

The Limited Liability Partnership Act, 2008

LDR Questions



Q. 6

Q. 9

Q. 13

Q. 17

Q. 20

Q. 24

Q. 25

Q. 27

ICAI Module Descriptive Questions

Section 5 Partners

1. Mr. Ankit Sharma wants to form a LLP taking him, his wife Mrs. Archika Sharma and One HUF as partners for that. Whether this LLP can be incorporated under LLP Act, 2008? Explain.

Solution:

Section 5 of Limited Liability Partnership Act, 2008 provides any individual or body corporate may be a partner in an LLP. However, an individual shall not be capable of becoming a partner of a LLP, if—

- (a) he has been found to be of unsound mind by a Court of competent jurisdiction and the finding is in force;
- (b) he is an undischarged insolvent; or
- (c) he has applied to be adjudicated as an insolvent and his application is pending.

Further, Section (2)(1)(d) provides that a Body Corporate it means a company as defined in 'clause (20) of section 2 of the Companies Act, 2013 and includes—

- (i) an LLP registered under this Act;
- (ii) an LLP incorporated outside India; and
- (iii) a company incorporated outside India, but does not include:
 - (i) a corporation sole;
 - (ii) a co-operative society registered under any law for the time being in force; and
 - (iii) any other body corporate (not being a company as defined in 'clause (20) of section 2 of the Companies Act, 2013' or a limited liability partnership as defined in this Act), which the Central Government may, by notification in the Official Gazette, specify in this behalf.

Therefore, HUF is not covered in the definition of body corporate and cannot be partner in LLP.

Section 7 Designated Partners

2. There is an LLP by the name Ram Infra Development LLP which has 4 partners namely Mr. Rahul, Mr. Raheem, Mr. Kartar and Mr. Albert. Mr. Rahul and Mr. Albert are non – resident while other

two are resident. LLP wants to take Mr. Rahul and Mr. Raheem as Designated Partner. Explain in the light of Limited Liability Partnership Act, 2008 whether LLP can do so?

Solution:

According to Section 7 of LLP Act, 2008 every LLP shall have at least two designated partners who are individuals and at least one of them shall be a resident in India. Further, explanation to the section provides, the term “resident in India” means a person who has stayed in India for a period of not less than one hundred twenty days during the financial year. Hence, in the given problem, besides Mr. Rahul and Mr. Raheem, Mr. Albert should also be designated partners.

Section 15 Name of LLP

3. M/s Vardhman Steels LLP was incorporated on 01.09.2022. On 01.01.2023, one partner of a partnership firm named M/s Vardhimaan Steels is registered with Indian Partnership Act, 1932 since 01.01.2000 requested ROC that as the name of LLP is nearly resembles with the name of already registered partnership firm, the name of LLP should be changed. Explain whether M/s Vardhman Steels LLP is liable to change its name under the provisions of Limited Liability Act, 2008?

Solution:

Section 15 of LLP Act, 2008 provides no LLP shall be registered by a name which, in the opinion of the Central Government is—

- (i) undesirable; or
- (ii) identical or too nearly resembles to that of any other ‘LLP or a company or a registered trade mark of any other person under the Trade Marks Act, 1999’.

Further, section 17 provides, if the name of LLP is identical with or too nearly resembles to-

- (i) that of any other LLP or a company; or
- (ii) a registered trade mark of a proprietor under the Trade Marks Act, 1999 then on an application of such LLP or proprietor referred to in clauses (a) and (b) respectively or a company, the CG may direct that such LLP to change its name within a period of 3 months from the date of issue of such direction.

Following the above provisions, LLP need not change its name if its name resembles with the name of a partnership firm. These provisions are applicable only in case where name is resembles with LLP, company or a registered trade mark of a proprietor.

Hence, M/s Vardhman Steels LLP need not change its name even it resembles with the name of partnership firm.

Section 24 Cessation of Partnership Interest

4. Kanik, Priyansh, Abhinav and Bhawna were partners in Singh Jain & Associates LLP. Abhinav resigned from the firm w.e.f. 01.11.2022 but this was not informed to ROC by LLP or Abhinav. Whether Abhinav will still be liable for the loss of firm of the transactions entered after 01.11.2022?

