

**COMPANY SECRETARY**

**SBILL CHAPTER 3 (LLP) HANDWRITTEN NOTES**

**By CS MENTOR**

# Limited Liability Partnership

## Regulatory framework:

→ LLP act 2008      LLP rules 2009.

An LLP is a hybrid between company & partnership firm.

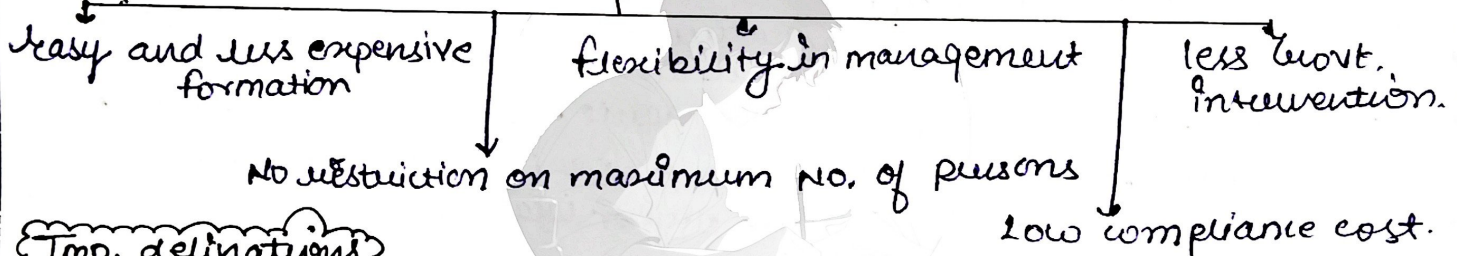
It is a separate legal entity.

Every partner would be agent of LLP but LLP would not be agent of LLP bound to anything done by a partner. [Section 2(1)(m)]

## Features

- 1) Body corporate with legal entity and perpetual succession.
- 2) Applicable to any trade or business.
- 3) Created and regd. under LLP act 2008.
- 4) Created by 2 partners
- 5) Adminstrated by MCA.
- 6) Every partner of LLP is a agent of LLP
- 7) Liability of partner is limited except in case of fraud.

## Advantages



## Imp. definitions

→ Body corporate:- Body corporate means a company as defined in section 2(20) of the company act 2013. Includes

- LLP regd. under this act
- LLP regd. outside India.
- company incorp. outside India.

But not includes.

- 1) a corporation sole
- 2) co-operative society regd. under any law for the time being in force.

## Financial year

→ 1st april to 31 march but LLP incorp. after 30th sep then year may end 31 march of next year.

## Foreign LLP

→ LLP incorp. outside India which place of Business is in India. [Section 2(1)(m)]

## LLP agreement

→ written agreement between the partners of LLP ~~with~~ and LLP which determines rights and duties of partners

## Small LLP → Section 2(20)

contribution  
Max 25 lakh

Turnover  
Max 40 lakh

} Both conditions are satisfied.

## Who can be partner in LLP section - 5.

- any individual → Any Pvt/Public company → foreign company
- any other LLP → LLP regd. outside India.

Mini. No. of Partners → Mini → 2 → or kahi 2 se kam hui to a single partner can carry business for more than 6 months, after 6 months that Ind. shall be personal and unlimited liability.

## Designated Partners section (7)

- Every LLP shall have atleast 2 D.P. one of them are resident.
- Every DP of LLP must obtain [DPIN] identifi. No. [120 days]

## Liabilities of DP section - (8)

- D.P shall be —
  - responsible for doing all of acts, matters, and things required to be done by LP.
  - liable to all penalties imposed on the LP of any contraven.

## Change in designated partners section - (9)

- LLP may appoint DP within 30 days of a vacancy arising for any person.
- If No DP is appointed for only one DP — then all partners deemed to be DP.

## Incorporation of LLP

### Section → 11(1)

- 2 or more person associated for carrying on lawful busi. with P.V of profit shall sub. their name to an incorp. docum.
- ~~Strat~~ Incorp docum. shall be filed with fee with regd. of state
- I.D. filed along with the incorp. document by CA, CS, CMA who engaged in LP.

### Section 11(2) ID shall be.

- filed in form FILLP with the registrar with regd. office of LLP with prescribed fee.
  - Individual required to be appointed. as desi. partner does not have a DPIN. appi. for allotment of DPIN shall be made in form FILLP.
  - App. for allotment of DPIN shall not be made by more than 1.

Further, the incorporation documents  
→ Name of LLP. → Proposed busi. of LLP → add. of regl. office of LLP  
→ Name and address of partners and DP

Registrar: examining form → may call for further info. and regl. find defect so → LP applicant remove those defect and re-submit the e-form within 15 days.

After re-submi. If regl. still find defect so another 15 days again will given by regl. to appli.

Total period for re-submission of document not more than 30 days

The certifi. of InLP of LLP shall be issued by regl. in form 16 and shall be mention PAN and Tax. dedn. amt NO issued by ITP.

### Registered office of LLP and change therein section 13

LLP has a regl. office to which all communication and notices may be addressed.

A LLP may change the place of its regl. office and file the notice of such change with the regl.

### Effect of registration section 14

- suing and being sued.
- acquiring, owning, holding of tangible and intangible mova. and immov. property.
- having a common seal
- doing and suffering such other acts.

