

# A PRESENTATION ON

## LLP – Act Highlighting the Latest Amendments.



# Structure of the Presentation

S. NO.	Topic
1	Need of LLP
2	Structure of LLP Act, 2008 & its features
3	Amendments at a Glance
4	Objective of Amendments
5	LLP Amendment Act and Rules

# Why LLP?

LLP is a *hybrid form of an entity* with characteristics of both Company as well as traditional partnerships predominantly preferred due to its *lesser compliance cost*.

## Governing Framework:

1. Limited Liability Partnership Act, 2008
2. Limited Liability Partnership Rules, 2009



# STRUCTURE OF LLP ACT, 2008

S. No.	Particulars	
1	Chapters	XIV
2	Sections	81
3	Schedules	Four
4	Date of Commencement of LLP Act, 2008	31 <sup>st</sup> March, 2009
5	Approval of Amendment Bill by Rajya Sabha	04 <sup>th</sup> August, 2021
6	Approval of Amendment Bill by Lok Sabha	09 <sup>th</sup> August, 2021
7	Date of President's Assent	13 <sup>th</sup> August, 2021
8	Effective Date of the Amendment Act	01 <sup>st</sup> April, 2022

# LLP ACT, 2008

Chapter	Name of the Chapter	Sections
I	Preliminary	1-2
II	Nature of LLP	3-10
III	Incorporation of LLPs and matters incidental thereto	11-21
IV	Partners and their relations	22-25
V	Extent and Limitation of LLP and Partners	26-31
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VII	Financial Disclosures	34-41

# LLP ACT, 2008

Chapter	Name of the Chapter	Sections
VIII	Assignment and Transfer of Partnership Rights	42
IX	Investigation	43-54
X	Conversion into LLP	55-58
XI	Foreign LLP	59
XII	Compromise, Arrangement or Reconstruction of LLP	60-62
XIII	Winding up and Dissolution	63-65
XIV	Miscellaneous	66-81

# LLP Act, 2008 - SCHEDULES

Schedule	Name of the Schedule
I	Assignment and Transfer of Ownership Rights
II	Conversion From Firm Into LLP
III	Conversion From Private Company Into LLP
IV	Conversion From Unlisted Public Company Into LLP

# Salient Features of LLP (Chapter II)

1. Body Corporate
2. Separate legal entity
3. Artificial legal person
4. Perpetual succession
5. Limited liability of Partners
6. No mutual agency
7. Administration according to LLP Agreement
8. Provisions of the Indian Partnership Act do not apply





