

Notes BY: AKHILESH KUMAR(Guest Teacher)

DEPARTMENT OF COMMERCE

JANTA KOSHI COLLEGE BIRAU, DARBHANGA

**FOR-LNMU B. COM PART -2 Hons paper -III Business
and Regulatory Framework**

Unit-5 Limited Liability partnership Act,2008



Ques-What is LLP?

Ans-A Limited Liability Partnership firm ("LLP") is

- **A form of business organization**
- **With each partner "s liability limited**
- **To the contribution made by that partner**
- **In relation to the LLP,**
- **Except in case of fraud, malpractice, wrongs, etc.,**
- **In which case liability that can attach to the relevant Partner may be unlimited liability.**
- **LLPs are persons in the eyes of law**

Introduction of LLP Act, 2008

The Limited Liability Partnership Act, 2008 came in to Effect from 1st April, 2008.

The Limited Liability Partnership Act 2008 has:

- **14 Chapters**
- **81 Sections**
- **Four Schedule**

- **An LLP is a Body Corporate.**

- **Individuals and even Body Corporates may be partners.**

- **Restriction:**
 - **Minimum two partners and two Designated Partners who must be Individuals,**

- **No Maximum Limit:**
 - **No limit on the maximum number of partners.**

- **Designated Partners**
 - **Designated Partners are liable for compliance.**
 - **Of the two at least one shall be resident in India.**
 - **If any compliance is not carried out, they will be liable for all Penalties. Business Carried on by LLP:**
 - **LLP may carry on any lawful business, trade, profession, service or Occupation.**

- **Governance of Partners:**
 - **Inter se relationship, rights and duties between partners is Governed by LLP Agreement**

 - **In the absence of agreement principles set out in schedule 1 apply (general principles of equality, in terms of sharing of profits and Losses, etc.**

- **Registration of LLP**
 - **The LLP Agreement is required to be registered.**
- **Business Carried on by LLP:**
 - **LLP may carry on any lawful business, trade, profession, service or Occupation.**

- **Governance of Partners:**

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- *In the absence of agreement principles set out in schedule 1 apply (general principles of equality, in terms of sharing of profits and Losses, etc.)*
- **Registration of LLP**
 - *The LLP Agreement is required to be registered.*

Ques-What are the Silent Features of LLP?

Ans- following are the Silent features of LLP :

- EFFECTIVE DATE :** *The Limited Liability Partnership Act, 2008 is effective from 1st April, 2008.*
- LIMITED LIABILITY :** *The liabilities of the partners is limited to the extent of their capital contribution. Unlike partnership under Indian Partnership Act, 1932, personal properties of the partners shall not be at stake. There is no concept of joint and Several liabilities of the partners. The partners are agent of the firm and not of the other partners. The concept of Limited liability shall not hold good for all the partners who are involved in fraud and misrepresentation.*
- SIMPLICITY:** *There are minimum compliances to be complied with under LLP Act. SME finds it difficult to manage all compliance of Companies Act,1956 with regard to Share*

Certificate, Minutes, Board Meeting, AGM, restriction of loans taken and Given etc. LLP is simpler form of organization for SME to reap the benefit of limited liability.

- iv. **NUMBER OF PARTNERS** : *The LLP can have minimum 2(two) partner and there is no limit regarding maximum number of partners.*

- v. **SEPARATE ENTITY** : *LLP is a separate entity and it can own properties in its own name.*
- vi. **PERPETUAL SUCCESSION**: *LLP is a juristic person and its existence does Not depend on the partners. The partners of a LLP may keep changing from time to time, but it will not affect the LLP’s Continuity. However when all the partners die and there are no provisions of nominating legal heirs for admission to the Partnership in the event of death, then Tribunal shall wind up the LLP on its own.*

- vii. **CAPACITY TO SUE AND BE SUED**: *As LLP is a body corporate and it can sue and be sued in its own name.*

- viii. **AGREEMENT**: *Right and duties of partners in LLP and scope of work will be governed by agreement between partners and the partners have the flexibility to change the agreement from time to time after following due Procedure laid down in the act. In case no agreement is entered into, the provisions of the First schedule To the LLP Act will become applicable.*

- ix. **RELATED PARTY TRANSACTION:** Unlike Companies Act 1956, there is no restriction of related party / arms lengths transactions. Partners May lend money to and transact other business with the LLP and has the same rights and obligations with Respect to the loan or other transactions as a person who is not a partner.

- x. **TAX :** Profit will be taxed only in hands of LLP and not to partners thus there is no concept of Dividend Distribution Tax. Thus it helps avoiding double taxation.

- xi. **CAPITAL CONTRIBUTION:** There is a requirement for a minimum capital contribution from the partners, which then shall be Available for the creditors of the LLP or for a guarantee from the partners for the obligations of the LLP.

- xii. **TRANSFERABILITY OF RIGHT:** The rights of a partner to a share of the profits and losses of the LLP and to receive distributions in Accordance with the LLP agreement are transferable either wholly or in part.