

The Concept of One Person Company (OPC) with its Potentiality Towards the Economic Growth of Bangladesh

Abdul Wahab FCA



The Author is a Chartered Accountant and a Fellow Member of the Institute of Chartered Accountants of Bangladesh-ICAB

The concept of One Person Company (OPC), like many other countries including USA, UK, Australia, Singapore, China and the neighboring India is new for Bangladesh. A Country like New Zealand with a scanty population of 5 Million has 1 million small companies as One Person Company. One Person Company is an idea for development of entrepreneurship with the objective of carrying on business on small to medium scale enabling a single person to establish a company on one's own. Bangladesh ranked 176th out of 190 countries the lowest for a South Asian nation as per recently published report 2019 of the World Bank Group on the "the Ease of Doing Business" based on global Indicators. This poor ranking is due to the weakness of the Regulatory Authorities and poor governance of different sectors.

In the light of the above the cabinet of Govt. of Bangladesh has recently approved in principle a draft company (amendment) Act 2018 where a provision has been included enabling a single person to establish a company on one's own.

The cabinet has taken into consideration the limitation of an entrepreneur due to lack of legal support behind it and the reluctance of the Lending Agencies to grant any loan to it for running the business.

The present law allows a

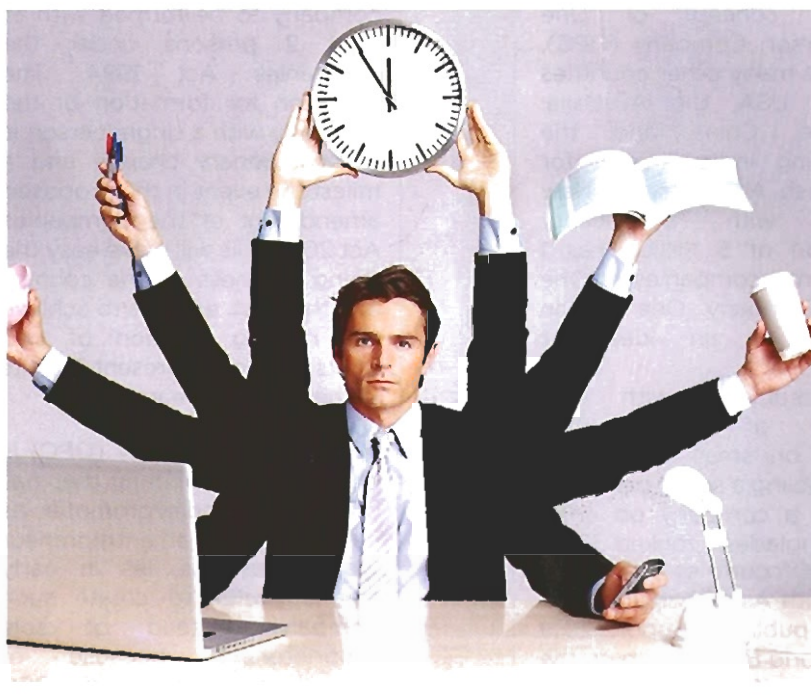
company to be formed with at least 2 persons under the companies Act 1994. The provision for formation of the company with a single person is a revolutionary change and a milestone event in the proposed amendment of the Companies Act 2018. This will make easy the doing business of the country and the govt. expects to achieve the ranking position of two digits in place of present 3 digits in the next five years.

One person company (OPC) is effectively a company that has only one founder/promoter as its member and an entrepreneur whose business lies in early stages prefer to create such company instead of sole proprietorship because of several advantages of OPC allowed under law distinct from a sole proprietorship.

The difference between the two sets of business is the nature of liabilities they carry in the course of their business. Since OPC is a separate legal entity as per law distinct from its proprietor although the same person acts in both the capacity, it can have its separate assets and liabilities in the name of the company. Because of this distinct characteristics, the promoter of the OPC is not personally liable to repay the debts of the company which have been incurred by the company in its capacity as a One Person company.

For example the business loan taken by an OPC from any lending agency is the liability of

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the one person company and for its non-fulfillment of the business liability the personal assets of the promoter cannot be attached.

The distinct features of a One Person Company are the following:

- i) One single person can form a company for any lawful purpose and it can therefore be described as a private company having a distinct legal identity different from the shareholder himself.
- ii) A one person company can have one member or shareholder unlike other private companies which shall have at least 2 (two) members as per

companies Act 1994; One person company can be incorporated as a private limited company;

- iii) A one person company shall have to mention a nominee while registering the company as per legal requirement since the mention of such nominee is the unique feature of OPCs that separates it from other kinds of companies.
- iv) A one person company has no perpetual succession like other companies who follow the concept of perpetual succession as per companies Act 1994. So in case of one person company the death or other disqualification for contractual relations will

result in the nominee choosing or rejecting to become its sole member.

- v) The number of minimum director of a One person company shall be one director, the sole shareholder of the company.
- vi) The minimum capital of the one person company may be prescribed in the proposed company Act 2018 as the minimum paid up capital for OPC's.
- vii) Only natural person unlike other companies and a resident of the country is eligible to form a one person company. Such natural person cannot be a member or nominee of more than one OPC at any point of time.
- viii) If prescribed in the proposed Company law the OPC can enjoy several privileges and exemptions which may not be available for other kinds of companies existing in the company.
- ix) The proposed law may impose restrictions on a minor to become a member or nominee of the OPC.
- x) The One person company shall have to put the Words "One Person Company" in the bracket along with its name to make it distinct from other category of companies.



- xi) If allowed by law under the proposed Companies Act 2018, it can be converted to a Pvt. Ltd. only after 2 years of its incorporation.
- xii) As per provision, in the proposed companies Act 2018, when its annual turnover crosses certain amount it must be converted into a private Ltd. Co. and must file audited financial statements with concerned authority of the govt. at the end of each financial year like all other types of companies.

Advantage/Privileges of one Person Companies registered and operating in other countries enjoy the following privileges:

- i) They are not required to hold annual general meeting like other

companies and also get exemption from holding Board meeting as it has only one director.

- ii) The financial statements need not include cash flow statements which are required for other kinds of companies.
- iii) Several provisions relating to meeting and quorum do not apply in case of one person company.
- iv) Other provisions applicable in case of other companies like independent director, its vacancy etc. are not applicable in case of one Person Company.
- v) Banks, financial institution etc. prefer to provide business finance to a well structured and fiscally managed company like

one person company rather than partnership/ proprietorship.

Restrictions applicable to one person company:

- a) Share shall not be allowed to be transferred to anyone else.
- b) It cannot invite the public to subscribe for the securities.
- c) It cannot normally convert into any other form of company.

Conclusion

As the name suggests, a one person company with its legal existence is a boon to all those proprietors and budding entrepreneurs who are willing to start a business with sufficient ideas but insufficient funds. With the development of technology in the growing economy of a country like Bangladesh there is a great scope for the generation of large employments in the small and medium sized business houses and to solve unemployment problems of the country. A one person company is recommended for small businesses at a large scale in Bangladesh. The creation of employments by a large number of small businesses through establishment of one person company may add growth to the GDP of the country and this will help the country to achieve the status of the Advanced Economy much earlier than the target of 2041.