Solution:

According to section 24(3), where a person has ceased to be a partner of a LLP (hereinafter referred to as “former partner”), the former partner is to be regarded (in relation to any person dealing with the LLP) as still being a partner of the LLP unless:

- (i) the person has notice that the former partner has ceased to be a partner of the LLP; or
- (ii) notice that the former partner has ceased to be a partner of the LLP has been delivered to the Registrar.

Hence, by virtue of the above provisions, as no notice of resignation was given to ROC, Abhinav will still be liable for the loss of firm of the transactions entered after 01.11.2022.

Section 26 Partner as Agent

5. “LLP is an alternative corporate business form that gives the benefits of limited liability of a company and the flexibility of a partnership”. Explain.

Solution:

LLP is an alternative corporate business form that gives the benefits of limited liability of a company and the flexibility of a partnership

Limited Liability: Every partner of a LLP is, for the purpose of the business of LLP, the agent of the LLP, but not of other partners (Section 26 of the LLP Act, 2008). The liability of the partners will be limited to their agreed contribution in the LLP, while the LLP itself will be liable for the full extent of its assets.

Flexibility of a partnership: The LLP allows its members the flexibility of organizing their internal structure as a partnership based on a mutually arrived agreement. The LLP form enables entrepreneurs, professionals and enterprises providing services of any kind or engaged in scientific and technical disciplines, to form commercially efficient vehicles suited to their requirements. Owing to flexibility in its structure and operation, the LLP is a suitable vehicle for small enterprises and for investment by venture capital.

Section 26

6. Mr. Mudit is the creditor of Devi Ram Food Circle LLP. He has a claim of ₹10,00,000 against the LLP but the worth of the assets of LLP are only ₹7,00,000. Now Mr. Mudit wants to make the partners of LLP personally liable for the deficiency of ₹3,00,000. Whether by virtue of provisions of Limited Liability Act, 2008, Mr. Mudit can claim the deficiency from the partners of Devi Ram Food Circle LLP?

Solution:

A limited liability partnership is a body corporate formed and incorporated under this Act and is a legal entity separate from that of its partners. The LLP itself will be liable for the full extent of its assets but the liability of the partners will be limited. Creditors of LLP shall be the creditors of LLP alone. In other words, creditors of LLP cannot claim from partners. The liability of the partners will be limited to their agreed contribution in the LLP. Hence the creditors of Devi Ram Food Circle LLP are the creditors of Devi Ram Food Circle LLP only. Partners of LLP are not personally liable towards creditors. Mr. Mudit cannot claim his deficiency of ₹3,00,000 from the partners of Devi Ram Food Circle LLP.

RTP, MTP and PYQ Descriptive Questions

Section 2(1)(d) Body Corporate

7. Define the term ‘Body Corporate’ as per the provisions of the Limited Liability Partnership Act, 2008. (MTP Sep 24)

Solution:

Body Corporate: According to section 2(1)(d) of the Limited Liability Partnership Act, 2008, body corporate means a company as defined in section 2(20) of the Companies Act, 2013 and includes:

- (i) a LLP registered under the Limited Liability Partnership Act, 2008;
- (ii) a LLP incorporated outside India; and

- (iii) a company incorporated outside India, but does not include—
- (a) a corporation sole;
 - (b) a co-operative society registered under any law for the time being in force; and
 - (c) any other body corporate (not being a company as defined in section 2(20) of the Companies Act, 2013 or a limited liability partnership as defined in the Limited Liability Partnership Act, 2008), which the Central Government may, by notification in the Official Gazette, specify in this behalf.

Section 2(1)(I) Financial Year

8. Define the term 'Financial Year' as per the provisions of the Limited Liability Partnership Act, 2008. (MTP Jan 25)

Solution:

Financial Year: According to section 2(1)(I) of the Limited Liability Partnership Act, 2008, "Financial year", in relation to a Limited Liability Partnership (LLP), means the period from the 1st day of April of a year to the 31st day of March of the following year.

However, in the case of a LLP incorporated after the 30th day of September of a year, the financial year may end on the 31st day of March of the year next following that year.

