

The Limited Liability Partnership Act, 2008

Background / Purpose

Section wise weightage

Min-11 Max 14

US Saving & loan firm
declared insolvent

Texas introduce the
concept of LLP

1980 and 1990

1991

Eventually all state of US
adopted the concept

UK

Gulf Countries

UK LLP Act, 2000

Singapore LLP Act 2005

LLP Act 2008

Partner who were not responsible
for the failure of the saving and
loan firm, being liable to repay
millions of dollar in compensation.

Partnership

→ unlimited liability

- Negligible Compliance

- Separate legal entity x

- Perpetual Succession

Company

Limited liability

- Heavy Compliance

✓

✓

Alternate form of business organisation

① Partnership

② Limited liability

③ Separate legal entity

④ Perpetual Succession

→ L.L.P

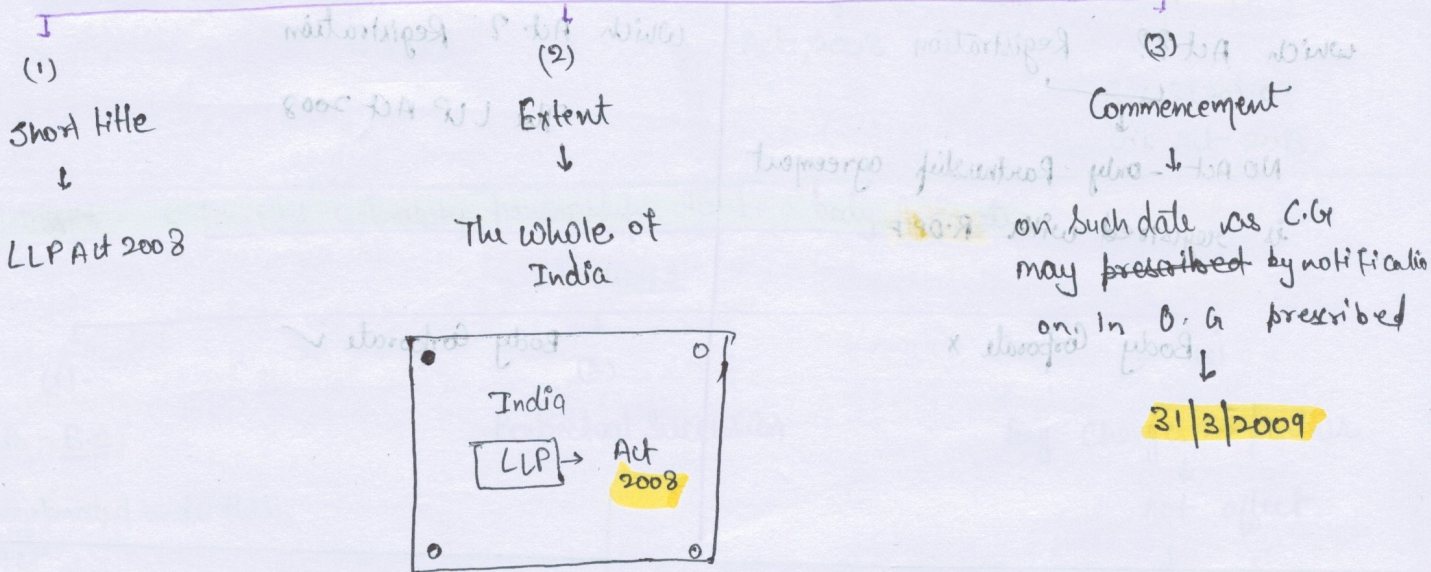
↓

Hybrid form of business
organisation

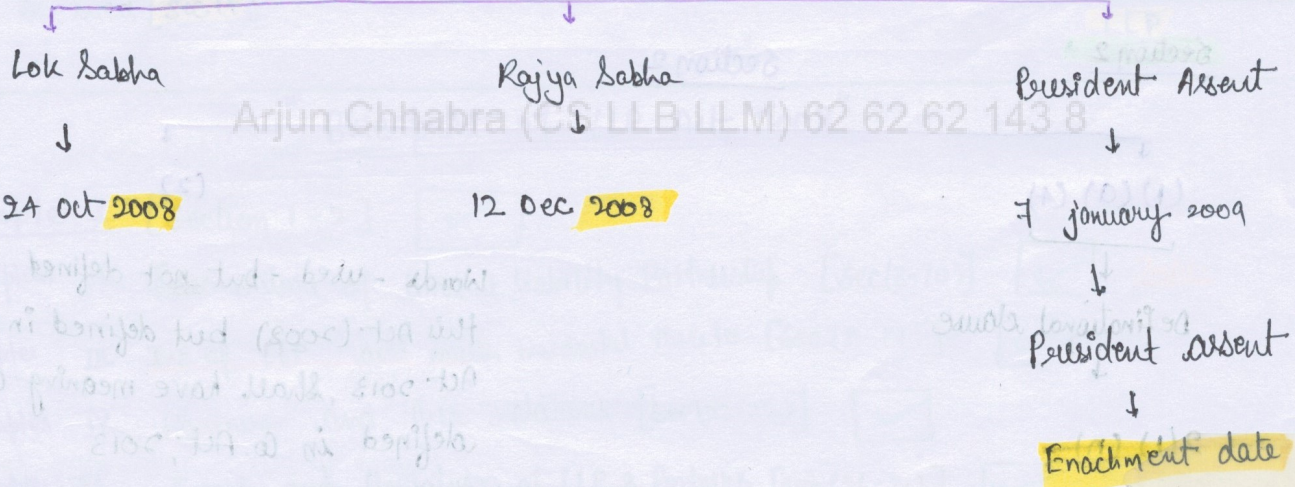
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Alternate Corporate
Vehicle.

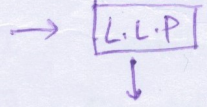
Section 1



LLP bill



Applicability



Section 2(1)(n)

LLP means a partnership **formed** and **registered** under this Act (2008)

Section 11

Registration optional

Which Act?? Registration

No Act - only Partnership agreement

is registered with ROPF

Body Corporate x

Registration - mandatory

Which Act? Registration

The LLP Act 2008

Body Corporate ✓

Section 4: - non applicability of Partnership Act 1932 on LLP.

Section 1: Short title, extent and Commencement

Section 2

(1) (a) (4)

Definitional clause

2(1) (n)

Section 2

(2)

Words - used - but not defined in this Act (2008) but defined in Co. Act 2013, shall have meaning as defined in Co. Act, 2013

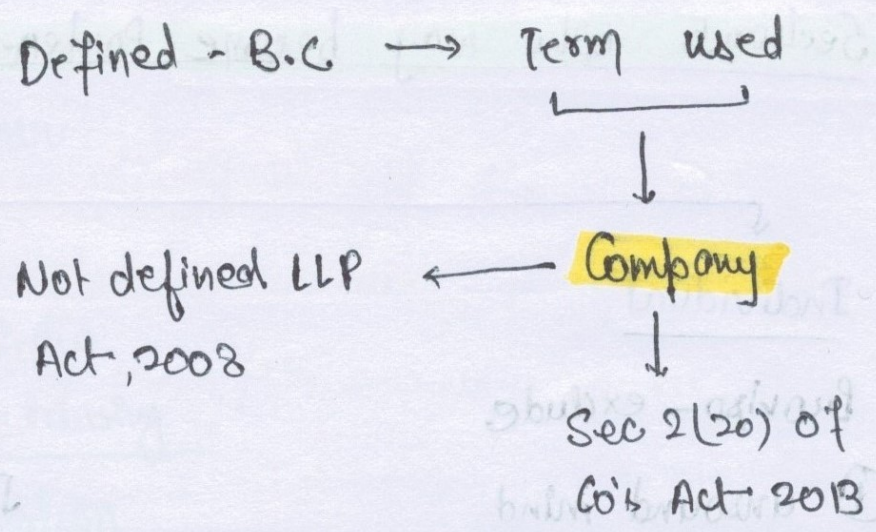
Example → Section 5

who may become Partner of LLP

Individual

Body
Corporate

Sec 2(1) (d) of
LLP Act, 2008



Section 3 Limited liability partnership to be a body corporate

Section 3

(1)
LLP - B.C.