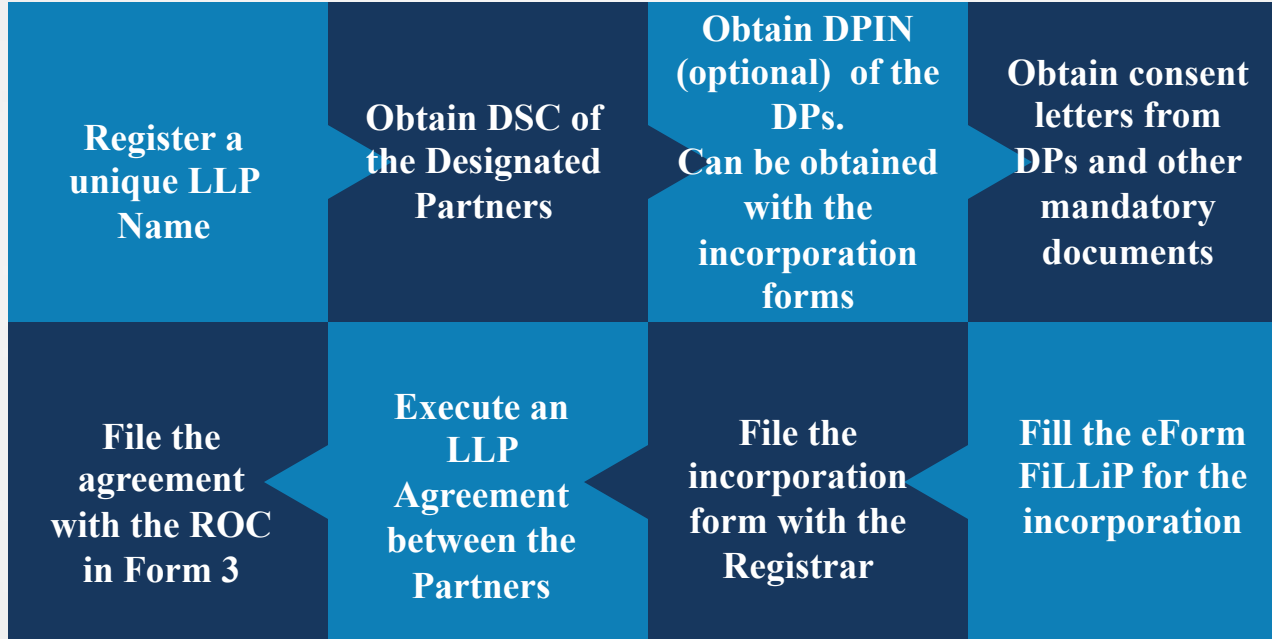
# Star attractions

1. No mention of Related Party Transaction
2. No restriction of Loans to and from partners
3. No restrictions on inter-corporate lending and borrowing
4. No burden of compliance for charges on property
5. No requirement of mandatory meetings
6. No discussion on appointment of CS or Secretarial Audit
7. No defined procedure for fund raising

# Incorporation – requirements as per Chapter II and III

1. Partners: Minimum 2 Designated Partners (DPs) one of whom be a Resident
2. Capital: No limit on maximum and minimum capital contribution
3. Designated Partner Identification Number (DPIN)
4. LLP Name (Two names along with the brief objects)
5. Registered office
6. Profit sharing ratio
7. LLP Agreement (Post incorporation)

# Incorporation Procedure:



# Who can be a partner in LLP

Individual/s

**And / or**

Body Corporate



1. LLP registered under LLP Act
2. LLP incorporated outside India
3. Company incorporated in India or outside India

## Partners and their relations: Rights and duties

- ✓ Governed by the LLP Agreement
- ✓ Any change in the agreement shall be filed within 30 days of such change.
- ✓ In absence of any matter in the agreement, First schedule of the act shall apply.

### Schedule 1:

Provisions of the Act will be applicable in the absence of any agreement on such matters

## Partners - Admission, Retirement and Death

- ✓ **Admission** - Unless the LLP Agreement states otherwise, admission of a new partner requires a consent of all the existing partners.
  
- ✓ **Cessation** - A person will cease to be a partner:
  - a) If he tendered notice of resignation (in writing of not less than 30 days)
  - b) In the event of death/ dissolution of LLP
  - c) If he is declared to be of unsound mind
  - d) If he is adjudged insolvent

**\*\*Notice of such Cessation shall be filed with the Registrar within 30 days**

## Extent and Limitation of liability of LLP and Partners (Chapter V)

- ✓ Every partner for the purpose of business of LLP, is an *agent of the LLP, but not of other partners.*
- ✓ LLP is not bound by anything done by a partner if the *partner has no authority for doing the act*

# Extent and Limitation of liability of LLP and Partners (Chapter V)

LLP is liable if:

- a) A partner is liable to any person as a result of a wrongful act in the *course of business*. \*
  
- b) Any obligation *arising out of a contract*

*\*However, the LLP shall not be liable if the partner acts without any authority and the third party is aware of it.*



# Extent and Limitation of liability of LLP and Partners (Chapter V)

\**All the liabilities shall be met out of the property of the LLP*

- ✓ The liability of the LLP and its partners is **UNLIMITED** *in case of fraud*



