

## Ch-4

### Limited Liability Partnership Act, 2008

\* Applicability => From 31<sup>st</sup> March, 2009 (Extends whole of India)

\* Contents => 81 sections and 4 schedules

i) First Schedule - mutual rights and duties of partners

ii) Second Schedule - conversion of a firm into LLP

iii) Third Schedule - conversion of a private company into LLP

iv) Fourth Schedule - conversion of unlisted public company into LLP

\* Non-applicability:

Non-Applicability of the Indian Partnership Act, 1932 to LLPs.

\* Meaning and concept of LLP:

1. New form of legal business entity, separate legal entity, limited liability of the partners

2. Alternative corporate business form that gives the benefits of limited liability of a company and the flexibility of a partnership.

\* Partners (Section 5):

Any individual or body corporate may be a partner in a LLP. But not person of unsound mind, undischarged insolvent; or who has applied to be adjudicated as an insolvent.

\* Minimum partners (Section 6):

1. Two partners

2. If LLP carries on business for more than six months with only one partner, he shall be liable personally for the obligations of the LLP incurred during that period.

\* Important Definitions:

1. Body Corporate [Sec. 2(d)]:

A company and includes LLP, foreign LLP, foreign company, but does not include a co-operation sole; a co-operative society and any other body corporate notified by Central Government.

2. Business [Sec. 2(e)]:

Includes every trade, profession, service and occupation and occupation except any activity which the Central Government may, by notification, exclude.

3. Designated Partner [Sec. 2(j)]:

Any partner designated as such pursuant to section 7.

4. Entity [Sec. 2(k)]:

Any body corporate and includes a firm setup under Indian Partnership Act.

5. Foreign LLP [Sec. 2(m)]:

LLP formed, incorporated or registered outside India which establishes a place of business within India.

6. Financial Year [Sec. 2(l)]:

1st April to 31st March. If LLP incorporated after the 30<sup>th</sup> September, F.Y. may end on the 31st day of March of next following that year.

7. LLP [Sec. 2(n)]:

Partnership formed and registered under this Act.

8. LLP agreement [Sec. 2(o)]:

Written agreement b/w partners of LLP or between the LLP and its partners.

9. Partner [Sec. 2(p)]:

Any person who becomes a partner in accordance with the LLP agreement.

\* Small LLP (Sec. 2(69)):

=> Contribution upto Rs. 25 lakh or such higher prescribed amount but upto Rs. 5 crore; and

=> Turnover for the immediately preceding F.Y. upto Rs. 40 lakh or such higher prescribed amount but upto Rs. 50 crore rupees; or

=> Which fulfills such terms and conditions as may be prescribed.

\* Designated Partners (Sec. 7):

1. At least two designated partners who are individuals and at least one of them shall be a resident in India.

2. Resident in India: a person who has stayed in India for a period of not less than 180 days during the immediately preceding one year.

\* Characteristics of LLP:

1. LLP is a body corporate

2. Perpetual Succession

3. Separate legal Entity

4. Limited liability

5. Mutual Agency

6. LLP Agreement

7. Minimum and Maximum no. of partners

8. Business for Profit only

9. Artificial Legal Person

10. Common seal

11. Management of Business

12. Conversion into LLP

13. Investigation

14. Compromise or Arrangement

15. Foreign LLPs.

16. E-filing of documents.

\* Advantages of LLP:

1. Easy to form

2. LLP agreements can be customized

3. Operates on the basis of agreement

- 4. No minimum capital
- 5. Less compliance and tax burden
- 6. Flexibility
- 7. Limited Liability of the Partners
- 8. Dissolution procedures are easy

- \* Incorporation of LLP [see in pdf]
- \* Registered Office and Change therein [ " ]
- \* Name:

1. Use of words "limited liability partnership" or "LLP" as the last words of its name.
2. No LLP registration by a name which, in the opinion of the CGA is -
  - => Undesirable
  - => Identical or similar to a LLP

\* Change of Name:  
 If name of registered LLP is identical or too nearly resembles to any other partnership firm or LLP or company or a registered trade mark, CGA may direct such LLP to change its name within 3 months (on application)

\* Steps to Incorporation of LLP:

1. Reservation of name of LLP
2. File e-Form 2 for incorporating a new LLP
3. Execution of LLP agreement & filing to registrar within 30 days of incorporation.

\* Eligibility: [Partners and their Relations]

Any other person may become a partner of the LLP by and in accordance with the LLP agreement.

\* Relationship:

1. Mutual rights and duties as per LLP agreement.
2. Any change in LLP agreement to be filed with Registrar in prescribed form with prescribed fees.
3. If any matter not mentioned in agreement, First schedule will be applicable.

\* Cessation of partnership interest

\* Registration of changes in partners

(See in pdf)

\* Extent and limitation of liability of LLP and Partner: (See in pdf)

=> Some topics left in pdf

\* Financial disclosures

\* Registration of conversion to LLP

\* Effect of Registration of conversion

\* Winding up & Dissolution of LLP

\* Miscellaneous.