Section 2(1)(ta) Small Limited Liability Partnership

9. Define the term 'Small limited liability partnership' as per the provisions of the Limited Liability Partnership Act, 2008. (MTP Jan 25)



Solution:

Small limited liability partnership

According to section 2(1)(ta) of the Limited Liability Partnership Act, 2008, small limited liability partnership means a limited liability partnership:

- (i) the contribution of which, does not exceed 25 lakh rupees or such higher amount, not exceeding 5 crore rupees, as may be prescribed; and
- (ii) the turnover of which, as per the Statement of Accounts and Solvency for the immediately preceding financial year, does not exceed 40 lakh rupees or such higher amount, not exceeding 50 crore rupees, as may be prescribed; or
- (iii) which meets such other requirements as may be prescribed, and fulfils such terms and conditions as may be prescribed.

Section 2(1)(ta)

10. JEET LLP is a small-scale consulting firm. For the financial year 2024- 25, the firm reported a total contribution of ₹20 lakh and an annual turnover of ₹35 lakh as per its Statement of Accounts and Solvency. The LLP intends to avail benefits granted to small LLPs under the Limited Liability Partnership Act, 2008.

- (i) Based on the given financial details, determine whether JEET LLP qualifies as a "Small LLP" under the LLP Act, 2008.
- (ii) If JEET LLP plans to expand its business and projects and resulting turnover exceeding ₹50 crore in the next financial year, determine the legal position as to the nature of the LLP as a "Small LLP". (RTP May 25)

Solution:

Law:

- (i) According to section 2(1)(ta) of the LLP Act, 2008, a LLP is classified as a "Small LLP" if:

- (a) Its contribution does not exceed ₹25 lakh (or a higher prescribed amount, up to ₹5 crore). Here, contribution of JEET LLP is ₹20 lakh, which is within the limit.
- (b) Its turnover does not exceed ₹40 lakh (or a higher prescribed amount, up to ₹50 crore). Here turnover of JEET LLP is ₹35 lakh, which is within the limit.)

Conclusion: Since JEET LLP meets both conditions, it qualifies as a “Small LLP” under the Act.

- (ii) If JEET LLP’s turnover exceeds ₹50 crore in the next financial year, it will no longer meet the requirements as a Small LLP and will be subject to full compliance requirements applicable to regular LLPs.

Section 6 Minimum Number of Partners

- 11.** A dispute among the partners of Limited Liability Partnership (the LLP) jeopardized the stability of the business. Out of two partners, one due to a quarrel, left the LLP. The other partner alone continued the business of the LLP. You are being an expert in law is requested to explain the provisions governing the LLP being operated by a single partner and its winding up by the Tribunal as per the provisions of the Limited Liability Partnership Act, 2008. (PYQ May 24)

Solution:

According to section 6 of the Limited Liability Partnership Act, 2008,

- (i) Every LLP shall have at least two partners.
- (ii) If at any time the number of partners of a LLP is reduced below two and the LLP carries on business for more than six months while the number is so reduced, the person, who is the only partner of the LLP during the time that it so carries on business after those six months and has the knowledge of the fact that it is carrying on business with him alone, shall be liable personally for the obligations of the LLP incurred during that period.

In the given situation, the alone partner should consider the above provisions of the Limited Liability Partnership Act, 2008, governing the LLP being operated by a single partner.

As per section 64 of the Limited Liability Partnership Act, 2008, the circumstances in which LLP may be wound up by Tribunal are:

- (a) if the LLP decides that LLP be wound up by the Tribunal;
- (b) if, for a period of more than 6 months, the number of partners of the LLP is reduced below two;
- (c) if the LLP has acted against the interests of the sovereignty and integrity of India, the security of the state or public order;
- (d) if the LLP has made a default in filing with the Registrar the Statement of Account and Solvency or annual return for any 5 consecutive financial years; or
- (e) if the Tribunal is of the opinion that it is just and equitable that the LLP be wound up.

Section 7 Designated Partners

- 12.** Mr. Prateek (an individual) has started a Limited Liability Partnership firm along with Brown Limited and Picture Limited. As per the provisions of the Limited Liability Partnership Act, 2008, advise Limited Liability Partnership firm, about who can be the designated partners of the firm. (MTP May 24)


Solution:

Law: According to section 7 of the Limited Liability Partnership Act, 2008, every Limited Liability Partnership (LLP) shall have at least two designated partners who are individuals and at least one of them shall be a resident in India.

Provided, if in LLP, all the partners are bodies corporate or in which one or more partners are individuals and bodies corporate, at least two individuals who are partners of such LLP or nominees of such bodies corporate shall act as designated partners.

Conclusion: In the given question, at least Mr. Prateek and one nominee of any bodies corporate shall be designated partners.