**Immovable Property**

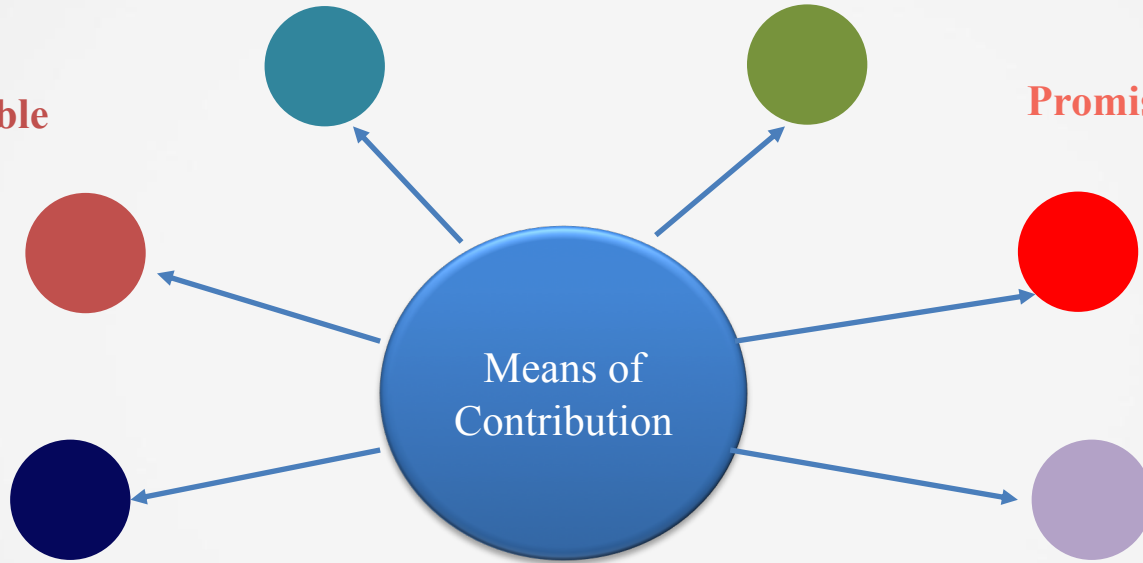
**Money**

**Promissory notes**

**Tangible/ Moveable  
property**

**Contracts for  
services  
performed or to  
be performed**

**Agreement to  
contribute cash/  
property**



## Financial Disclosures (Chapter VII)

- ✓ Maintaining books of accounts: Cash/ accrual basis
- ✓ Accounting: Double entry system
- ✓ Maintain at RO
- ✓ Prepare a Statement of account & solvency within 6 months from end of FY
- ✓ Audit: Mandatory if TO>40 lakhs **OR** Contribution>25 lakhs
- ✓ File Annual return within 60 days of closure of FY



## Assignment and transfer of Partnership Rights (Chapter VIII)

- ✓ Right of a partner in **profits/ losses**: Transferable either *wholly or in part*
- ✓ Transfer of rights does not lead to dissolution of LLP
- ✓ Transferee not entitled to participate in the management of the business.