(2)

Perpetual Succession

(3)

Any changes in partner
↓
not affect

- ① - Rights
- ② - Liability
- ③ - Existence

LLP

- ① Incorporated under this Act
- ② Seperate legal entity
- ③ Perpetual Succession
- ④ Capisity to sue and be sued [sec 14]

"Blue print of LLP Act, 2008"

① Chapter I [Section 1-2] ☒

* Chapter II ~~Sec~~ Nature of limited liability Partnership [Sec(3-10)] ☒ Imp

* Chapter III Inc of LLP and matter incidental thereto [Sec(11-17)] ☒

Chapter IV Partners and their relations [Sec(22-25)] ☒

Chapter V Extent and limitation of LLP & Partners [Sec(26-31)] ☒

Chapter VI Contributions [Sec. (32-33)] ☒

Chapter VII Financial disclosure [Sec. (34-39)] ☒

Chapter VIII Assignment and transfer of Partnership right [Sec 42] ☒

Chapter IX : Investigation [Sec(43-54)] ☒ not in syllabus

Chapter X Conversion into LLP [Sec (55-58)] ☒

Chapter XI foreign LLP [Sec 59] ☒

* Chapter XII Compromise, Arrangement of LLP [Sec 60-62] ☒

^{now benche} * Chapter XIII winding up and dissolution [Sec(63-~~65~~)] ☒

Chapter XIV ~~2~~ ~~64-70~~ Section 66-67 ☒

② Section 69-70

Section 5 Who may become Partner of LLP

Individual

Exorise - exclude

- ① unsound mind
- ② undischarged insolvent
- ③ Apply - Adjudicate insolvent

↓
Pending decision

↓
formal judgement by legal process

discharge
✓ Partner

undischarge
x Partner

Body Corporate Sec 2(1)(d)

means
↓

Co. as defined 2(20)
of Co's Act 2013

Include

- ① LLP register under this Act (2008)
- ② LLP Inc o/s India
- ③ Co. Inc o/s India

Exclude

- ① Corporation Sole
- ② Co-operative Society
- ③ Any Body corporate other than company [2(20)] and LLP (2008) as prescribed by CG.

Section 6 : minimum number of Partners in LLP

(1)

Min - 2 partner
max - unlimited

(2)

Apply Any time LLP Partner

↓
Below 2

↓
Carry on business - more than 6 months

↓
Alone partner - Knowledge fact

↓
liable personally for all obligation of LLP after those 6 month.

(1) Every LLP - Min 2 designated Partner

① Individual

② one Resident in India
(120 days or more during

F.Y) → Explanation

Proviso:

All partners of LLP

All Body Corporate

OR

Body Corporate

Individual

↓
Nominee of body corporate or individual partner

Min 2

+
1 RII Resident in India

May become DP

(2)

Incorporation document

Specify

↓
Who will be DP

↓
That person will
be DP.

Specify

↓
All partners will be
from time to time be
DP.

③(3) ~~Particulars~~ DP Shall give Prior written Consent

(4) Particulars of DP Shall be filled with ROC within 30 days of his appointment

(5) Eligibility of DP

(6) Every DP Shall obtain DPIN before becoming DP.

Section 8 Liability of DP

- ① Responsible for **Companies**
- ② Filing of **Return document etc.**
- ③ unless otherwise expressly provided liable for all **Penalties.**

Section 9: changes in designated Partner

LLP may appoint:

Vacancy in office of DP

DP Appoint within 30 days of such vacancy

Proviso

If no DP appointed within 30 days

or

If at any time there is only 1 DP

All Partner as Deemed to be D.P

[Note: Proviso of Sec 9 is applicable in case where there is only 2 DP in LLP.]

Section 10: Punishment or contravention of Section 7 and 9

[Refr Page no 12.4 of concept book]

Section 11: Incorporation of LLP

(1) For incorporation of LLP

(a) Associate two or more person + Lawful business + with a view of to earn Profit + Subscribe Incorporation document.

(b) Inc. document $\xrightarrow{\text{File.}}$ ROC

(c) Inc. document + Statement

Advocate or CA or CS or CMA and Any one Subscriber

engaged in formation of LLP

All Requirement of this Act for incorporation of LLP - Complied

(2) Incorporation document.

(a) Name of LLP

(b) Proposed business of LLP

(c) R.O of LLP

(d) Name and address of DP

(e) Name and address of Partner

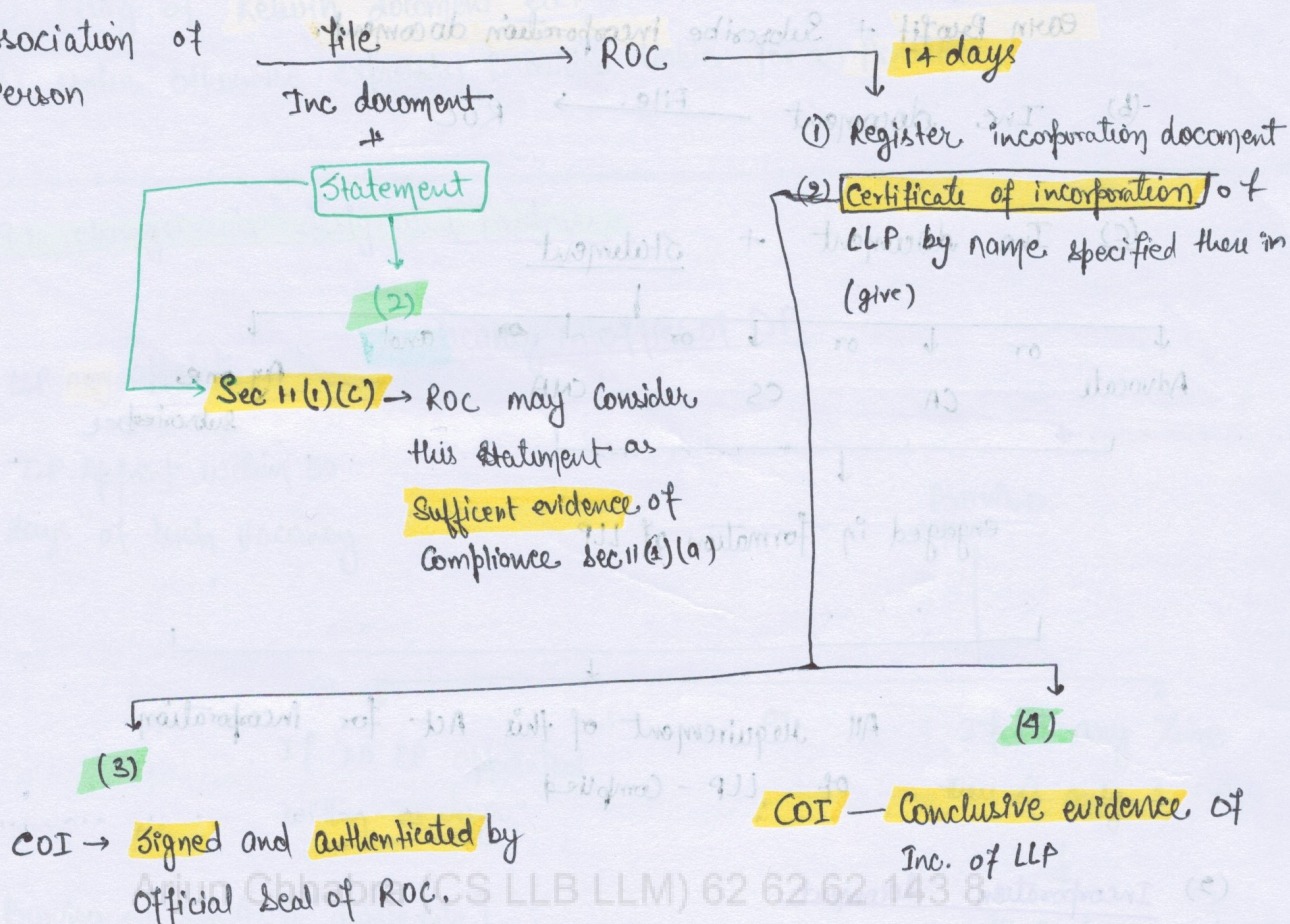
(f) Other information.....

(3) Penalty

↳ (Refer Page no 12.5 of Concept book)

Section 12: Incorporation by Registration

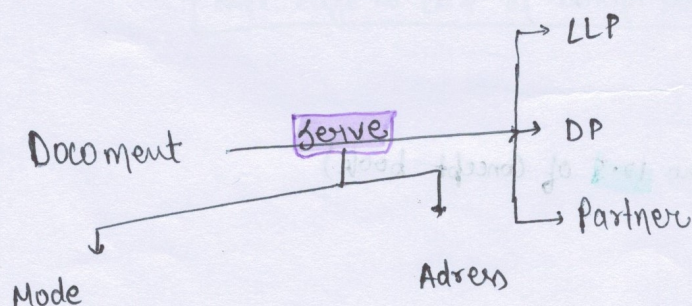
(1) Association of Person



Section 13: Register office of LLP and changes therein

(1) Mandatory to Have R.O of LLP

(2)



(a) under Certificate of Posting

(b) Registered Post

(c) Any other manner as prescribed.