Section 7

-  **13.** Mohan and Rakul are college friends and intend to do trading in musical instruments. They have met Mr. John and Ms. Kate who are non-resident Indian and they all have decided to form a Limited Liability Partnership (LLP) under the name and style of Mohan John LLP with an initial capital contribution of ₹1,00,000 each. The LLP was incorporated on October 15, 2020. The LLP intends to appoint Mr. John and Ms. Kate as designated partners and consults same with its Company Secretary. You as the Company Secretary advise the LLP on the appointment of Mr. John and Ms. Kate as the only designated partners of the LLP. (MTP May 24)

Solution:

Law: According to section 7 of the Limited Liability Partnership Act, 2008, every Limited Liability Partnership shall have at least two designated partners who are individuals and at least one of them shall be a resident in India.

Conclusion: In the given case, Mohan John LLP intends to appoint Mr. John and Ms. Kate (both are non-resident Indians) as the only designated partners. This is not in consonance with provisions of the Limited Liability Partnership Act, 2008, as at least one of the designated partners should be a resident in India.

Section 7

- 14.** Analyzing the role and liabilities of Designated Partners in a Limited Liability Partnership (LLP) under the LLP Act, 2008, answer the following questions:
- (i) In a LLP where all partners are corporate entities, can a corporate body be appointed as a designated partner?
 - (ii) If an LLP agreement does not specify the designated partners, whether LLP can be validly formed without designated partners under the LLP Act, 2008?
 - (iii) A designated partner of an LLP in India is planning to relocate permanently to another country.
 - (iv) XYZ LLP was penalized for non-compliance, but one of the designated partners claims he was unaware of the regulatory requirements. Can he avoid liability? (MTP May 25)

Solution:

Law: The LLP Act, 2008, under Sections 7 and 8, outlines the eligibility, responsibilities, and liabilities of Designated Partners (DPs). Following are the answers:

- (i) Every LLP must have at least two designated partners, and at least one must be a resident of India. Where if, all partners are bodies corporate, at least two individuals must be appointed as designated partners. Therefore, as per the stated law a corporate body cannot be appointed as a designated partner. Only individuals are eligible to be appointed as DPs.
- (ii) The incorporation document must specify the designated partners, or they must be appointed per the LLP agreement. Accordingly, if an LLP agreement does not specify the designated partners, they the partners specified in the incorporation document containing designated partners can validly form the LLP in compliance with the LLP Act, 2008.

- (iii) As per the LLP Act, 2008, at least one designated partner of the LLP must be a resident of India. A resident of India is defined as a person who has stayed in India for at least 120 days in the financial year. If the designated partner is permanently relocating, he may no longer require to fulfill the residency criteria of staying in India for at least 120 days in the financial year.
- (iv) Designated partners are responsible for ensuring that the LLP complies with the LLP Act, 2008.
- ✦ If the LLP fails to comply with statutory requirements, designated partners are held personally liable for penalties.
 - ✦ They may face fines or legal consequences for any violations of the LLP Act.

Conclusion: Where if, the designated partners, claims he was unaware of the regulatory requirements. He cannot take plead of the ignorance and cannot avoid the liability.

Section 13 Registered Office of LLP and Change Therein

15. XYZ LLP was incorporated on 15th March, 2023, with its registered office in Mumbai. The LLP received a legal notice from a supplier at this address.

However, the partners claim they never received the notice, as they had shifted their office to Pune on 10th January, 2024, but had not informed the Registrar about the change.

Based on the provisions of the provisions of the Limited Liability Partnership (LLP) Act, 2008, advise whether the service of notice at the Mumbai address is legally valid. **(MTP May 25)**

Solution:

Law: Registered Office of LLP and Change therein

As per section 13 of the Limited Liability Partnership Act, 2013,

- (i) Every LLP shall have a registered office to which all communications and notices may be addressed and where they shall be received.
- (ii) A document may be served on a LLP or a partner or designated partner thereof by sending it by post under a certificate of posting or by registered post or by any other manner, as may be prescribed, at the registered office and any other address specifically declared by the LLP for the purpose in such form and manner as may be prescribed.
- (iii) A LLP may change the place of its registered office and file the notice of such change with the Registrar in such form and manner and subject to such conditions as may be prescribed and any such change shall take effect only upon such filing.