LLP AMENDMENT ACT, 2021  
&  
LLP AMENDMENT RULES, 2022

**Ease of Doing  
Business**  
For Start-ups



**Remove the fear of  
Criminal Prosecution**



**LLP - preferred  
business entity**



**Reduced Cost**  
for Small LLP's

**Fostering Economic  
Growth**

**Decriminalization  
of offences**

**In-house adjudication  
mechanism**

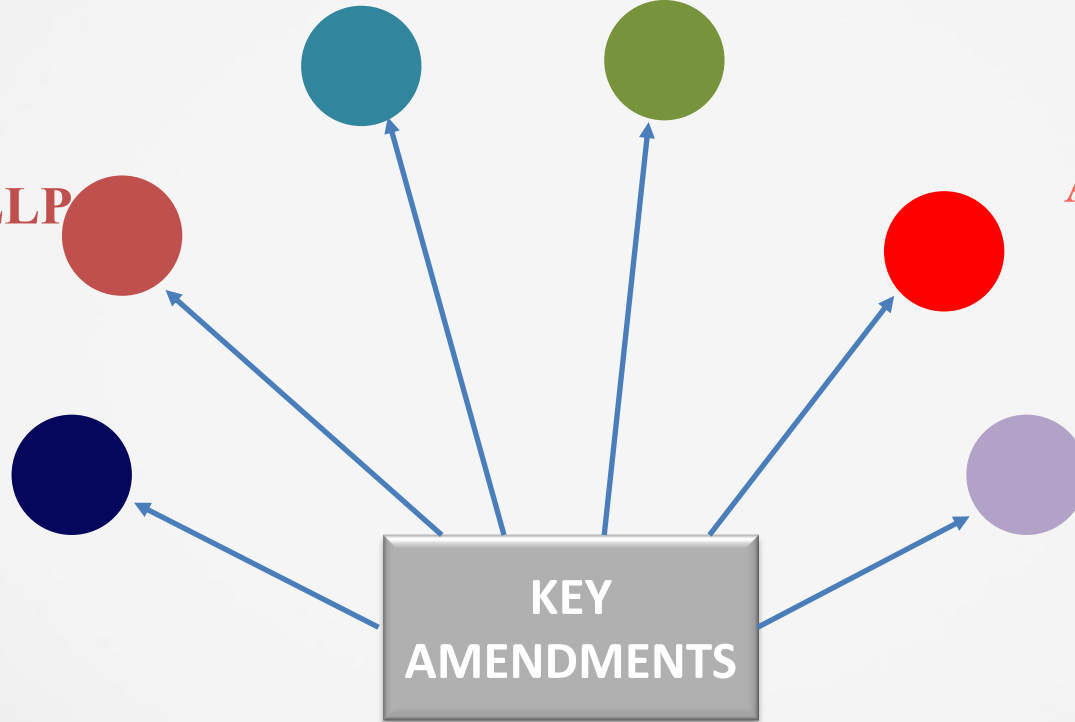
**Small LLP**

**Accounting &  
auditing  
Standards**

**Alignment  
with CA 2013**

**KEY  
AMENDMENTS**

**Restriction on  
Business  
activities**



# CHAPTER-I: PRELIMINARY

## *Section 2 – New Definitions Inserted-*

1. **Small LLP:** means a LLP whose/which –

- **Contribution** does not exceed Rs. **25 Lacs** (CG may prescribe upto 5 Cr)
- **Turnover** as per the Statement of Accounts and Solvency for the IPFY does not exceed Rs. **40 Lacs** CG may prescribe upto Rs. **50 Cr**
- Meets such **other requirements** as may be prescribed.

*Impact: Small LLPs shall enjoy several benefits such as reduced filing fee, lesser penalties and reduction in the overall compliances of the LLP*



## CHAPTER-II: Nature of LLP

Section	Existing Provision	Amendment	Remarks
<b>Section 2(e)</b> – Definition of “Business”	Business includes every trade, profession, service and occupation	Business includes every trade, profession, service and occupation <i>except any activity which the CG may by notification exclude</i>	CG has reserved the right to exclude any business activity to be carried out by the LLP

***Impact: Earlier, LLPs had the right to carry on any business including activities of a NBFC. With the said amendment, the CG shall now restrict the business activities carried on by the LLPs.***

# CHAPTER-II: NATURE OF LIMITED LIABILITY PARTNERSHIP

Section	Existing Provision	Amendment	Remarks
<b>Section 7 –</b> Change in Residential Status of Designated Partners  ** Section 7 (1) requires minimum of one resident partner	Period of not < 182 days during the FY.	Reduction in the period: not < 120 days during the FY	Relaxation in the requirement of minimum stay in India.

## CHAPTER-III: INCORPORATION OF LLP & MATTERS INCIDENTAL THERETO

Section	Existing provision	Amendment	Remarks
<b>Section 17 – Rectification of name of LLP</b>	Power of CG to direct the LLP to change its name if undesirable / resembles to <i>any other LLP</i>	<p>LLP or proprietor of a trademark may make an application to CG seeking direction for change of name of an LLP that resembles the name of such LLP or Regd TM of a proprietor.</p> <p>*They may make application within 3years.                      * CG may pass an order within 3months.                      *LLP to notify the change in its name to CG within 15 days                      *The CG shall then issue the new COI within 30 days of such change.                      *LLP agreement be amended accordingly.</p>	<p>Aligned with Sec 16 of the CA 2013.</p> <p>Gives a right to LLP and the owner of TM to object for an identical name.</p>

## CHAPTER-III: INCORPORATION OF LLP & MATTERS INCIDENTAL THERETO

Section/ Rule	Existing provision	Amendment	Remarks
<b>Section 17 and Insertion of Rule 19A</b>  –Allotment of new name to LLP	No such provision existed	Effects of non compliance of CG's orders: CG to allot a new name and issue new COI.  Rule 19A provides the manner in which CG allots the new name.	CG to suo moto alter the name of the company

## CHAPTER-III: INCORPORATION OF LLP & MATTERS INCIDENTAL THERETO

Section	Existing provision	Amendment	Remarks
<b>Section 18</b> – Change of name of LLP	Any entity which has a similar name to the LLP incorporated subsequently, it may apply to the Registrar to give directions to the LLP to change its name within 24 months from the date of registration of LLP under that name	<b>Omitted</b>	The said provision has already been covered under section 17.