(a) R.O of LLP

(b) other address specified declared by LLP for such Purpose

(3) LLP may change Registered office

+
Notice of change of RO

+
Change → effect - upon such filing

(4) Penal Provision

↳ [Refer Concept book 12.6]

Section 14: effect of registration

↳ [Refer Page no 12.7 of Concept book]

Section 15: Name

↳ Refr 12.7 of Concept book

Section 16: Reservation of Name.

↳ [Ref. 12.7 of Concept book]

(1) Application to ROC for reservation of name:-

(a) of Proposed LLP

(b) change of name existing LLP

(2) ROC on being satisfied that Section 15(2) is Complied,
may reserve the name for a period of **3 month** from
The date of intimation by registrar.

Section 17: Ratification of Name of LLP

Section 17: Ratification of Name of LLP

↳ [Refer Pg 12.8 of Concept book]

Q10 P12 - Important timeline.
LLP Act

- ① Change of Name by LLP ~~within~~ 3 months, from order of CG.
- ② Notice to ROC by LLP - of Change of Name. within 15 days along with
- ③ Copy or order of CG, within 15 days of Change of Name
- ③ ROC shall issue new certificate with new name within 30 days from such receive.
- ④ LLP shall change its name in LLP agreement within 30 days from Change in Certificate of incorporation.
- ⑤ An application of the proprietor of Registered trademark shall be maintainable within a period of 3 years from D.O.Inc. or Change of name of LLP.

Steps to incorporate LLP

↳ Refr Page 12.10

Section 22: Partners and their relation

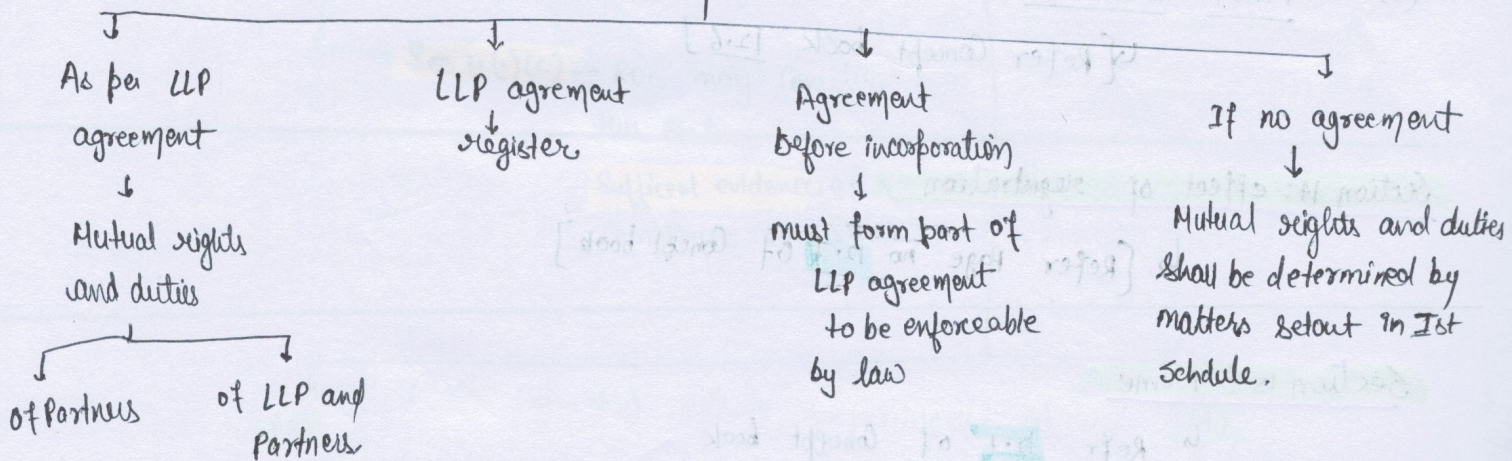
Section 23: Relationship of Partners

Refr Concept book

12.10



Relationship of Partners



eg: ① Profit sharing ratio

② Right of remuneration, if any

③ indemnification by a partner in certain cases

④ Authorities of Partner

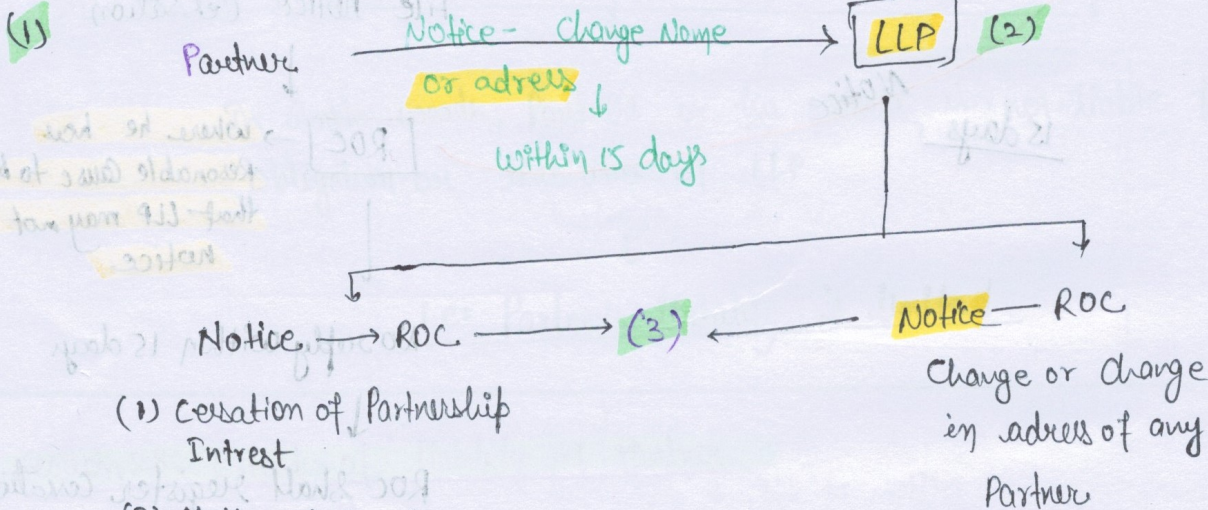
Section 24: Cessation of Partnership interest.

↳ [Refr 12.11 to 12.12 of Concept book]

Section 25: Registration of changes in partner.

Change in name or address of partner

Cessation of partner or a Person becoming a partner.
(Incoming)



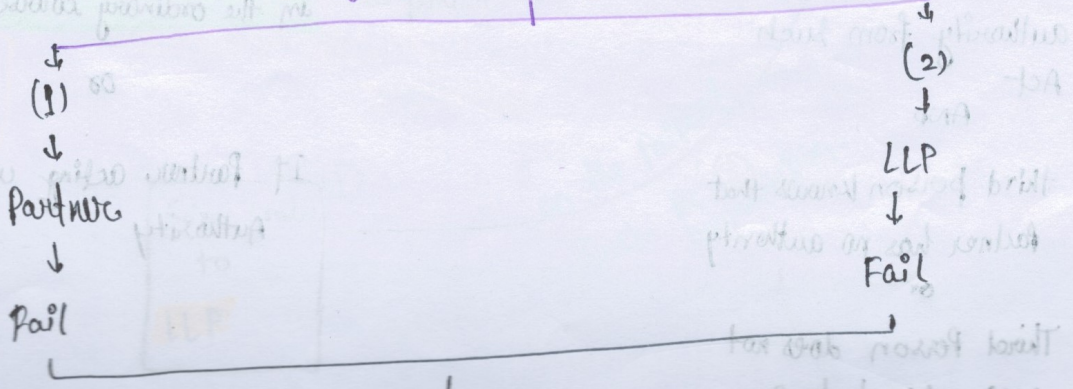
- (1) Cessation of Partnership Interest
- (2) Notice of Any Person becoming Partner (Incoming)
- (3) Notice relate Incoming Partner + Statement + written Consent (I.P)

Within 30 days

- I.P
- cease
- Notice

(3) Notice - Signed by DP and authenticated in prescribed manner.

