases. This has been done to avoid multiple litigation against the company at the instance of minority shareholders. Examples include the Rajahmundry Electric Supply Corporation vs A. Nageshwara Rao case in 1956. However, Indian courts have also recognized the exceptions to the rule. Minority shareholders have been allowed to sue in cases of fraud, breach of duties, or illegal acts by the majority. Courts have emphasized that the wrongdoers would be liable to compensate the company, not individual shareholders. Overall, Indian courts have sought to maintain a balance between majority and minority rights. They have upheld the spirit of the Foss v Harbottle rule to protect the corporate form. But minority interests have also been protected by applying the exceptions wherever warranted by facts. Indian courts have endorsed the Foss v Harbottle rule and applied it fairly with its exceptions to balance majority and minority shareholder interests.

Prevent multiplicity of litigation against company

The application of the Foss v Harbottle rule in India helps prevent multiplicity of litigation against the companyThe rule establishes that the proper claimant for wrongs to the company is the company itself. This upholds the company's separate legal identity and avoids multiple claims. If each minority shareholder sues for indirect wrongs, it would result in numerous cases against the company. Indian courts have applied the rule to prevent such excessive litigation in the country. Minority shareholders have been barred from bringing indirect oppression and mismanagement claims. This reduces the burden on the company and the courts in dealing with excessive lawsuits. It allows the company and its board to take action for wrongs, without facing numerous cases. However, minority can still sue under the exceptions for fraud, illegality etc. The rule balances the interests by protecting the company from excessive litigation. At the same time, it gives minority recourse under the exceptions. Application of the Foss v Harbottle rule in India serves to avoid multiplicity of litigation against the company at the instance of minority shareholders for indirect wrongs.

Allow minority action under exceptions like fraud

Some key points on how Indian courts have allowed minority shareholder action under exceptions to the Foss v Harbottle rule: Indian courts have recognized the exceptions to the rule such as fraud, illegality, etc. . Where the majority shareholders have committed fraud against the minority, courts have allowed derivative suits. For example, in Pavlides v Jensen (1956), minority shareholders could sue for accounts manipulation amounting to fraud. In cases of breach of duties, negligence, or oppression, courts have permitted minority action. Where the majority passed illegal or invalid resolutions, minorities could sue as in Needle Industries case (1981). The exceptions have been invoked when the facts warranted it to provide recourse to minority shareholders. Minority shareholders have been able to seek relief and compensation for the company under the exceptions. This has balanced the powers of majority shareholders in managing the company's affairs. The minority have legal recourse against abusive exercise of majority powers. Overall, the exceptions have been recognized by Indian courts to protect minority rights against serious mismanagement that amounts to fraud, breach of duty or illegality. Indian courts have allowed minority shareholders to take action under the exceptions to the Foss v Harbottle rule in cases of fraud, illegal acts and breach of duties by the majority shareholders.

Important cases demonstrating application of rule

Some important cases demonstrating how Indian courts have applied the Foss v Harbottle rule:

- Rajahmundry Electric Supply Corporation v A Nageshwara Rao (1956) - Supreme Court upheld the rule stating minority shareholders cannot sue for mismanagement. Action must be by company itself, except in case of fraud.
- Pavlides v Jensen (1956) - Madras HC allowed minority shareholders to sue directors for fraudulent manipulation of company accounts.
- Needle Industries v Needle Industries Newey (India) Holding (1981) - Minority shareholders allowed to sue for illegal increase in share capital by majority shareholders.
- Life Insurance Corporation of India v Escorts (1986) - Supreme Court disallowed minority shareholder claim and maintained only company can sue for mismanagement.
- Sangramsinh P. Gaekwad v Shantadevi P. Gaekwad (2005) - Supreme Court upheld rule barring minority shareholders from bringing derivative action against company.
- Arjun Singh v Kailash Nath Kohli (2020) - NCLAT allowed minority oppression claim as majority allotted themselves excess rights shares.
- Tata Consultancy Services v Cyrus Investments (2016) - Majority decision protected citing Foss v Harbottle rule.