# CHAPTER-VII: FINANCIAL DISCLOSURES

*New sections inserted:*

## **Section 34A - Accounting and Auditing Standards\***

The CG may, in consultation with the NFRA, prescribe the following for a class of LLPs –

- (a) standards of accounting; and
- (b) standards of auditing

***Impact: Applicability of Accounting and auditing standards for the LLPs to bring uniformity in the financial reporting***



# CHAPTER-VII: FINANCIAL DISCLOSURES

## Section 39 – Compounding of Offences

Section	Existing Provision	Amendment	Remarks
<b>Section 39 –</b> Compounding of Offences	The CG may compound any offence which is punishable with fine only.	The CG has delegated the power of compounding to the RD or any person not below the rank of Regional Director.	Power of compounding delegated to RD

## Section-39: Process of Compounding

- ✓ Only those offences can be compounded that are punishable with fine only
- ✓ The power vests in RD or any other office not below the rank of RD
- ✓ It should not be an offence of a similar nature that is already compounded in preceding 3 years



# Section-39: Process of Compounding

2

1

Where any offence is compounded before the institution of prosecution, no prosecution shall be instituted.

Where any offence is compounded before or after initiation of prosecution, the same shall be intimated to ROC within 7 days from the date of compounding

Application for compounding to be made to ROC. ROC to forward it to RD along with comments

3

6

Failure to comply with the order of RD shall attract a fine of twice the amount provided in the corresponding section.

RD may, by an order direct any partner or employee of LLP to file the return or document by paying an additional fee

Where any offence is compounded after the institution of prosecution, the same shall be brought to the notice of Court

4

5

# CHAPTER-VII: FINANCIAL DISCLOSURES

## Section 62 – Reconstruction/Amalgamation of LLP

Section	Existing Provision	Amendment	Remarks
Section 62– Reconstruction/ Amalgamation of LLP		Fresh Insertions:  “a LLP shall not be amalgamated with a Company”	

***Impact: A LLP cannot amalgamate with a company. This shall significantly reduces M&A opportunities for LLP***

## CHAPTER-XIV: MISCELLANEOUS

*Following Sections have been inserted:*

Section	Particulars
Section 67A	Establishment of Special Courts.
Section 67B	Procedure and powers of Special Court
Section 67C	Appeal and revision.
Section 68A	Registration Offices
Section 76A	Adjudication of Penalties
Section 77A	Cognizance of Offences

## CHAPTER-XIV: MISCELLANEOUS

### Section 67A – Establishment of Special Courts

- ✓ **Power** vested with CG
- ✓ **Purpose:** Speedy trial of offences
- ✓ **Constitution** of Special Court: (appointed by the CG in concurrence with the CJ of HC)

Type of offence	Constitution
Offence punishable with imprisonment of 3 years or more	A single judge holding office as sessions judge or additional sessions judge
Other offences	Metropolitan Magistrate or a Judicial Metropolitan Magistrate of First Class

# Section 67B – Procedure and powers of Special Court

1

All offences specified under the section 67A shall be triable only by the Special Courts

While trying an offence under this Act, a Special Court may also try an offence other than an offence under this Act

2

4

If it appears that a sentence of imprisonment for > 1 year has to be passed, the court may re-hear the case in a regular trial

The Special Court may try an offence, which is punishable with imprisonment < 3 years, in a summary way. (Imprisonment for a term of > 1 year cannot be passed)

3

## CHAPTER-XIV: MISCELLANEOUS

### **Section 67C – Appeal and Revision** (Powers vested with the High court)

The HC may exercise, all the powers relating to appeal and revision as vested to it under the Cr PC

### **Section 68A – Registration Offices**

- ✓ Power of establishment vested with CG
- ✓ Role of Registration offices:
  - Registration of LLPs
  - Prepare seals for the authentication of documents required for the registration
  - Discharge of various functions under this Act.

# CHAPTER-XIV: MISCELLANEOUS

## Section 76A and Rule 37A– Adjudication of Penalties

1

CG may appoint Registrar as the Adjudicating Officer. (AO)

AO shall issue a written notice to the LLP, DP/ Person at default

2

4

AO may pass an order after giving an Opportunity of being heard

LLP/DP shall reply to the notice in E-Mode. AO may fix the date for physical appearance, if required

3

# CHAPTER-XIV: MISCELLANEOUS

## Section 76A and Rule 37A– Adjudication of Penalties

5

Reasons for delay in passing order shall be recorded by the AO, if any

A copy of order shall be sent to the concerned LLP/DP and to the RD and shall also be uploaded on the website

6

8

Penalty shall be paid only through the MCA portal, and the penalty amount shall be credited to the Consolidated fund of India.

Failure to reply or appear before AO shall attract a penalty after recording the reasons for the same.