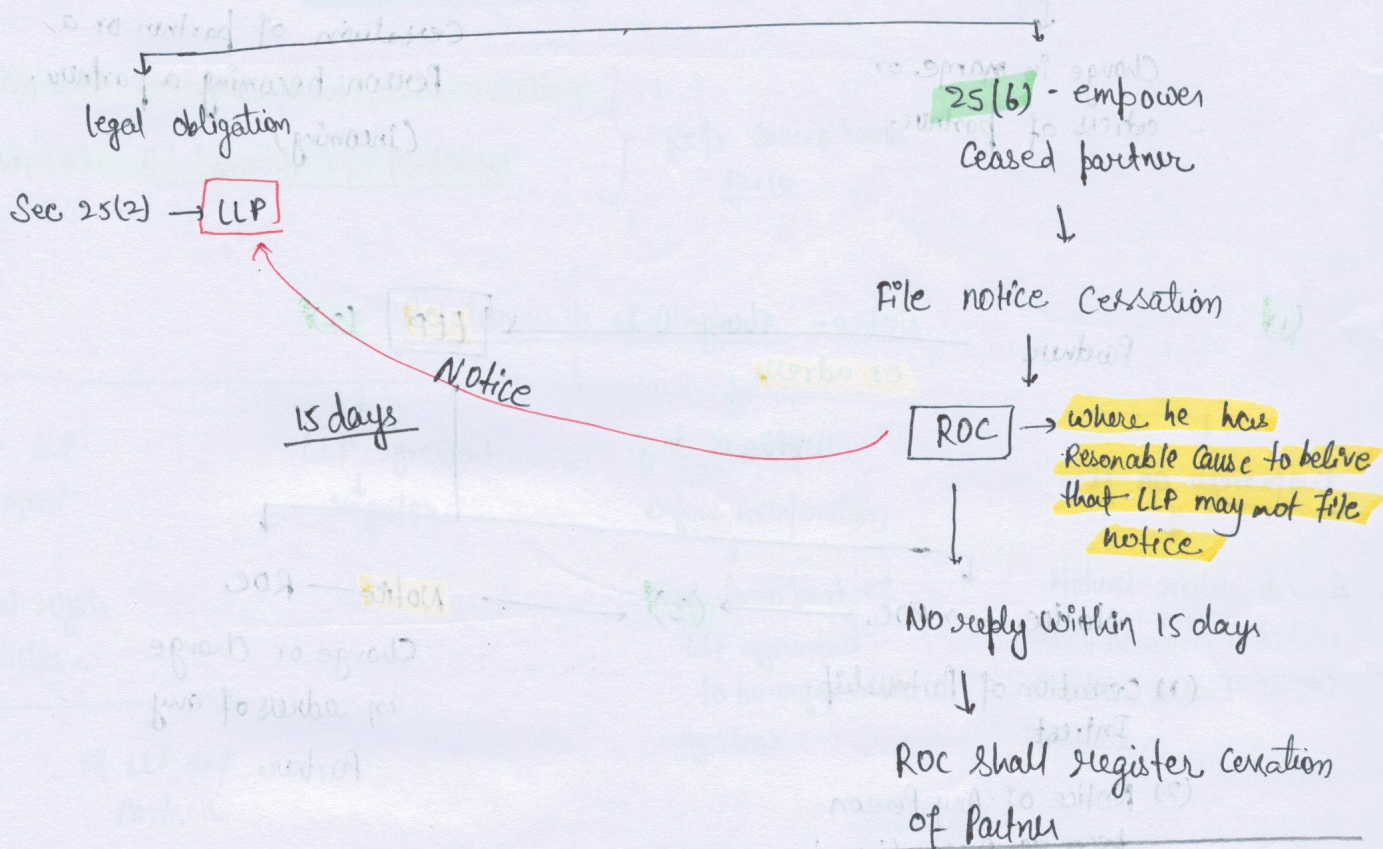
legale legale obligation



(4) (5) Penalty = 10,000 ₹

Former partner.

Section 24: FP still regarded as partner until notice to ROC is given



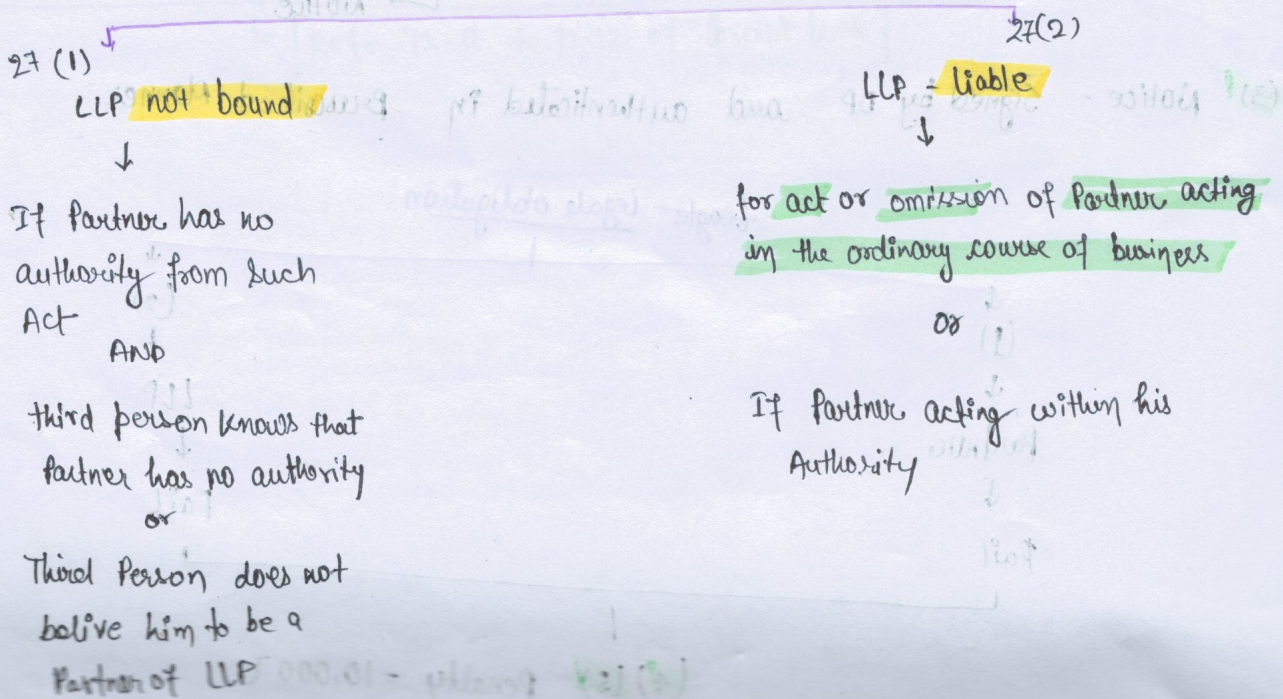
Section 26: Partner as agent

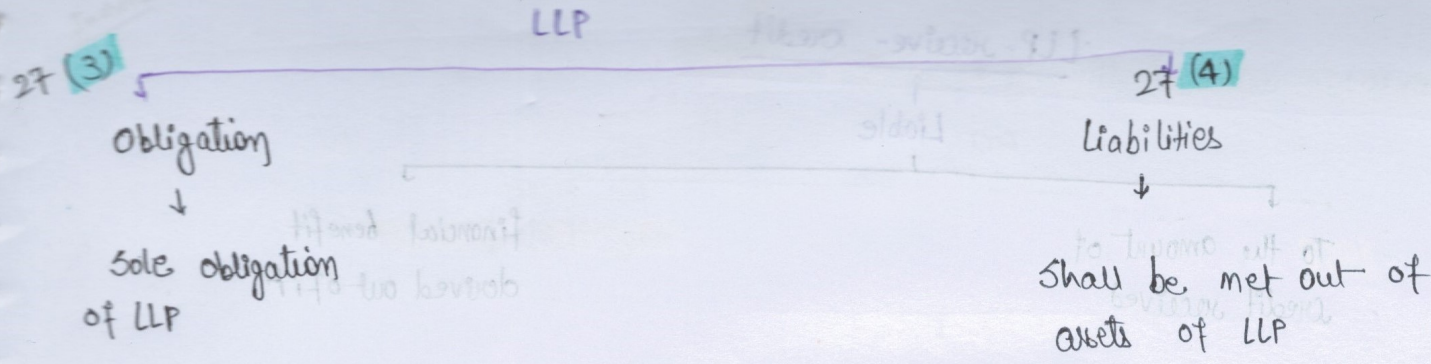
Every Partner of LLP is an agent of LLP and, not of other partner.