Conclusion: In the given question, the registered office of XYZ LLP is at Mumbai. Further, the question informs that the LLP has shifted their office to Pune.

In the light of the provisions of the Act and the facts of question, the registered office of XYZ LLP will be Mumbai as it is registered with the Registrar. The changed office to Pune cannot be treated as a registered office.

Thus, the service of notice at the Mumbai address is legally valid.

Section 15 Name of LLP

16. M/s Sulbha LLP was incorporated on 01.09.2022. On 01.01.2023, one partner of a partnership firm named M/s Sulbha which is registered with Indian Partnership Act, 1932 since 01.01.2000 requested ROC that as the name of LLP nearly resembles with the name of already registered partnership firm, the name of LLP should be changed. Explain whether M/s Sulbha LLP is liable to change its name under the provisions of Limited Liability Act, 2008? **(MTP Sep 24)**

Solution:

Law: Section 15 of Limited Liability Partnership Act, 2008 provides no LLP shall be registered by a name which, in the opinion of the Central Government is—

- (i) undesirable; or
- (ii) identical or too nearly resembles to that of any other 'LLP or a company or a registered trade mark of any other person under the Trade Marks Act, 1999'.

Further, section 17 provides, if the name of LLP is identical with or too nearly resembles to—

- (i) that of any other LLP or a company; or
- (ii) a registered trade mark of a proprietor under the Trade Marks Act, 1999 then on an application of such LLP or proprietor referred to in clauses (a) and (b) respectively or a company, the CG may direct that such LLP to change its name within a period of 3 months from the date of issue of such direction.

Conclusion: Following the above provisions, LLP need not change its name if its name resembles with the name of a partnership firm. These provisions are applicable only in case where name is resembles with LLP, company or a registered trade mark of a proprietor.

Hence, M/s Sulbha LLP need not change its name even it resembles with the name of the partnership firm.

Section 17 Rectification of Name of LLP

17. XYZ LLP was registered under the Limited Liability Partnership Act, 2008 (LLP Act) with a name that was later found to be identical to an existing company's name, XYZ OPC Pvt Ltd. This similarity was not noticed at the time of registration.



Explain the provisions of the Limited Liability Partnership Act, 2008, in respect of the following:

- (i) When the name of LLP is identical.
- (ii) Formalities with the Registrar of Companies after name change of LLP. **(RTP Sep 24)**

Solution:

Law: According to section 17 of the LLP Act, 2008,

- (i) Notwithstanding anything contained in sections 15 and 16, if through inadvertence, or otherwise, the LLP, on its first registration or on its registration by new name, is registered by a name which is identical with or too nearly resembles to that of any other LLP or a company; or

a registered trade mark of a proprietor under the Trade Marks Act, 1999

as likely to be mistaken, then on an application of such LLP or proprietor referred to in clauses (a) and (b) respectively or a company, the Central Government may direct such LLP to change its name or new name within a period of 3 months from the date of issue of such direction,

Provided that an application of the proprietor of the registered trademarks shall be maintainable within a period of 3 years from the date of incorporation or registration or change of name of the LLP under this Act.

Conclusion:

- (ii) Where an LLP changes its name or obtains new name, it shall within a period of 15 days from the date of such change, give notice of the change to Registrar along with the order of the Central Government, who shall carry out necessary changes in the certificate of incorporation and within 30 days of such change in the certificate of incorporation, such LLP shall change its name in the LLP agreement.

Section 24 Cessation of Partnership Interest

- 18.** Kishore, Kanshik, Yuvan and Bhora were partners in ABC & Associates LLP. Yuvan resigned from the firm effective from 11th November, 2024 but this was not informed to the Registrar of Companies by the Limited Liability Partnership or Yuvan. Whether Yuvan will still be liable for the loss of firm of the transactions entered after 11th November, 2024? Give your answer as per the provisions of the Limited Liability Partnership Act, 2008. **(MTP Jan 25)**

Solution:

Law: According to section 24(3), where a person has ceased to be a partner of a LLP (hereinafter referred to as “former partner”), the former partner is to be regarded (in relation to any person dealing with the LLP) as still being a partner of the LLP unless:

- (i) the person has notice that the former partner has ceased to be a partner of the LLP; or
- (ii) notice that the former partner has ceased to be a partner of the LLP has been delivered to the Registrar.