7



## CHAPTER-XIV: MISCELLANEOUS

### **Section 77A – Cognizance of Offences**

No court, other than the Special Courts referred to in section 67A, shall take cognizance of any offence punishable under this Act or the rules made thereunder *save on a complaint* in writing made by the Registrar or by any officer not below the rank of Registrar duly authorized by the CG for this purpose

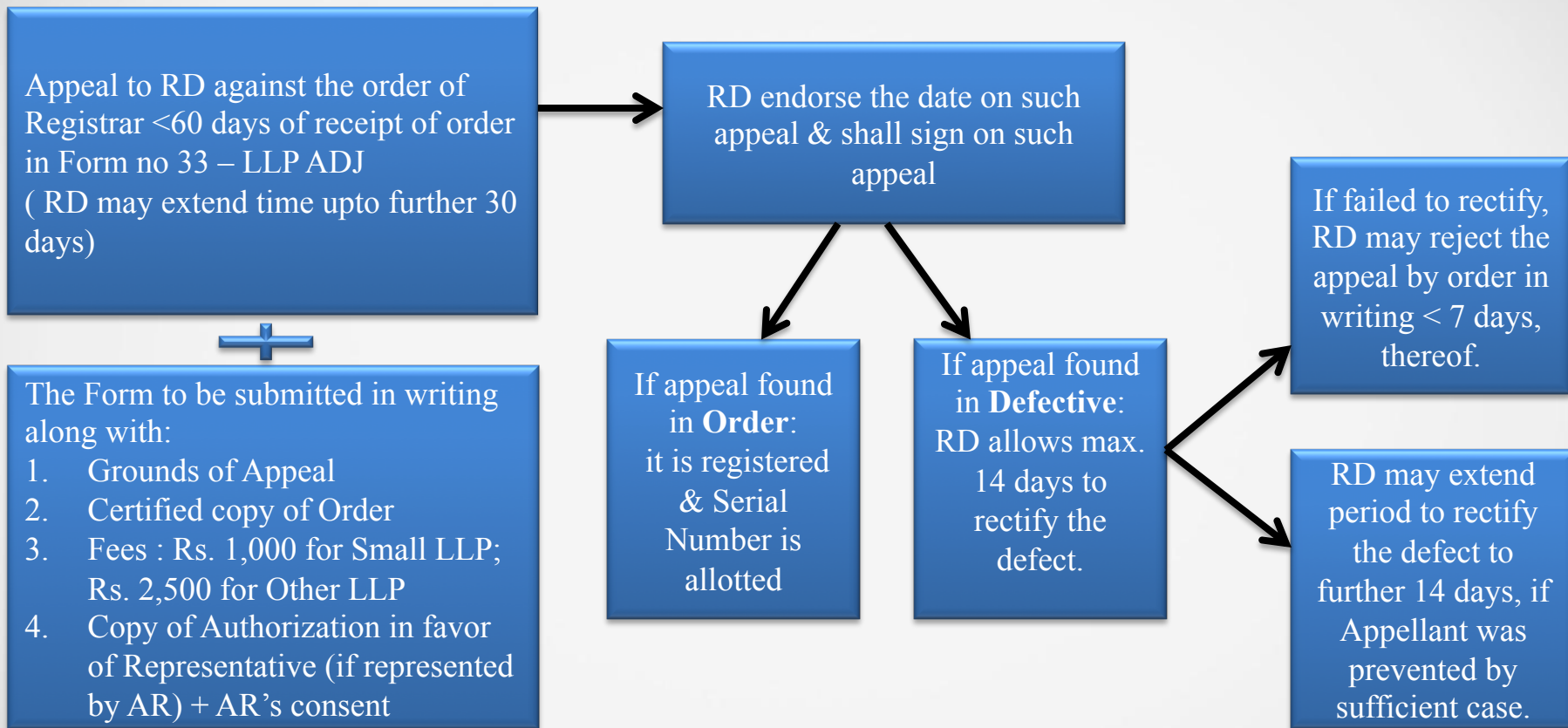
**Impact:** *The appointment of registrar for adjudication of offences committed under the LLP Act is similar to CA 2013*

*Introduction of an In-House adjudication mechanism - faster disposal of cases.*

*The following rules have been inserted:*

<b>Rule</b>	<b>Content</b>
Rule 37A	Adjudication of Penalties
Rule 37B	Appeal against order of Adjudicating Officer
Rule 37C	Registration of Appeal
Rule 37D	Disposal of Appeal by Regional Director

