The Study of the Chinese and United States' Case Law of Disregarding the Corporate Personality

Abstract

The system of disregarding the corporate personality of China was first established in the Corporation Law of the People Republic of China 2006. The Article Twentieth clearly states that, the shareholders of a company shall comply with the laws, administrative regulations and the articles of Association, and shall exercise the shareholder's rights according to law. None of them may injure any of the interests of the company or of other shareholders by abusing the shareholder's rights, or injure the interests of any creditor of the company by abusing the independent status of juridical person or the shareholder's limited liabilities. Where any of the shareholders of a company evades the payment of its debts by abusing the independent status of juridical person or the shareholder's limited liabilities, and thus seriously damages the interests of any creditor, it shall bear joint liabilities for the debts of the company.

Through applying the Article twentieth, the Courts in China use the system of disregarding the corporate personality to protect the interests of corporation creditors. The Courts leaves us a great of cases which provide abundant resources for our study.

Unites States is the cradle of the system of disregarding the corporate personality. Unites States has full law systems, rich theory studies and abundant cases in the system of disregarding the corporate personality. Since the first case 1905 U.S v. Milwaukee Refrigerator Translt Co, disregarding the corporate

personality has developed for more than 100 years and leaving us a great of cases. These cases also provide abundant resources for our study.

As regard to Article twentieth is obscure and can't provide some clear directions for applying, the Supreme Court in China might consider making the judicial interpretation in applying the Article twentieth. This paper , analyzing the cases of China and United States ,seeks to provide some advices and directions in the judicial interpretation of applying the Article twentieth.

Key words: limited liabilities , disregarding the corporate personality , case law