Conclusion: Hence, by virtue of the above provisions, as no notice of resignation was given to ROC, Yuvan will still be liable for the loss of firm of the transactions entered after 11th November, 2024.

Section 24

- 19.** Priya, Smita, Shilpa, and Shefali were partners in Sharma & Associates LLP. Shilpa resigned from the firm effective 7th May 2024. However, neither Sharma & Associates LLP nor Shilpa informed the Registrar of Companies about her resignation. Is Shilpa still liable for any losses incurred by the firm from transactions entered into after 7th May 2024? Analyze this situation with reference to the provisions of the Limited Liability Partnership Act, 2008. **(MTP Sep 24)**

Solution:

Law: According to section 24(3) of the Limited Liability Partnership Act, 2008, where a person has ceased to be a partner of a LLP (hereinafter referred to as ‘former partner’), the former partner is to be regarded (in relation to any person dealing with the LLP) as still being a partner of the LLP unless:

- (a) the person has notice that the former partner has ceased to be a partner of the LLP; or
- (b) notice that the former partner has ceased to be a partner of the LLP has been delivered to the Registrar.

Conclusion: Hence, by virtue of the above provisions, as no notice of resignation was given to Registrar of Companies, Shilpa will still be liable for the loss of firm of the transactions entered after 7th May 2024.

Section 25 Registration of changes in partners

- 20.** Amit and Priya are partners in XYZ LLP, a consulting firm. Recently, Priya moved to a new address but forgot to notify the LLP within the required period. A month later, Amit’s cousin, Ramesh, expressed interest in joining XYZ LLP as a partner, and after a few discussions, he was accepted as a new partner.



However, XYZ LLP did not immediately update the Registrar of Companies (RoC) regarding Priya’s address change or Ramesh’s admission as a partner. Two months after Ramesh joined, the LLP filed a notice with the RoC about these changes.

Advise the LLP about the default on part of LLP about the non-compliance in respect to not informing the ROC about:

- (i) Priya’s address change
- (ii) Ramesh’s admission as a partner.

(RTP Jan 25)

Solution:

Law: According to section 25 of the Limited Liability Partnership Act, 2008,

- (i) Every partner shall inform the LLP of any change in his name or address within a period of 15 days of such change.
- (ii) A LLP shall:
 - (a) where a person becomes or ceases to be a partner, file a notice with the Registrar within 30 days from the date he becomes or ceases to be a partner; and
 - (b) where there is any change in the name or address of a partner, file a notice with the Registrar within 30 days of such change.
- (iii) A notice filed with the Registrar under sub-section (2)—
 - (a) shall be in such form and accompanied by such fees as may be prescribed;
 - (b) shall be signed by the designated partner of the LLP and authenticated in a manner as may be prescribed; and
 - (c) if it relates to an incoming partner, shall contain a statement by such partner that he consents to becoming a partner, signed by him and authenticated in the manner as may be prescribed.

Conclusion:

- (i) Priya's Address Change: Under the provision, Priya was required to inform XYZ LLP of her address change within 15 days of the move.
Following that, XYZ LLP was required to file a notice with the RoC within 30 days of being notified of Priya's new address. As Priya did not inform the LLP about change of address and consequently LLP did not file a notice regarding the change in address of Priya with the Registrar, XYZ LLP is not in compliance with the required timeline.
- (ii) Ramesh's Admission as a Partner: For new partners, XYZ LLP must file a notice with the RoC within 30 days of a person becoming a partner. This notice should include Ramesh's consent statement, signed by him and authenticated as prescribed. The delay in filing means XYZ LLP did not meet the 30-day requirement.

Section 26 Partner as Agent

- 21. "LLP is an alternative corporate business form that gives the benefits of limited liability of a company and the flexibility of a partnership". Explain. (MTP May 24)**

Solution:

Limited Liability Partnership (LLP) is an alternative corporate business form that gives the benefits of limited liability of a company and the flexibility of a partnership

Limited Liability: Every partner of a LLP is, for the purpose of the business of LLP, the agent of the LLP, but not of other partners (Section 26 of the LLP Act, 2008). The liability of the partners will be limited to their agreed contribution in the LLP, while the LLP itself will be liable for the full extent of its assets.