# Rule 37B & 37C - Appeal against the order of AO and Registration of Appeal



# Rule 37D – Disposal of Appeal by RD

**1**

Admission of Appeal and RD serve a copy of Appeal upon Registrar along with Notice seeking his reply < 21 days

Further 21 days may allowed on Registrar presents sufficient cause to RD

**2**

**4**

Date of Hearing of Appeal to be notified by RD

Reply / Application / Written Representative filed by Registrar to RD, a copy of it to be served on Appellant by Registrar

**3**

## Rule 37D – Disposal of Appeal by RD

**5**

**HEARING**  
(Which shall be min. 30 days after the notification of Hearing)

Any order (subject to reasons recorded in writing) may be passed by RD (including Adjournment of hearing)

**6**

**8**

On sufficient cause for non-appearance, RD may set aside the ex-parte order & restore the Appeal

In case, Registrar or Appellant absent themselves on date of hearing, RD may dispose off the Appeal ex-parte

**7**

## CHAPTER-XIV: MISCELLANEOUS

Section	Existing provision	Amendment	Remarks
<b>Section 69 – Payment of Additional Fee</b>	<p>If any document or return is not filed within the time provided under this act, it may be filed within 300 days from the last date on which it should have been filed.</p> <p>*Additional fee of Rs. 100/- for every day</p> <p>Such document or return can also be filed after the expiry of such period of 300 days</p>	<p>Filing of the document/return can be done after the due date on <b>payment of the prescribed additional Fee.</b></p> <p>Different Filing Fee/Additional Fee for different classes of LLPs</p>	<p>Reduced additional fee in case of delayed filings</p>

## CHAPTER-XIV: MISCELLANEOUS

Section	Existing provision	Amendment	Remarks
<b>Section 72</b> – Jurisdiction of Tribunal and Appellate Tribunal	Any person aggrieved by an order or decision of Tribunal may prefer an appeal to the AT.	Any person aggrieved by an order of Tribunal may prefer an appeal to the AT: Time limit to file an appeal – <b>60 days</b> from date of receipt of order. AT may further extend the timeline for 60 days On receipt of an appeal, AT to pass appropriate order after giving an opportunity of being heard to parties copy of order to be sent to Tribunal and the parties to the appeal	Detailed Procedure for the appeal provided under amended section

## CHAPTER-XIV: MISCELLANEOUS

Section	Existing provision	Amendment	Remarks
Section 77 – Jurisdiction of Court	<p>Following courts had the jurisdiction to try offences under this Act:</p> <ol style="list-style-type: none"><li>1. The Judicial Magistrate of First Class</li><li>2. The Metropolitan Magistrate</li></ol>	<p>The power has now been vested with Special court.</p> <p>All the existing cases shall be transferred to the Special Court</p>	<p>Transfer of Jurisdiction to try an offense from Judicial Magistrate to designated special courts.</p>



# Rules

## LIMITED LIABILITY PARTNERSHIP (AMENDMENT) RULES, 2022

Section	Existing provision	Amendment	Remarks
Rule 5 - Fees	Manner of payment of fees to the Registrar	Omitted	
Rule 5 (3)	No such provision existed	The NCLAT Rules, 2016 mutatis mutandis shall be applicable for filing an appeal under the section 72 of this act	

# LIMITED LIABILITY PARTNERSHIP (AMENDMENT) RULES, 2022

Section	Existing provision	Amendment	Remarks
Rule 18 (2) Circumstances <b>when a name shall not be reserved</b>	The proposed name is identical with or too nearly resembles the name of a firm or LLP or company incorporated outside India and reserved by such firm, LLP or company with the registrar in accordance with these rules;	The proposed name is identical with or too nearly resembles the name of any other limited liability partnership or a company.	

## DE-CRIMINALIZATION OF OFFENCES

Default	Old penal provision	New penal provision
Section 10 - Punishment for contravention of Section 7 & 9	Punishment for contravention of section 7, 8 & 9	Punishment for contravention of section 7, & 9
Section 10 (1) - Failure to have at least 2 DP out of which 1 shall be resident in India	<b>LLP &amp; every partner</b> – Fine: Rs. 10,000/- to Rs. 5,00,000/-	<b>LLP &amp; every partner</b> – Rs. 10,000/- In case of continuing contravention, Rs. 100 per day upto a maximum of Rs. 1,00,000/- for LLP and Rs. 50,000/- for every Partner