[There is no Mutual Agency Concept in LLP Act, 2008]

Section 27: Extent of Liability of LLP

Act of Partner



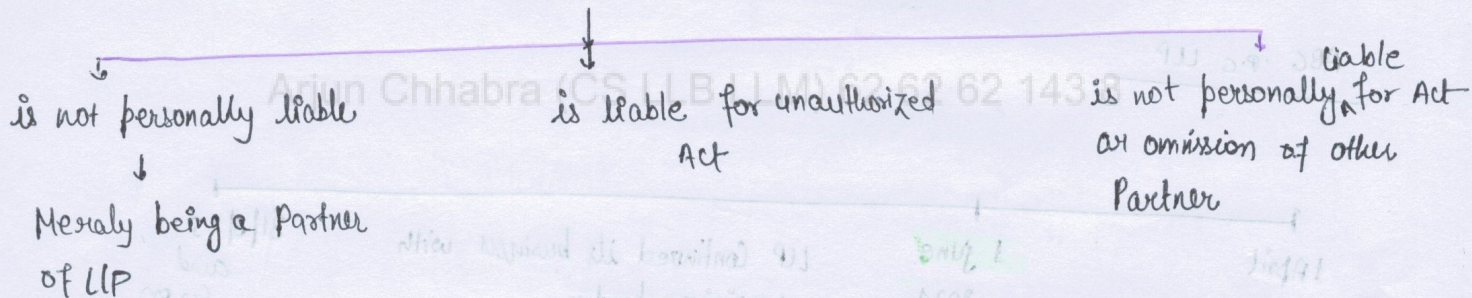


In simple words, Partners or his assets is not liable for obligation or liabilities of LLP

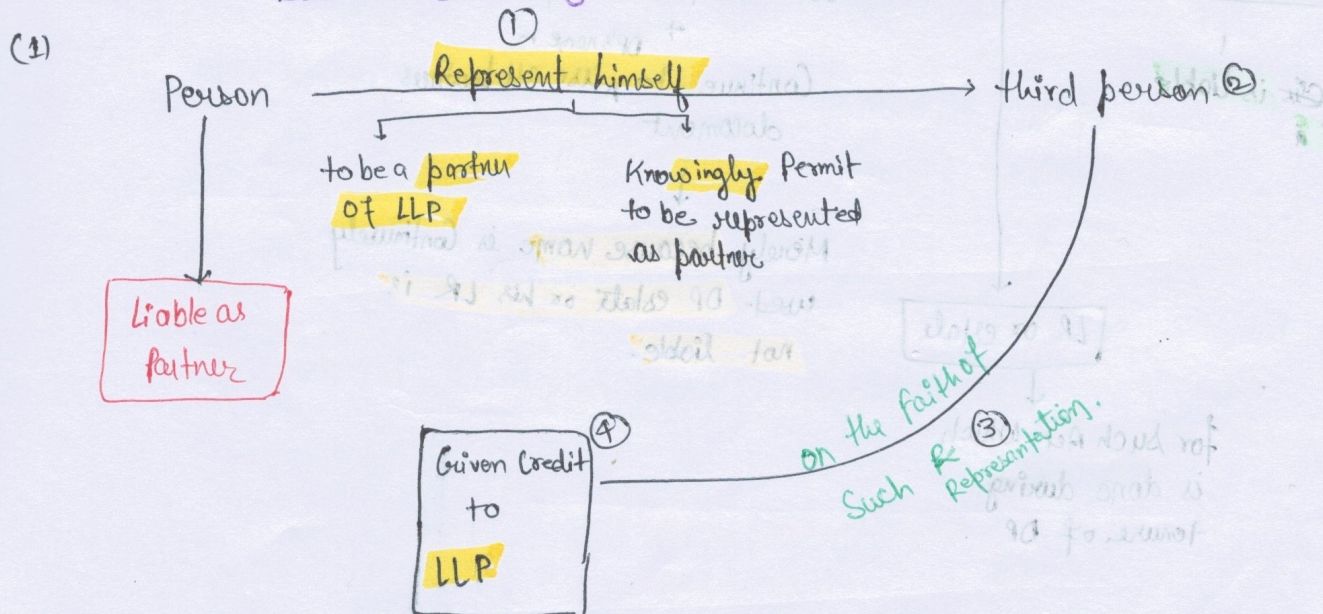
i.e. Partner's liability is limited

Section 28: Extent of liability of Partner.

Partner.



Section 29: Partner by Holding out.

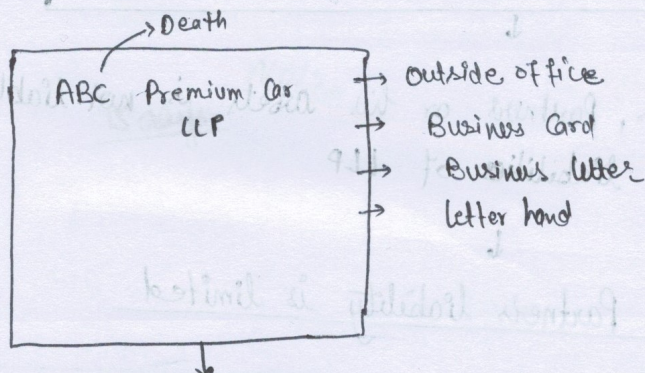


LLP - receive - credit

Liability

To the amount of
credit receivedfinancial benefit
derived out of it.

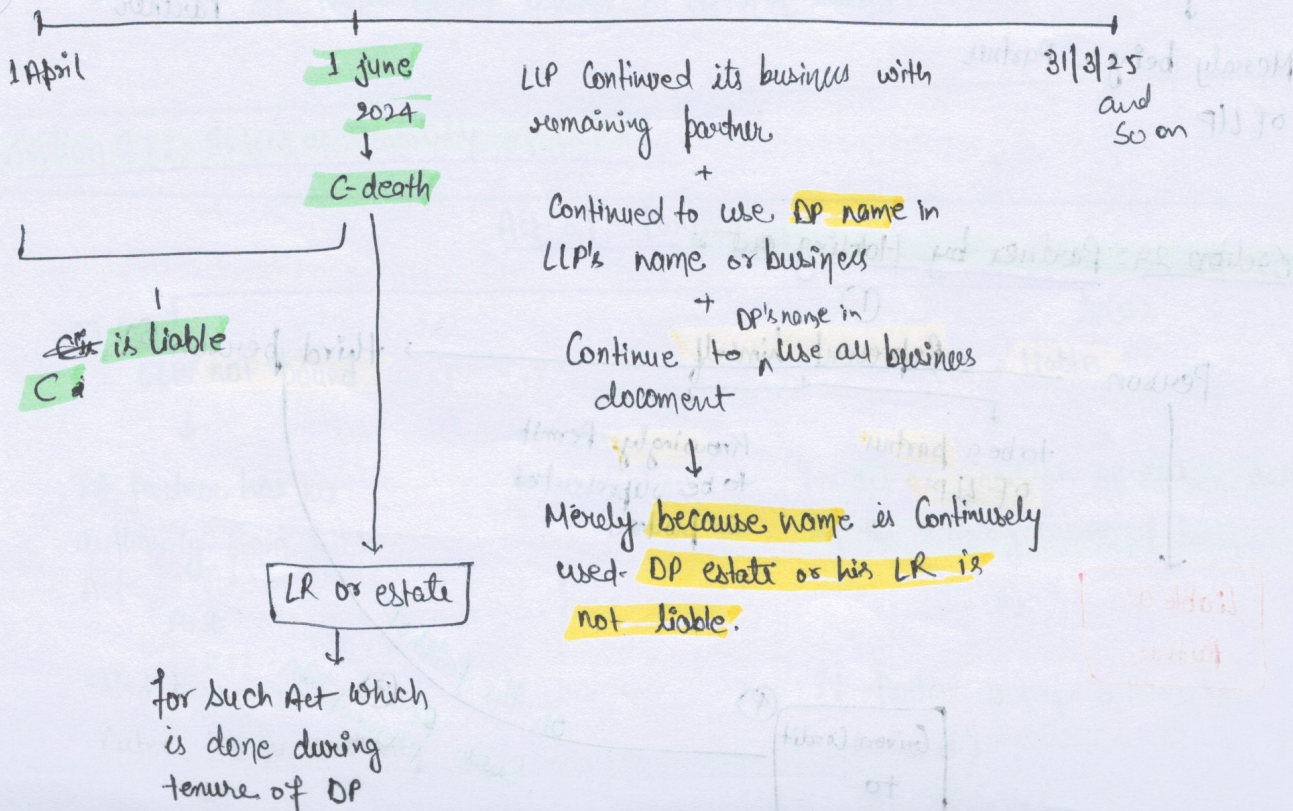
(2)