Flexibility of a partnership: The LLP allows its members the flexibility of organizing their internal structure as a partnership based on a mutually arrived agreement. The LLP form enables entrepreneurs, professionals and enterprises providing services of any kind or engaged in scientific and technical disciplines, to form commercially efficient vehicles suited to their requirements. Owing to flexibility in its structure and operation, the LLP is a suitable vehicle for small enterprises and for investment by venture capital.

Section 26

22. Mohit is a creditor of ABC LLP. He has a claim of ₹10,00,000 against the LLP. However, the assets of the LLP are valued at only ₹7,00,000. Now, Mohit seeks to hold the partners of the LLP personally accountable for the shortfall of ₹3,00,000. Under the provisions of the Limited Liability Act, 2008, can Mohit demand for the deficit from the partners of ABC LLP? **(RTP May 24)**

Solution:

Law: A limited liability partnership is a body corporate formed and incorporated under the Limited Liability Partnership Act, 2008 and is a legal entity separate from that of its partners. The LLP itself will be liable for the full extent of its assets but the liability of the partners will be limited. Creditors of LLP shall be the creditors of LLP alone. In other words, creditors of LLP cannot claim from partners. The liability of the partners will be limited to their agreed contribution in the LLP.

Conclusion: Hence, the creditors of ABC LLP are the creditors of ABC LLP only. Partners of LLP are not personally liable towards creditors. Thus, Mohit cannot claim his deficiency of ₹3,00,000 from the partners of ABC LLP.

Section 31 Whistle Blowing

23. NS & Associates LLP was formed in the year 2020 and it was engaged in the business of manufacturing of plastic parts for automobiles. It constituted of Mr. Naveen and Mr. Suresh as designated partners who were responsible for obtaining contracts from various automobile manufacturers across the country for supply of spare parts for vehicles.

In the year 2021 an investigation was ordered by the Tribunal against the LLP in connection with a financial fraud worth ₹50,25,000. Mr. J one the Accounts Manager and employee of the LLP was accused by the complainant, as one of the perpetrators to the fraud.

The Tribunal levied a penalty of ₹1,25,000 to be paid by Mr. J on his conviction. Mr. J approached the Tribunal and provided vital information about the other black sheep involved in the fraud thus aiding in the investigation process. The Tribunal is considering of providing some relief in the penal action taken against him, while the LLP is planning to suspend Mr. J from service for this act.

Considering the provisions of Limited Liability Partnership Act, 2008:

- (i) Decide whether the Tribunal can waive off or reduce the penalty imposed by it on Mr. J?
- (ii) Can the LLP suspend Mr. J from service for commission of the act, of revealing the name of the other accused involved in the fraud? **(PYQ Jan 2025)**

Solution:

Law: Section 31 of the Limited Liability Partnership Act, 2008 provides that:

The Court or Tribunal may reduce or waive any penalty leviable against any partner or employee of a LLP, if it is satisfied that:

- such partner or employee of an LLP has provided useful information during investigation of such LLP; or when any information given by any partner
- or
- when any information given by any partner or employee (whether or not during investigation) leads to LLP or any partner or employee of such LLP being convicted under this Act or any other Act.

Conclusion: On the basis of the above provisions, the question can be answered as under:

- (i) Whether the Tribunal can waive off or reduce the penalty imposed by it on Mr. J?


Yes, the Tribunal has the power to waive or reduce the penalty of ₹1,25,000 being imposed on Mr. J as he has provided useful information that is helpful towards investigations in the case of fraud by the LLP.

(ii) Can the LLP suspend Mr. J?

Section 31(2) of the LLP Act, 2008 further provides that:

No partner or employee of any limited liability partnership may be discharged, demoted, suspended, threatened, harassed or in any other manner discriminated against the terms and conditions of his limited liability partnership or employment merely because of his providing information or causing information to be provided pursuant to sub-section (1). Hence, Mr. J cannot be suspended from the job by the LLP on the grounds of having provided vital information regarding the fraud to the Tribunal.

Section 42 Partner's Transferable Interest

 24. A, B, C and D are the partners of Alpha LLP and have equal share in the profits and losses of the LLP. A has made an agreement to transfer 70% of his share in the profits of Alpha LLP to his daughter X.

X wanted to access information about the trading transactions of Alpha LLP claiming that she is entitled to the information as she receives a percentage of profits from the LLP. The partners refused to grant her access. Does X have any remedy against the denial according to the provisions of the Limited Liability Partnership Act, 2008? Are the partners correct in denying access to X?