# DE-CRIMINALIZATION OF OFFENCES

Default	Old penal provision	New penal provision
Section 10(2)	Penalty for contravention of Section 7(4), 7(5), 8 and 9 <b>LLP &amp; every partner</b> – Fine: Rs. 10,000/- to Rs. 1,00,000/-	Penalty for contravention of Section 7(4) <b>LLP &amp; every Designated partner</b> – Rs. 5,000/- In case of continuing contravention, Rs. 100/- per day up to a maximum of: Rs. 50,000/- for LLP; and Rs. 25,000/- for every DP
Section 10(3)		Penalty for contravention of Section 7(5) and 9 <b>LLP &amp; every partner</b> – Rs. 10,000/- In case of continuing contravention, Rs. 100/- per day up to a maximum of: Rs. 1,00,000/- for LLP; and Rs. 50,000/- for every partner

## DE-CRIMINALIZATION OF OFFENCES

Default	Old penal provision	New penal provision
Section 13	<b>LLP &amp; every partner</b> – Rs. 2,000/- to Rs. 25,000/-	LLP & every partner – Rs. 500 for each day up to a maximum of Rs. 50,000/-
Section 17	LLP – Rs. 10,000/- to Rs. 5,00,000/-  DP - Rs. 10,000/- to Rs. 1,00,000/-	No such provision exists after the amendment
Section 21	LLP – Rs. 2,000 to Rs. 25,000/-	LLP – Rs. 10,000/-

# DE-CRIMINALIZATION OF OFFENCES

Default	Old penal provision	New penal provision
Section 25 – Failure of a partner to inform the LLP any change name / address	Rs. 2,000 to Rs. 25,000/-	Penalty for contravention of Section 25(1) Partner – Rs. 10,000/-
Section 25 - Failure of an LLP to inform the Registrar any change in partners name, address, or cessation	LLP & every DP – Rs. 2,000 to Rs. 25,000/-	LLP & every DP – Rs. 10,000/-
Section 30	Imprisonment for term which may extend to 2 years; and Fine –Rs. 50,000/- to Rs. 5,00,000/-	Imprisonment for term which may extend to 5 years; and Fine – Rs. 50,000/- to Rs. 5,00,000/-

## DE-CRIMINALIZATION OF OFFENCES

Default	Old penal provision	New penal provision
Section 34 – Maintenance of BOA, other records and Audit, etc.	Failure to comply with the provisions of section 34 –  LLP – Rs. 25,000/- to Rs. 5,00,000/-  Every DP – Rs. 10,000/- Rs. 1,00,000/-	Failure to file the statement of account and solvency within the prescribed time  <b>LLP &amp; DP</b> – Rs. 100 per day to a maximum of Rs. 1,00,000/- for LLP and Rs. 50,000 for DP  Failure to comply with other sub-sections of section 34 –  LLP – Rs. 25,000/- to Rs. 5,00,000/- Every DP – Rs. 10,000/- to Rs. 1,00,000/-



## DE-CRIMINALIZATION OF OFFENCES

Default	Old penal provision	New penal provision
Section 35	LLP – Rs. 25,000/- to Rs. 5,00,000 DP – Rs. 10,000/- to Rs. 1,00,000	LLP & DP – Rs. 100/- per day, up to a maximum of Rs. 1,00,000 for LLP & Rs. 50,000/- for DP
Section 60	LLP & every DP – Fine which may extend to Rs. 1,00,000/-	LLP & every DP – Rs. 10,000, In case of continuing default – further penalty of RS. 100 per day after the first default continues, up to maximum of RS. 1,00,000/- for LLP Rs. 50,000 for DP

# DE-CRIMINALIZATION OF OFFENCES

Default	Old penal provision	New penal provision
Section 62 - Failure to file the order of reconstruction or amalgamation	LLP & every DP – Fine which may extend to Rs. 50,000/-	LLP & every DP – Rs. 10,000, <b>continuing default</b> – further penalty of RS. 100 p.d (max RS. 1 Lac for LLP) & Rs.50 K- DP
Section 73 - Failure to comply with any order made by the Tribunal.	Imprisonment – which may extend to 6 months; and Fine – Not less than Rs.50K	Omitted
Section 74 – General Penalties	Fine – Rs. 5K to Rs. 5 Lacs Further Fine – Rs. 50/- per day after the first default continues	LLP or any partner or any DP or any person in default – Penalty of Rs. 5,000/- Further penalty – Rs. 100 per day, up to a maximum of Rs.1 Lac