Example

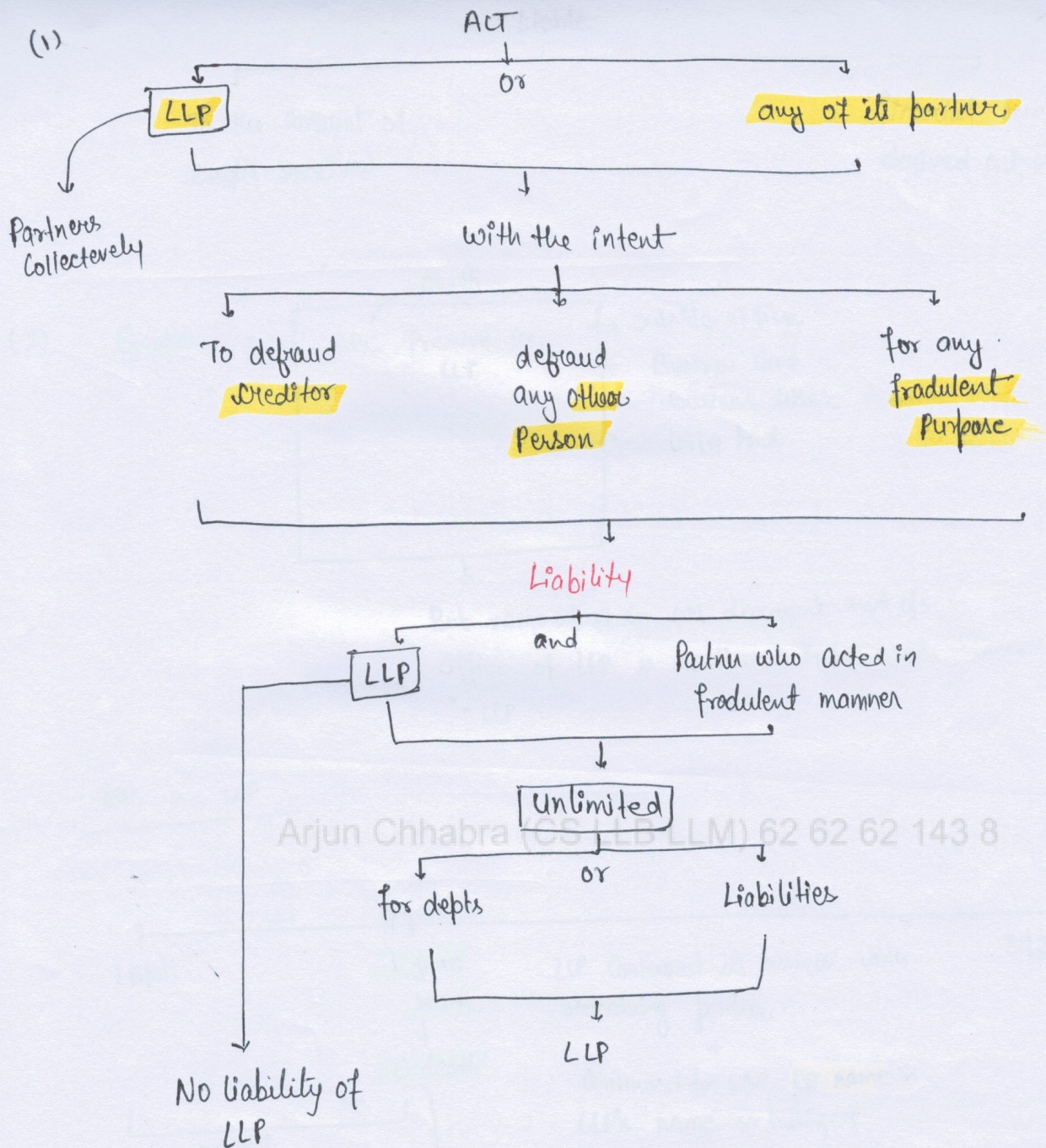
But name of C in all document and of
office of LLP is continued to be used
in LLP

ABC P.C LLP

Arjun Chhabra (CS LLB LLM) 62 62 62 143 8



Section 30: unlimited liability in case of Fraud



→ If LLP established that act of such person (partner) was without knowledge or Authority of LLP.

(2) Any business is carried out with Fraudulent intention given in 30(1)

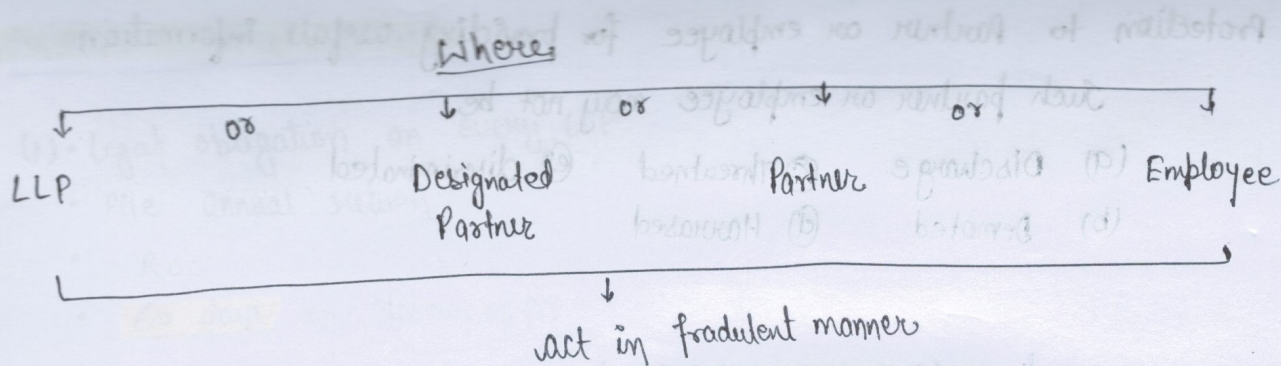
→ Every Person who is knowingly Party to Act/business

Liable:

Imprisonment : upto 5 years

Fine — { Min 50,000
Max 5,00,000

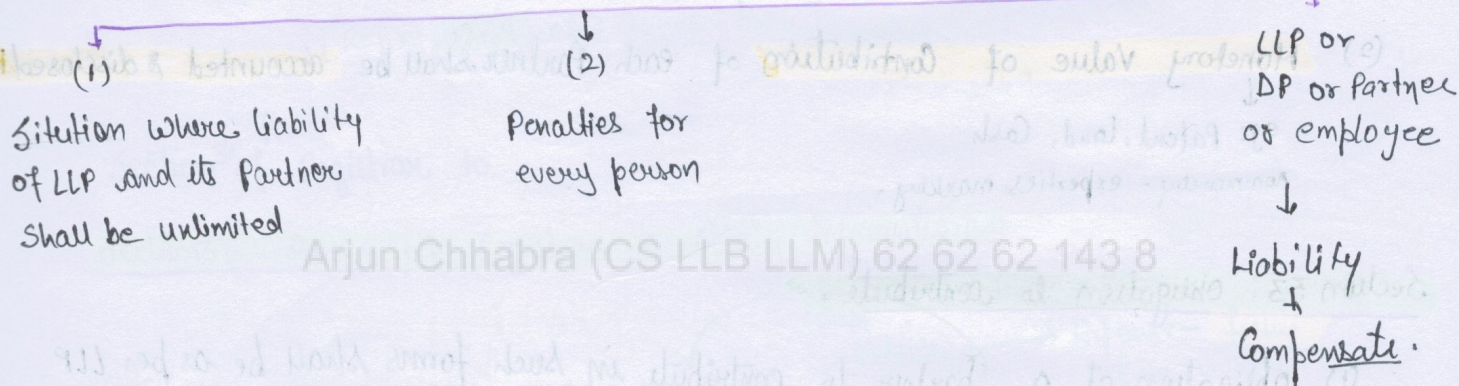
(3)



Liabilities

- ① Liable for criminal proceeding 30(2)
- ② Liable to compensate to every Person who suffered loss in such fraudulent act. 30(3)

Section 30



Section 31:- Whistle blowing

31(1) Power of court and tribunal to waive or reduce any Penalty against whom?

- ① any partner or } of LLP
- ② any employee }

When?

- ① if Partner or employee has provided useful information during investigation

or

Any information given by Partner of employee leads to conviction of any partner employee or LLP

31 (2) Protection to Partner or employee for providing useful information (3)

Such partner or employee may not be

- (a) Discharge (b) Threatened (c) Discriminated
- (b) Demoted (d) Harassed

Section 32: Contributions (forms of contribution)

(1) Mode of Contribution by Partners

- (a) Tangible or Intangible, movable or immovable property or other benefit to LLP
- (b) Negotiable instrument, money
- (c) Contract for services.

eg: legal or consultancy services

(2) Monetary Value of Contribution of each Partner shall be accounted & disclosed in BS.

eg: Patent, land, Cash

Non-monetary - expertise, marketing.

Section 33: Obligation to contribute. LB LLM) 62 62 62 143 8

(1) obligation of a partner to contribute in such forms shall be as per LLP agreement.

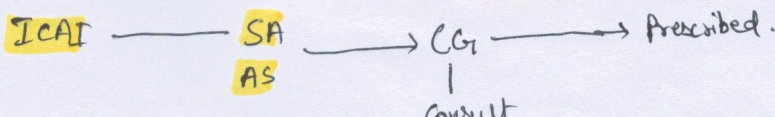
(2) In case of any modification / compromise between partners, creditor may enforce the original obligation against such partner if he has no notice of compromise or modification.

Section 34: Maintenance of books of Accounts, other records & Audit etc.

[Refer Page no 12.17 of Concept book]

Section 34A: Accounting and Auditing Standards

[Refer Page no 12.18 of Concept book]



Section 35: Annual Return

(1) • Legal obligation on every LLP

- File annual return
- ROC
- 60 days on closure of FY

(2) Penalty :- Refs Page 12.18

Section 36: Inspection of Document kept by Registrar.

