CHAPTER TWO
2.0. THE STATE FINANCIAL CORPORATION:

To know about the State Financial Corporations, we would have to go through the meaning under the State Financial Corporations Act, 1951:

Section 2(b) of the State Financial Corporations Act, 1951 defines Financial Corporation which is also known as State Financial Corporation as a Financial Corporation established under section 3 and includes a Joint Financial Corporation established under section 3.A. of the State Financial Corporations Act, 1951.

The workings of State Financial Corporations are governed by The State Financial Corporations Act, 1951 (Act 63 of 1951) which is the guiding force to every state Financial Corporation of India. To monitor the workings and management of the State Financial Corporations necessary provisions in the act have been made. The State Financial Corporations Act, 1951 provides for the following:

Chapter I: Preliminary
Chapter II : Incorporation of State Financial Corporations, their Capital and management.

Chapter III : Powers and duties of the Board.

Chapter IV : Investment of funds, Accounts and Audit.

Chapter V : Miscellaneous

Chapter I of The State Financial Corporations Act, 1951 incorporates the Short title, extent and commencement of the act. This act extends to whole of India. This act came into force on 1st August, 1952 in all the states to which the Act then extended. It came into force in Goa, Daman and Diu Union Territory on 1st February, 1964 and came into force in the state of Sikkim on 24th October, 1975. Further, the chapter contains the definitions of various terms used like Board, Development Bank, Financial Corporation, Industrial Concern, Prescribed, Reserve Bank, Scheduled Bank, State Cooperative Bank, State Government, Underwriting etc.

Chapter II of the State Financial Corporations Act, 1951 contains the provisions for Establishment of State Financial Corporations, their status, powers, Establishment of Joint Financial Corporations, Share Capital and
shareholders, Special class of shares, Transfer of share capital to Development Bank, Restriction on transfer of shares, Shares to be guaranteed by the State Government and to trust or approved securities, Additional capital of State Financial Corporation and its borrowing powers, Power to transfer rights, Deposits with the Financial Corporations, Management of Financial Corporations, Board of Directors, Vacation of office by elected director, Term of office and retirement of the directors, Disqualification for being the director, Removal of director from the office, Registration of office by director and filling up of casual vacancies, Chairman of the Board, Remuneration of directors, Managing Director, Executive Committee, Meetings of Board and Committee, Powers of Executive committee, Advisory committee, Offices and agencies, Officers and other Employees of the Financial Corporation,

Chapter III of the State Financial Corporations Act, 1951 contains the provisions with respect to General duty of the Board, Business which the State Financial Corporations may transact, Power to acquire rights, Limit of Accommodations, Power to impose conditions for accommodation, Prohibited business, Rights of Financial Corporations in case of default,
Power to call for repayment before agreed period, Special provision for enforcement of claims by Financial Corporations, Procedure of Distt. Judge in respect of application for enforcement of claims by Financial Corporations, Powers of Financial Corporations to appoint directors or administrators of industrial concerns when management is taken over, Effect of order when order for appointment of directors or administrators is made in industrial concerns, Powers and duties of directors and administrators, Applicability of the Companies Act, 1956, Recovery of amount due to the Financial Corporation as an arrears of land revenue and other incidental provisions thereto.

Chapter IV of the State Financial Corporations Act, 1951 contains the provisions related to the Funds of the Financial Corporations, Investments of the funds, Disposal of profits, Special reserve fund, General meetings, Audit, Inspection, Returns and other related provisions thereto.

Chapter V contains the miscellaneous provisions such as Power to give instructions to Financial Corporation on question of policy, Declaration fidelity and secrecy, Indemnity of directors, Protection of actions taken by persons appointed under various arrangements, Offences, Provisions relating
to Income Tax and Super Tax, Delegation of powers, Reports to the board, Applicability of Banker's Books Evidence Act, 1891, Liquidation of Financial Corporation, Power to apply act to certain Financial Institutions in existence at the commencement of the act, Extension of jurisdiction of the Financial Corporation to other states by agreement, Effect of Sac's Act on other laws, Powers of State Government to make rules, Power of Board to make regulations, Laying of rules and regulations before state legislature, Power to remove difficulty and other related provisions thereto.

Since, our study is more concentrated on the working of the State Financial Corporations of India with special emphasis on Uttar Pradesh Financial Corporation, we do not find it prudent to discuss each and every provision of the State Financial Corporations Act, 1951. However, it is our endeavour to focus on the matter which are having external importance from the view point of the society and public in general.

