

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

- ~~Horizontal~~ Horizontal collab. → Bus. in same set of functional area.
- Vertical collab. → supply chain collab. → like supervisor → subor. etc
- Intersectoral collab. - mag. mag. area A1.
- Joint venture
- Equity T-

Foreign collaboration

F.C. is an alliance of resident and non-resident entities to carry on the agreed task collectively.

within country or resident or domestic or NATIVE entity

outside country or non-resident or foreign or abroad entity.

- formed for mutual benefit of collaborating parties.
- Before starting foreign collab. both entities must have approval from govt. authority.
- collab. should prepare preliminary agreement.
- collaborating entities share profits.
- The terms is specified in contract.

Features of foreign collab.

| Type of partnership | requires approval of govt. | Initiation for F.C. | scope of F.C. | Benefits to developed & developing countries. |
|--|----------------------------|------------------------------|---------------------------------|---|
| entities are from developed & developing countries | | Establish bus. relation-ship | Better utilization of resources | |

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

- collab. 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
- ↳ economies of scale
- market access
- flexible nature
- cost efficiency
- ↳ exploring the global market

Disadvantages:

- ↳ lack of equal involvement
- cultural differences
- ↳ extensive research & planning required
- ↳ unworkable partners
- ↳ lack of clear communication

Imp. Strategies of joint venture.

- Identification of prospective JV partners the prospective partner should be strong with respect to terms of busi. terms, & resources.
- Equal contribution.
All JV partners shall have equal contribution in terms of skills, intellectual resources, marketing resources, capital.
- Written agreement: — b/w two or more parties
- Limiting the scope of joint venture. It is essential that at limits & scope of joint venture should be defined in beginning.
- Flexibility: There must be flexibility b/w joint venture.
- Establishment of exit routes.
→ JV partners must decide exit 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:
- Agreement 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 exercise elements of control in JV.
- example:- franchisee ownership.

Characteristics

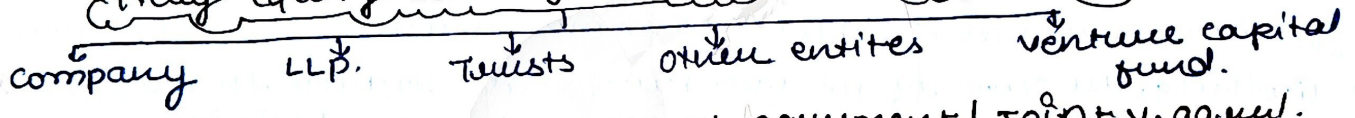
- Parties have common intention of running up of Busi.
- Each party will bring some inputs in form of money
- Each party will exercise degree of control over J.V.
- The relationship is for longer time duration

Restrictions Under FDI policy of 2011

- 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 repatriation basis.
- ④ Foreign Instt. Investor can only invest under portf. Invest. scheme.
- ⑤ FDI up to 100% in India with 100% under autom. route.

Every equity based joint venture can be in following



* Essential features of shareholders agreement / joint v. agree.

- The busi. of new company.
- manner & extent in which resource will be brought in
- provisions relating to allotment & transf. of share.
- constitution of BOD / dir. partners.
- manner in which decision making will done
- Div. distri. policy
- directors, manner of their appoint. manages 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

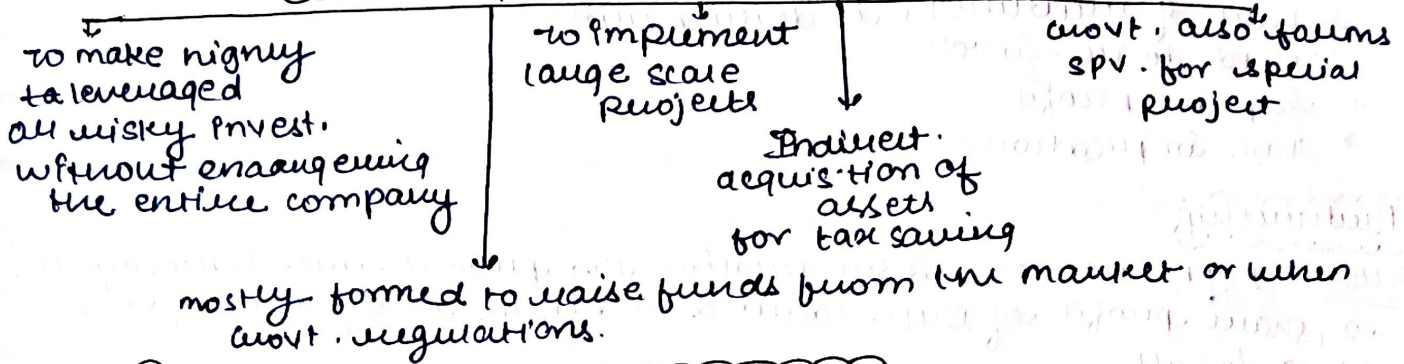
A SPV has its independent its ownership, management from its sponsor company.

SPV has distinct identity from its promoters / sponsors or shareholders.

Benefits

- 1) ownership of assets
- 2) mbrs - statutory requir.
- 3) clarity of documentation
- 4) Tax. benefits
- 5) legal protection.

Purpose of SPV



LLP firm as a special purpose vehicle

Key advantages.

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

How is SPV established?

- A sponsor company sets up a SPV & gives off its assets from rest of its company.
- The isolation of risk assets provide comfort to investors, as those are separated 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 risks & provide comfort to lender.