[Refs 12.18 of Concept book]

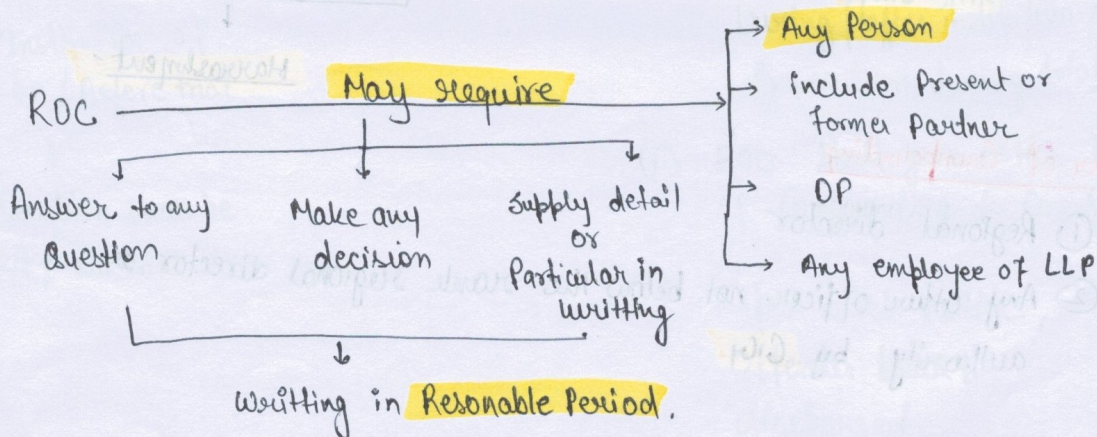
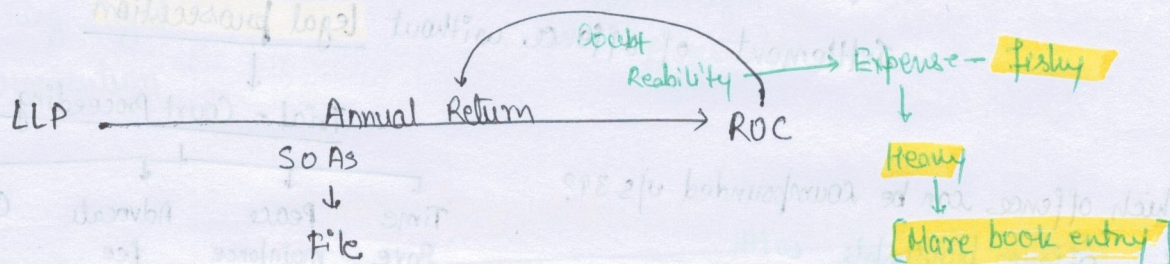
Section 37: Penalty for false Statement

[Refs 12.19 of Concept book]

Section³⁸ of Registrar to

Section 38: Power of Registrar to obtain information

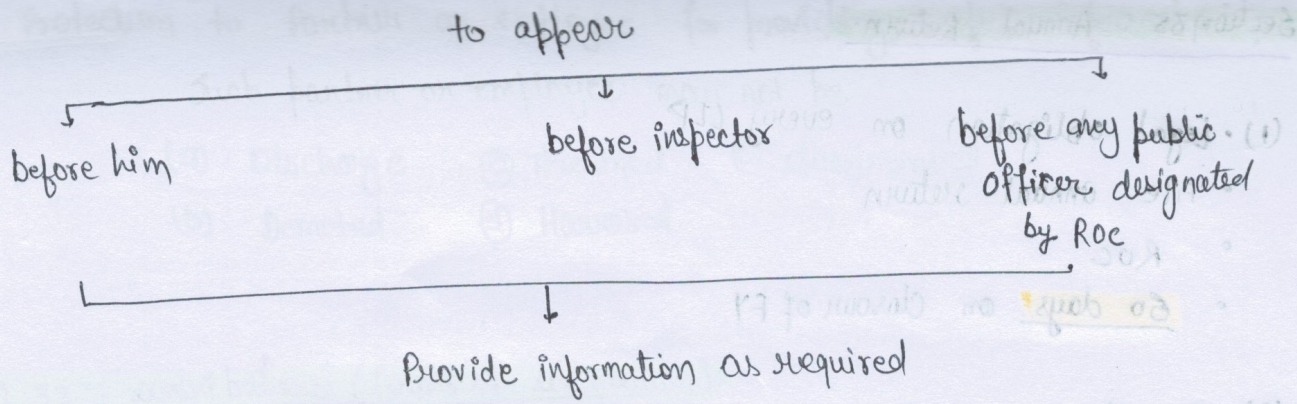
Scenario



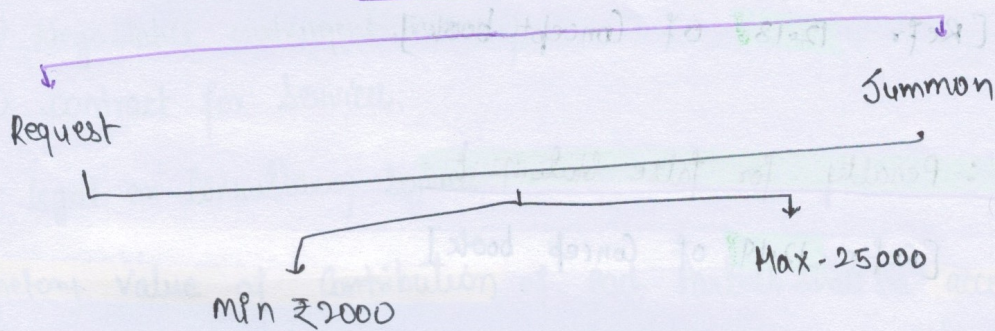
Such Person does not reply within a reasonable period

Reply not satisfactory

Roc may Summon such person



Person fails to Comply

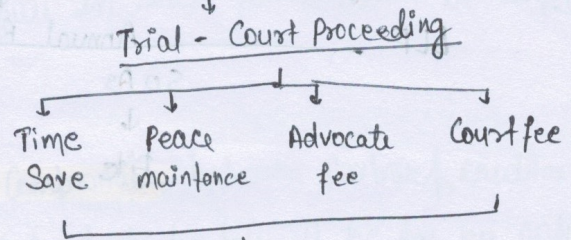


* Section 39 : compounding of offences

Settlement of offence without legal prosecution

→ Which offence can be compounded u/s 39?

→ offence punishable with fine only.



Power of Compounding

- ① Regional director
- ② Any other officer not below the rank regional director as authority by G.O.

How?

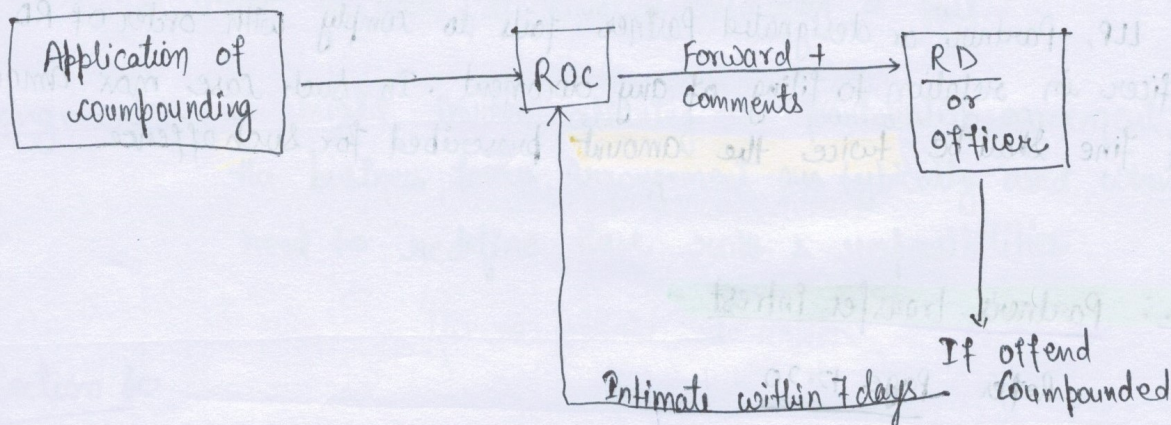
By Collecting from the person who is reasonably suspected to have committed an offence.

Sum - Amount

Max amount of fine
Prescribed for Such
Offence

but not lower than
min - amount of fine
Prescribed for Such offence.

Procedure for Compounding



When compounding application can be done.

During legal
Prosecution

Before legal
Prosecution

Offence Compounded

Before Institution of
Prosecution / Before trial

↓
No Prosecution shall be
instituted / No trial

During / after institution of
Prosecution during trial

- ① Roc shall give notice in writing of Compounding to Court
- ② upon such notice, offender shall be discharged.