2.1. EMERGENCE OF STATE FINANCIAL CORPORATIONS:

Here, we may refer the State Financial Corporations Act, 1951 (Act 63 of 1951) according to which the state government may, by notification in the
official gazette, establish a financial Corporation for the state under such name, as may be specified in the notification - Section 3(2)

Further, such Financial Corporation shall be a body corporate by the name notified having perpetual succession and a common seal with power subject to the provisions of the act, to acquire, hold and dispose of property and shall by the said name sue and be sued.

2.2. NEED OF STATE FINANCIAL CORPORATIONS IN INDIA:

State Financial Corporations which exist almost in every state Union Territory of our country constitute the most important single source of long term credit to small and medium scale industries. In view of wide disparities in the levels of industrial development in different states and vast size of the country in early 1960s it was felt that there was a need to supplement the work of Industrial Finance Corporation of India (a central government institution set up for meeting the credit and capital investment needs of large scale corporate bodies) by setting up a State Financial Corporation in each
state and Union Territory for granting finance and equity capital to small
scale and medium scale industries which are mostly either
ownership or partnership concerns. Where there is no State Financial
Cooperation the Industrial Development Corporation operating in the State or
Union Territory concerned perform the functions of State Financial
Corporation also. State Financial Corporations grant loan up to 50 to 75% of
the value of assets offered as security including those acquired out of loans.

2.3. FUNCTIONS OF STATE FINANCIAL CORPORATIONS:

The basic objects of any State Financial Corporation are to cater the need of
financial assistance to deserving sector which are diagnosed from time to time
keeping in mind the various other factors of souci- economic society. To
achieve the aforesaid objectives, State Financial Corporations can carry on
and/or transact the following business which are mentioned in accordance
with the section 25(1) of the State Financial Corporation Act, 1951:

a) Guaranteeing, on such terms and conditions as may be agreed upon -
I) Loans raised by industrial concerns, which are repayable within a period not exceeding twenty years and are floated in the public market.

II) Loans raised by industrial concerns from scheduled banks or State Co-operative Banks or other financial institutions.

b) Guaranteeing on such terms and conditions as may be agreed upon deferred payments due from any industrial concern in connection with its purchase of capital goods within India.

c) Underwriting the issue of stocks, shares, bonds or debentures by industrial concerns.

c-a) Transferring for consideration any instruments relating to loans and advances granted by it to industrial concerns.

d) Acting as agent of the Central Government or the State Government or the Development Bank or the Industrial Development Bank of India established under the Industrial Finance Corporation Act, 1948 or any other financial institution notified in this behalf by the Central Government in respect of any
matter connected with, or arising out of the grant of loans or advances to an industrial concern, or subscription to debentures of an industrial concern or relating to the business of the Development Bank, Industrial Finance Corporation of India or financial institutions.

d-a) Subscribing to or purchasing of the stock, shares, bonds or debentures of an industrial concern or any other concern with the prior approval of development Banks.

e) Receiving in consideration of the services mentioned in preceding clauses such commission as may be agreed upon.

f) Retaining as part of its assets any stock, shares, bonds or debentures which it may acquire by subscription or in fulfillment of its underwriting liabilities and disposing of the stock, shares, bonds and debentures so acquired provided that the Financial Corporation may subscribe to stock or shares of the industrial concern if such concern increases its subscribed capital by the issue of further stock or shares in accordance with and subject to the provisions of section 81 of the Companies Act, 1956, but the stock or shares so subscribed shall not be retained after the stock or shares of the
industrial concern taken in fulfillment of its underwriting liabilities are disposed of.


g) Granting loans or advances to, or subscribing to debentures of, an industrial concern, repayable within a period not exceeding twenty years from the date on which they are granted or subscribed to as the case may be, provided that the Financial Corporation may, with the prior approval of the Development Bank, exceed the said limit of twenty years upped a further period of ten years. Provided further that the Financial Corporation may, in the exercise of such option, covert the amount outstanding on such debentures or loans into stock or shares of the industrial concern and may also subscribe to stock or shares of the industrial concern if such concern increases its subscribed capital by the issue of further stock or shares in accordance with and subject to the provisions of section 81 of the Companies Act, 1956.

g-a) Accepting or discounting Promissory notes and bills of exchange made, drawn, accepted or endorsed by industrial concerns or by any person selling capital goods manufactured by one industrial concern to another industrial concern.
g-b) Undertaking research and surveys for evaluating or dealing with the marketing or investments and undertaking and carrying on techno-economic studies or other activities in connection with the development of any industry.

g-c) Providing technical and administrative assistance to any industrial concern or any other person for the promotion, management or expansion of any industry.

g-d) Planning & assisting in the promotion and development of industries.

g-e) Doing any other business as the development bank may authorise.

h) Generally, the doing of such acts and things as may be incidental to, or consequential upon, the exercise of its powers or the discharge of its duties under this act.