(PYQ Sep 24)

Solution:


Law: According to section 42 of the Limited Liability Partnership Act, 2008, the rights of a partner to a share of the profits and losses of the limited liability partnership and to receive distributions in accordance with the limited liability partnership agreement are transferable either wholly or in part.

The transfer of right pursuant to this section does not, by itself, entitle the transferee or assignee to participate in the management or conduct of the activities of the limited liability partnership, or access information concerning the transactions of the limited liability partnership.

Conclusion: In the given question, the partners of Alpha LLP are correct in denying access of information about trading transactions to X (daughter of A).

X does not have any remedy against the denial by the partners of Alpha LLP.

Section 63 Winding up and Dissolution

 25. M/s Strong Steels Limited Liability Partnership firm was incorporated on 01st April 2010 with ten partners. The LLP had very good business and made considerable profits during the past years. Recently due to obsolete practices, M/s Strong Steels Limited LLP started making loss. Also, M/s Strong Steels LLP did not file its annual returns from 2020-21. Three partners decided that the LLP be wound up by the Tribunal. The remaining partners objected to it. Referring to section 64 of the Limited Liability Partnership Act, 2008, can the Tribunal pass an order to wound up M/s Strong Steels LLP? Also state the provisions and penalty for not filling annual return with the Registrar.

(PYQ Sep 24)

Solution:

Law: According to section 63 of the Limited Liability Partnership Act, 2008, the winding up of a LLP may be either voluntary or by the Tribunal and LLP, so wound up, may be dissolved.

As per section 64 of the Limited Liability Partnership Act, 2008, a LLP may be wound up by the Tribunal, if the LLP has made a default in filing with the Registrar the Statement of Account and Solvency or Annual Return for any 5 consecutive financial years.

Annual Return [Section 35]

(a) Every LLP shall file an annual return duly authenticated with the Registrar within 60 days of closure of its financial year in such form and manner and accompanied by such fee as may be prescribed.

(b) Penalty for non-filing of annual return:

Every Designated Partners– ₹100 per day subject to maximum ₹50,000.

Conclusion: In the present case, M/s Strong Steels LLP did not file its Annual Returns from 2020-21. In the financial year 2024-25, the default in filing of annual return has not continued for 5 consecutive years. In view of the facts of the question and provisions of the Act, the Tribunal cannot pass an order to wind up M/s Strong Steels LLP.

The objection of remaining partners is correct.

Section 64 Circumstances in which LLP May be Wound up by Tribunal

26. Enumerate the circumstances in which a Limited Liability Partnership may be wound up by the Tribunal. Give your answer in respect of the provisions of the Limited Liability Partnership Act, 2008. (MTP May 24)

Solution:

Circumstances in which LLP may be wound up by Tribunal [Section 64 of the Limited Liability Partnership Act, 2008]

A LLP may be wound up by the Tribunal:

- (i) if the LLP decides that LLP be wound up by the Tribunal;
- (ii) if, for a period of more than six months, the number of partners of the LLP is reduced below two;
- (iii) if the LLP has acted against the interests of the sovereignty and integrity of India, the security of the State or public order;
- (iv) if the LLP has made a default in filing with the Registrar the Statement of Account and Solvency or annual return for any five consecutive financial years; or
- (v) if the Tribunal is of the opinion that it is just and equitable that the LLP be wound up.

Section 64 Circumstances in which LLP May be Wound up by Tribunal

27. State the circumstances under which the winding up of an LLP may be ordered by the Tribunal. (PYQ Jan 2025)



Solution:

Circumstances in which Limited Liability Partnership may be wound up by Tribunal (Section 64 of the Limited Liability Partnership Act, 2008):

A limited liability partnership may be wound up by the Tribunal:

- (i) if the limited liability partnership decides that limited liability partnership be wound up by the Tribunal;
- (ii) if, for a period of more than six months, the number of partners of the limited liability partnership is reduced below two;
- (iii) if the limited liability partnership is unable to pay its debts;

- (iv) if the limited liability partnership has acted against the interests of the sovereignty and integrity of India, the security of the State or public order;
- (v) if the limited liability partnership has made a default in filing with the Registrar the Statement of Account and Solvency or annual return for any five consecutive financial years; or
- (vi) if the Tribunal is of the opinion that it is just and equitable that the limited liability partnership be wound up.