### Cessation of Partnership Int. section 24

A person may cease to be partner of LLP by giving a legal notice in written not less than 30 days.

A person shall cease to be a partner.

- on his death
- insolvent.
- dissolution of LLP
- unsound mind.

### Regl. of change in partners section 25

Change in Name and address within 15 days of such change → [LLP] → within 30 days → [ROC]

Cessation of Partner → Notice to ROC by himself

Inform about cessation to Partner → [ROC] will take confirmation from [LLP] → If No confirmation from LLP with 15 days then ROC regl. cessation of partner.

agent section 26. → agent of LLP not for each other.

Extent of liability of LP section 27

→ LLP is not bound by anything done by a partner in dealing with a person if:-  
→ If partner has no authority still he do.  
but LLP is liable if partner of LLP is liable to any person result of wrongfull act with its authority.

Unlimited liability of LP section → 30 (1)

- ① Act done by the LLP/partner with intent to defraud creditors
- ② LLP will not be liable if DP partner acted in fraudulent manner without knowledge of LLP Busi.
- ③ Business is conducted in a fraudulent manner.
- ④ compensation will be paid to any person who has suffered loss/damage.

Whistle Blowing section 31(1)

Court or Tribunal may impose or award any penalty leviable against any partner or employee of a LLP if satisfied that:

- such partner or employee of a LLP has provided useful info during invest. of LLP.
- when any info given by any partner or employee leads to LLP. of LLP being convicted in this act

Partner of LLP may not be discharged, demoted, suspended, rewarded against the term and condition of his limited liability part. because of his providing info.

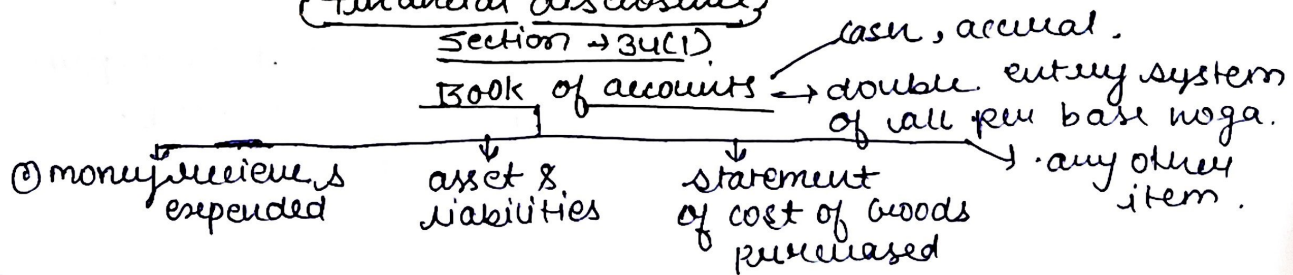
Alteration of LLP agreement

- pass a resolution approving the revision of LLP.
- file e-form 3 within 30 days at amendment.
- Document to be attach with form 3.
  - original LLP agreement
  - supplementary amend agree. → optional attachment.

Financial disclosure

Section → 34(1)

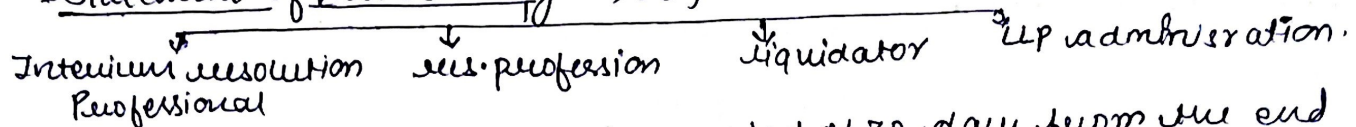
Book of accounts



- Preservation of documents [8 years] and maintain, at regl office [section → 34(2)].
- Statement of all and solemnly → signed by dp of LLP.

→ When the corporate Insolvency resolution process [CIRP] is initiated or carried on.

Statement of A/c & solvency → signed -



file (sos) form → **ROC** within a period of 30 days from the end of month from P.Y [due-date 30 Oct].

Audit of LLP

LLP whose comm. not exceeds 25 Laku or T/O not more than 10 Laku then it shall not require to get its account audited.

all shall be audited by a qualified CA in practice

An auditor shall be appointed for each P.Y.

Annual return

Form (11) → **LLP** within 60 days from end of P.Y. → **ROC**

Annual return + certificate from DP [T/O → max 5 cr. or comm. = max 50 Laku] If LLP is in CIRP then no certificate of LLP is required signed by same as CIRP

T/O → 50 cr. or contribution → 50 L then certificate from CA in practice required.

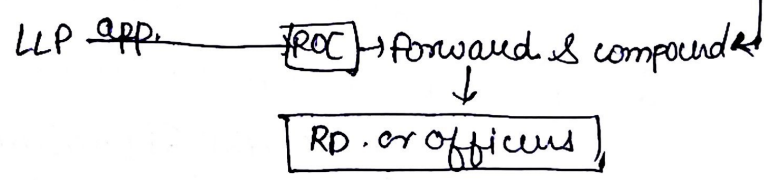
Compounding

Authority

- ① regional director
- ② any officer not below rank of RD
- ③ max fine as prescribed
- ④ min fine shall not be lower than as prescribed

similar offence within 5 year shall not be compounded.

any subsequent offence after 3 years shall be treated as first offence & will be compounded



→ If offence is compounded before presentation then no prosecution shall be initiated.