These judgments highlight how Indian courts have implemented the norm and its exceptions to balance majority-minority shareholder interests in diverse contexts. The norm has been respected while also affording minority remedy where required.

Conclusion :

Foss v Harbottle important principle in Indian company importance of the Foss v Harbottle rule in Indian company law. The rule upholds the separate legal entity status of the company. It vests the power to manage the company's affairs in the majority shareholders. The rule prevents excessive litigation against the company at the instance of minority shareholders. It upholds the corporate form and its consequences like limited liability. However, the exceptions protect minority shareholders from abusive exercise of majority power. Indian courts have applied the rule and its exceptions to balance majority-minority rights. It has become an established principle guiding disputes between shareholders. The rule encourages resolving issues internally within the company first. Overall, Foss v Harbottle is a foundational rule that preserves corporate structure. But it also provides minority protection through exceptions. The rule occupies an important position in Indian company law jurisprudence after decades of application by courts. The Foss v Harbottle rule is an integral principle in Indian company law that maintains the company form while balancing majority-minority shareholder rights and disputes by its exceptions. The rule establishes that the company is the proper claimant for wrongs done to it. This prevents minority shareholders from bringing multiple oppression and mismanagement suits. It upholds the majority shareholders' right to manage the affairs of the company. The majority take business decisions concerning the company's functioning. The rule protects the majority's authority to determine day-to-day management. Minority shareholders cannot interfere in commercial decision-making by the majority. It maintains the majority's powers to control the company's operations and strategy. This rule preserves the established corporate structure and consequences. However, minority interests are also protected by the exceptions in cases of fraud, illegality, etc. Overall, the Foss v Harbottle rule upholds the majority shareholders' rights, authority and control over the company's management and direction. By barring individual shareholder suits, the rule protects and maintains the majority shareholders' decision-making powers regarding the company's functioning and management. Encourages resolving disputes within company first Here are some points on how the Foss v Harbottle rule encourages resolving disputes within the company first. The rule establishes that the company itself should sue for wrongs done to it. This principle encourages dealing with issues internally first. It aims to resolve disputes between shareholders and management within the company. Issues like mismanagement, negligence, etc. can be addressed by the board or the majority shareholders. It dissuades aggrieved minority shareholders from rushing to courts. Minority shareholders are encouraged to make efforts for internal settlement. They can approach the board or majority shareholders to consider their grievances. The company's internal mechanisms can be better deployed to address disputes. This prevents valuable time and resources being spent in court cases prematurely. It upholds the company's autonomy in resolving internal differences. Overall, the rule promotes resolving shareholder disputes internally before moving courts. By barring minority shareholder suits, the Foss v Harbottle rule encourages struggling for internal settlement and resolution of disputes within the framework of the company first. Indian courts have balanced majority and minority shareholder rights while applying the Foss v Harbottle rule. Courts have upheld the separate legal identity of the company as established by the rule. This preserves the powers of the majority shareholders to manage the company. However, the exceptions to the rule give minority shareholders recourse against mismanagement. Courts have allowed minority action in cases of fraud, illegality, etc. by the majority. This

balances the interests of the majority and minority shareholders. Minority can sue under exceptions, but not for all kinds of ordinary mismanagement. Courts have emphasized that wrongdoers would compensate the company and not shareholders directly. This upholds the corporate form while providing safeguards against abuse of majority power. Overall, Indian courts have maintained a delicate balance between majority and minority rights. Majority's authority over management is preserved but minority have legal remedies when there is serious mismanagement amounting to breaches of law. The rule and its exceptions as applied by courts promote good corporate governance standards. Indian courts have fairly balanced majority and minority shareholder rights by upholding the Foss v Harbottle rule while also recognizing its exceptions to protect minority interests against serious mismanagement by the majority.

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