Starting a New Business with a LLP Registration by Mukesh Kumar

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A voluntary association formed and organized to carry on a business defines "company" which can include sole proprietorship, partnership, limited liability or public limited company. Therefore company is a business organization or an association of individuals with a common purpose of gaining profits.

There are different kinds of companies that can be formed depending upon the liability i.e., there can be company limited by shares or by guarantee or through its limited liability.

Limited Liability Company is very much similar to a corporation with a limited liability of the owner for the debts and actions of the company and cannot be held liable for any debts or loans unless signed a personal guarantee. The Limited Liability Company or LLC is the most popular legal structure with relatively very simple process depending upon the complexities of an organizational structure needs to be established. Getting registered a LLC encloses many steps and requires one to follow legal obligations as prescribed by the Ministry of Corporate Affairs. The following steps have been set up by the Indian Companies Act 1956, as follows:

1) Allotment of Director Identification Number (DIN) and Digital Signature Certificate (DSC): For the purpose, an application is required to be made online for the provisional DIN number of the person intending to become director of the Company shall be created. However the DSC can be acquired by submitting the application along with prescribed fee and submission of documents like address proof, identity proof etc. within 1-2 days.

2) Approval of the Company's Name: An application form is required to be filed with the Registrar of Companies (ROC) online through Digital Signature of one of the proposed director. After submitting the said application, ROC sends the approval or objection in about 3-4 days to the applicant via e-mail.

3) After the Approval of the name: An application should be submitted to the ROC for registering a company along with the said documents:

- Memorandum of Association

- Articles of Association

- A declaration in Form 1, asserting that all the requirements of the Companies Act 1956 and the rules with respect to the registration have been complied with. This declaration has to be made by a director, manager or secretary of the company or by an advocate of High Court or Supreme Court or by a chartered accountant as named in the articles of proposed company.

- List of persons who proposed to act as directors of the company along with their consent.

- Information about directors, managing directors, managers and secretary must be submitted in the prescribed form.

- Form 18

- Power of Attorney in favour of one of the promoters or any other person empowering to make modification in the documents submitted to the ROC.

- Applicable Registration fee payable to the ROC.

Limited Liability Partnership:

As we discussed above about LLC, a limited liability partnership is a different concept in the business of profit making. A LLP is a partnership firm in which the embers have limited liability as per the agreement signed between them. It has characteristics of both partnership and corporations. Because of the limited liability concept, one partner will not be responsible for the misconduct or debt of some other partner in the firm.

The procedure for the registration of a LLP is:

1) Partners: to form a LLP minimum of two members are required and at least two designated partners having Designated Partners Identification Number (DPIN). DPIN can be obtained by making an application or by submitting Form 7 to Ministry of Corporate affairs along with identity proof, certified proof and address proof.

2) Name filing: A name for the Partnership form needs to be finalized, subjected to the guidelines issued by MCA.

3) Agreement: A LLP agreement has t5o be drafted as per the prerequisites of LLP Act which can be filed within 30 days of registration or at the time of registration.

4) Documents Required for Incorporation:

5) Details of Partners, registered office are to be submitted through filing the subscription sheet which shall be witnessed by any chartered accountant or secretary or advocate in practice.

6) Consent of partners to become partners of LLP.

These documents are required to be filled after signing digitally and the certificate of Incorporation will be issued by the registrar after verification of the registered documents.

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