COMPANY SECRETARY

SBILL BUSINESS COLLABORATION CHAPTER
HANDWRITTEN NOTES BY CS MENTOR

Business collaboration

when two or more entities work together through idea sharing and thinking to accomplish common goal is known as collaboration.

→ Types of collaboration

→ ~~Hoz~~ Horizontal collab:→ Busi in same set of functional area.
→ Vertical collab:→ supply chain collab. → like supervisor → subor. etc
→ Intersectional collab:- alag alag area के।
→ Joint venture
→ Equity :-

foreign collaboration

f.c is an alliance of resident and non-resi. entities to carry on the agreed task collectively.

within country or resi. or domestic or Native entity → Outside country or Non res- or foreign or abroad entity

→ formed for mutal benefit of collaborating parties.
→ Before starting foreign collabor. both entities must take approval from Govt. authority.
→ collab. should prepare preliminary agreement.
→ collaborating entities share profits.
→ The tenure is specified in contract.

features of foreign collab

- Type of partnership → entities are form developed & developing ~~cou~~ countries
- required approval of govt.
- Initiation for f.c → Establish busi. relation -ship
- scope of f.c → Better utilization of resources
- Benefits to developed & developing countries.

Objective

→ Improves financial growth of both entities.
→ Occupy major market share for collaborating entities
→ reduce higher operating cost of non-resident entity
→ optimum & effective use of resource.
→ Generate employment.

Type of f.c

1. financial collaboration
2. Technical collaboration
3. marketing collaboration
4. management consultancy collaboration.

Foreign collaboration in India.

→ collabor. can be financial or technical.
→ financial collaboration should be approved by RBI.
→ Technical collab. should be approved by DPIIT.

★ Joint venture

→ J.V → an enterprise in which two or more investors share ownership & control over property rights and operations.
→ It can be for one specific purpose or continuing busi. relationship

Advantages.

- Risk sharing
- Eco. of scale
- market access
- flexible nature
- cost efficiency
- exploring the global market

Disadvantages.

- Lack of equal involvement
- cultural differences
- extensive research & planning required
- unreliable partner
- Lack of clear communication

Imp. Strategies of Joint venture.

→ Identification of prospective JV partner the prospective partner should be strong with respect to terms of Busi. techno. & resources.

→ Equal contribution.
All JV. partners shall have equal contribution in terms of skills, intellectual resources, marketing resour. capital.

→ Written agreement: — b/w two or more parties

→ Limiting the scope of Joint venture. It is essential that limits & scope of Joint venture should be defined in begining.

→ Flexibility:- There must be flexibility b/w Joint venture.

→ Establishment of exist routes.
→ JV partners must decide exist route at the beginning for winding up or amending relation.

→ Formation of Joint venture.

→ Equity Joint venture: It is an agreement where separate legal entity is created by two or more parties.

→ Parties to JV agree. agree on purpose & function of newly created entity
→ Parties agree on proportion of capital contribution by each party.

→ Characteristics of Equity Joint venture:

→ Agreem. to create new entity.
→ shared ownership of parties involved.
→ shared management of jointly owned entity.
→ shared respons. regarding financial arrangements & capital investment
→ shared profits & losses according to agreement.

(2) Contractual Joint Venture

- establishment of separate legal entity is not needed
- parties does not share ownership of Business ~~but~~ but two parties exercis elements of control in JV.

example :- franchisee ownership.

Characteristics
- Parties have common intention of running up of Busi.
- Each party will bring some inputs in form of money
- Each party will exercise degree of control over J.V.
- The relationship is for longer time duration

- Restrictions Under FDI policy of GOI

- Generally, any non resident entity can set up equity based joint venture in India.

But there are some exceptions.

(1) entity of Pakistan needs approval of Govt of India they cannot invest in defence, space, atomic energy sector

(2) Entity of Bangladesh needs approval from Govt. of India

(3) NRI resident of Nepal & Bhutan can invest on report. basis.

(4) foreign Insti. Investor can only invest under Portf. Invest. scheme.

(5) FVCI regi in India contri. - 100% under autom. route.

Every equity based joint venture can be in following

company | LLP. | Trusts | other entites | venture capital fund.

★ Essential features of shareholders agreement / Joint v. agreel.
- The busi. of new company.
- manner & extent in which resource will be brought in
- Provisions relating to allotment & transf. of share.
- constitution of BOD / desi. partners.
- manner in which decision making will done
- DPVI / distri. policy
- Directors, manner of their appoint. changes them.
- Valuation of company.
- Dispute resolution mechanism

★ Special Purpose vehicle

- SPV / SPE as for a special purpose & that should be lawful.
- SPV may be formed through LLP / comp. / Trust
- A SPV has its Independent its ownership, mangement from its sponsor company.
- SPV has distinct identity from its promoters / sponsors or shareholders.

Benefits

1. ownership of assets
2. non-statutory requ.
3. clarity of documentation
4. Tax. Benefits
5. legal protection.

Purpose of SPV.

- to make highly leveraged or risky invest. without endangering the entire company
- to implement large scale projects
- Indirect acquisition of assets for tax saving
- Govt. also forms SPV. for special project
- mostly formed to raise funds from the market or when Govt. regulations.

LLP firm as a special purpose vechile

Key advantages.

1. Low cost of incorp. of LLP.
2. flexibility of rules of management.
3. Low annual maintainence cost.
4. It is not necessary to get accounts audited
5. It is does not have to pay dividend distribution tax.
6. Voluntary winding is very easy.

- How is SPV. established?
- A sponsor company sets up a SPV & hives off its assets from rest of its company.
- The isolation of risk assets provide comfort to investors, as those are seperated from parent com. Hence the performance of new entity will not be affected by ups & downs of parent co.
- The SPV will be subject to fewer risk & provide comfort to lender.

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