Special note.

- ① No compounding of offence shall be made under this section if the offence is similar to the previous offence not compounded within 3 years.
- ② After expiry of 3 years - similar offence shall be considered as first offence.
- ③ → Consequences of not co-operating with R.D of officer.

If LLP, Partner or designated Partner fails to comply with order of R.D. or officer in relation to filing of any document. In such case max amount of fine shall be twice the amount prescribed for such offence.

Section 42: Partner's transfer interest

Refer Page 12.20

Conversion Into LLP

- Arjun Chhabra (CS LLB LLM) 62 62 62 143 8
- Section 55 - Conversion from firm into LLP - Schedule II
 - Section 56 - Conversion from Private Co. into LLP - Schedule III
 - Section 57 - Conversion from unlisted public Co. into LLP - Schedule IV

Section 58: Registration and effect of Conversion

[Refer Page 12.24]

Section 59: Foreign LLP

Section 60: Compromise or arrangement of LLP

Compromise: Agreement with creditor or Partner to settle debts or claim.

The LLP & its creditor or partner comes to a mutual understanding of an involving the creditors accepting a reduced amount or extended payment terms to satisfy the debts.

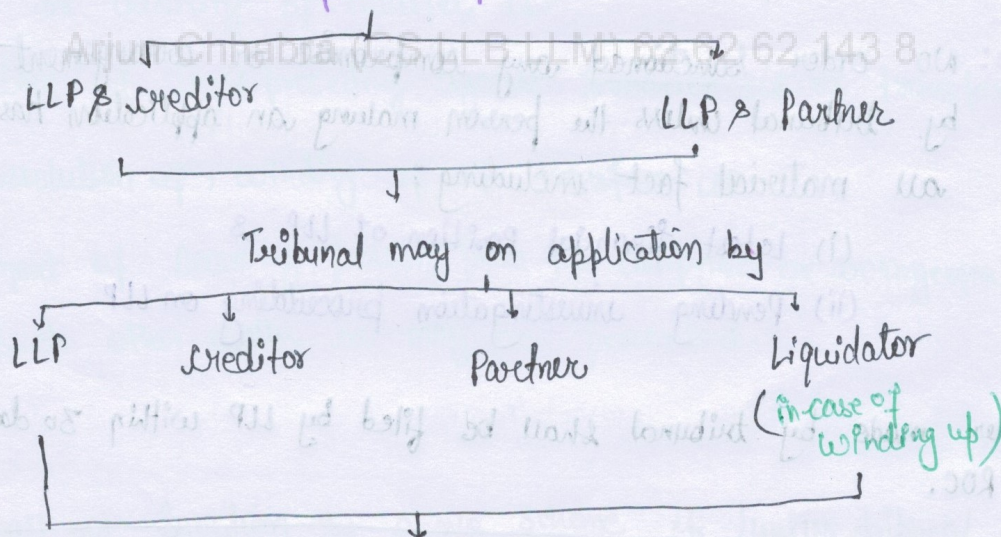
Compromise are usually used when the LLP is struggling with financial issue & is unable to meet its financial obligation is full.

Arrangement: It might involve altering the partnership agreement, changing the business focus. Arrangement are typically used when Partners need to redefine their role & responsibilities.

Section 60

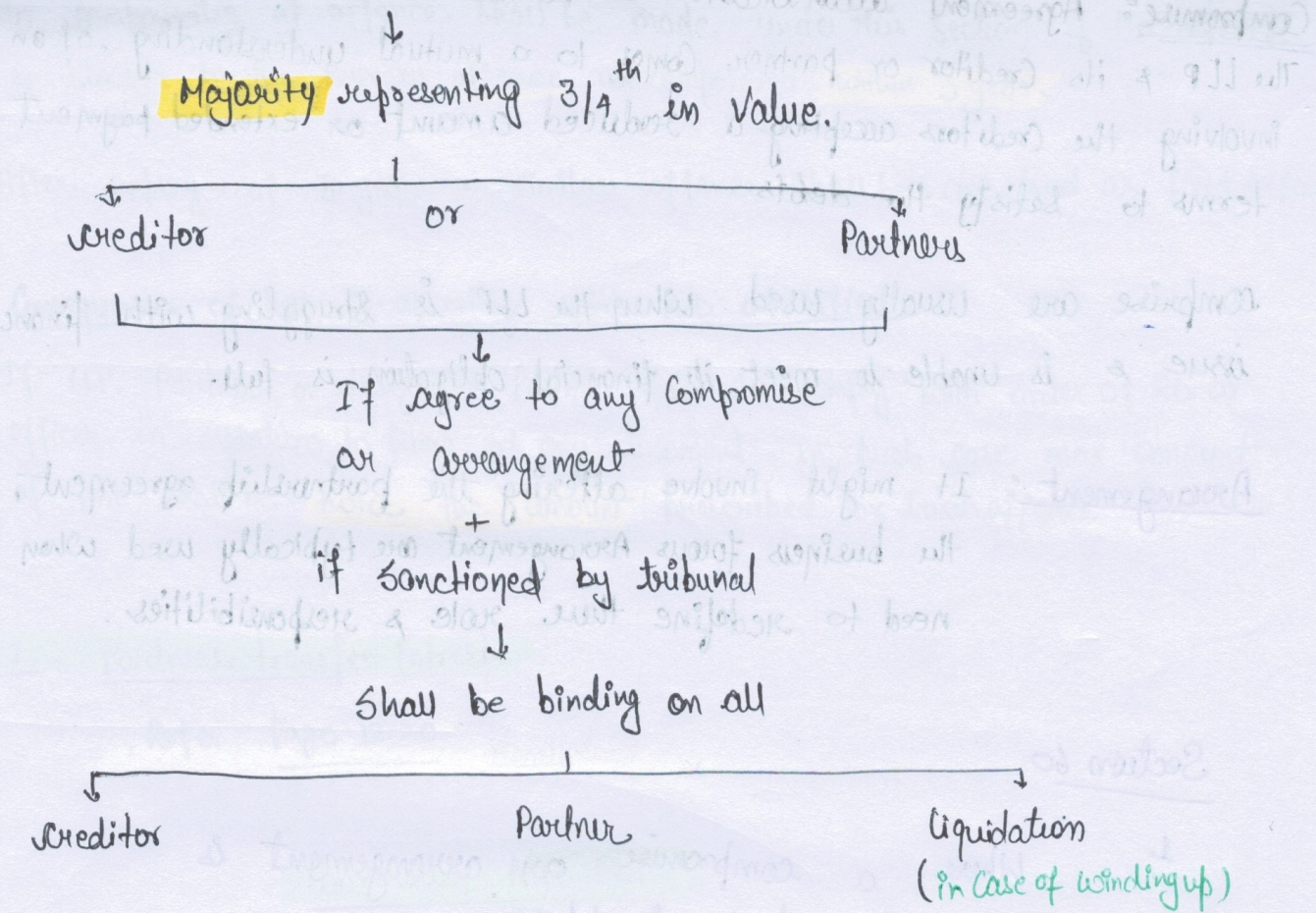
1.

Where a compromise or arrangement is proposed b/w



order a meeting of creditor or partner as prescribed by tribunal.

2 Consent/Quantum of Consent or Compromise



Special note: No order sanctioned any compromise or arrangement shall be made by tribunal unless the person making an application has disclosed all material fact including:

(i) Latest financial position of LLP &

(ii) Pending investigation proceedings on LLP

(3) An order made by tribunal shall be filed by LLP within 30 days of order with ROC.

[Arjun Sir is
best ♥♥]

Section 61: Power of tribunal to enforce compromise or arrangement.

1. The Tribunal shall have power to supervise the execution / carrying out of compromise or arrangement & may at any time pass such order as it considers necessary for proper working of compromise or arrangement.
2. If the Tribunal is satisfied that a compromise or arrangement is not working satisfactorily, it may on its own motion or on the application of the concerned person order winding up of LLP.

Section 62 Provisions for facilitating re-construction or amalgamation of LLP.

where a compromise or arrangement has been proposed with a scheme of amalgamation of any two or more LLP's then the tribunal may by order make following provisions:

- (i) The transfer to the transferee LLP of whole or any part of undertaking, property or liability of transferor LLP.
- (ii) continuation of legal proceeding against transferee LLP of transferor LLP.
- (iii) The dissolution of, winding up of transferor LLP.
- (iv) Arrangement of Decanting person from the compromise or arrangement.
- (v) for such other matter as may be prescribed.

Special note:

Tribunal shall not sanction the above scheme if / unless tribunal has recd. a report from ROC that affairs of LLP have not been conducted prejudicially to the interest of Partner or public interest.

Filing of order of Tribunal to ROC within 30 days.