Section 25 (2) has been omitted.
Section 25(3) of the State financial corporations Act, 1951 provides that subject to the provisions of Section 7(5), the aggregate of contingent liabilities of the Financial Corporation under clause (a),(b) and (c-a) of sub section (1) of section 25, shall not at any time exceed twice the paid up share capital and reserve fund of the corporation except with the prior approval of state government and in consultation with the Development Bank and in no case shall exceed thrice the paid up share capital and reserve fund of the corporation.

Section 25(4) provides that nothing contained in this section shall entitle any Financial Corporation to hold shares in any company, whether as pledgee, mortgagee or absolute owner, of an amount exceeding 30% of its own paid up share capital and free reserves whichever is less.

Section 25(5) provides that if on the commencement of the State Financial Corporation Act, 1951 any Financial Corporation is holding share in excess of the limits specified in section 25(4), the corporation shall report the matter forthwith to the reserved Bank of India and shall within such period as the Reserved Bank of India may allow so reduce its share holdings as to conform to the provisions of that subsection.
2.4. OBJECTS OF STATE FINANCIAL CORPORATIONS:

Finance is one of the essential requirements of any enterprise. It may be in the shape of own funds or in the shape of borrowed funds. To encourage the entrepreneurs to take part in the industrialisation of the state, it was felt that there should be some institution which may provide finance to small scale and medium scale industries. The objects are almost identical with the national policies for general public. State and Central Governments have been deciding the fate of industrialisation and other ancillary factors and on the basis of these observations, various policies and programmes are finalised and these programmes are implemented with the help of Public Financial Institutions, Banks, Reserve Bank of India, Industrial Development Banks like Industrial Development Bank of India, Small Industries Development Bank of India, Co-operative Banks and to the some extent with the help of Non Government Organisations like various Voluntary Organisations and so on. Needless to mention that India is a vast country in terms of its geographical span and its activities are spread in all parts of the country. The basic object being to strengthen the Economy of India by development of
Industries and accordingly, to enhance the job opportunities and equal distribution with parity all over the country.

2.5. GROWTH OF STATE FINANCIAL CORPORATIONS AND THEIR PRESENT POSITION IN INDIA:

As on date, almost every State and Union Territory has State Financial Corporation for catering the needs of the entrepreneurs. The State Financial Corporations have their own head offices, regional offices, branch offices and field level offices. State Financial Corporation primarily sanction loan for the following components of the cost of project.

a. Land and site development
b. Buildings and erections
c. Plant and Machinery
d. Other Fixed assets *
e. Technical know how fee
f. Intt. during cons. period
g. Escalations and contingencies
h. Prel./Pre-operative expenses *
I. Working Capital *

* Not in all cases.

Everybody knows that any process takes a time and the passage of one or two years for a nation has a small impact. However, the strong will power and solid and growth oriented planning are the base of a sound economy in addition to other factors as already discussed. After the independence in year 1947, it was felt that there should be some agencies, which can cater the need of finance of industrial and other entrepreneurs. So many committees and forums were formed for taking the tough job of study the Economic conditions of the country and based on the genuine need, the State Financial Corporations Act, 1951 was passed. The State Financial Corporations Act, 1951 came into force on 1st August, 1952 in all the states to which the act was then extended. It came into force in Goa, Daman and Dieu UTs on 13th February, 1964 and was enforced in the state of Sikkim on 24th October, 1975. Here, we should note that there are so many pre-requisites, which the State Government has to keep in mind before making operational the State Financial Corporation.
As already mentioned, as on date, almost every state and Union Territories have formed the State Financial Corporation within the meaning of the State Financial Cooperation Act, 1951 (Act 63 of 1951). These Corporations are meeting the assistance need for establishment of industrial projects and other commercial ventures to the deserving persons under their schemes and in this way they have given a new turn to the Economy of India.