



SEMINAR on LLP

Formation And Conversion of LLP

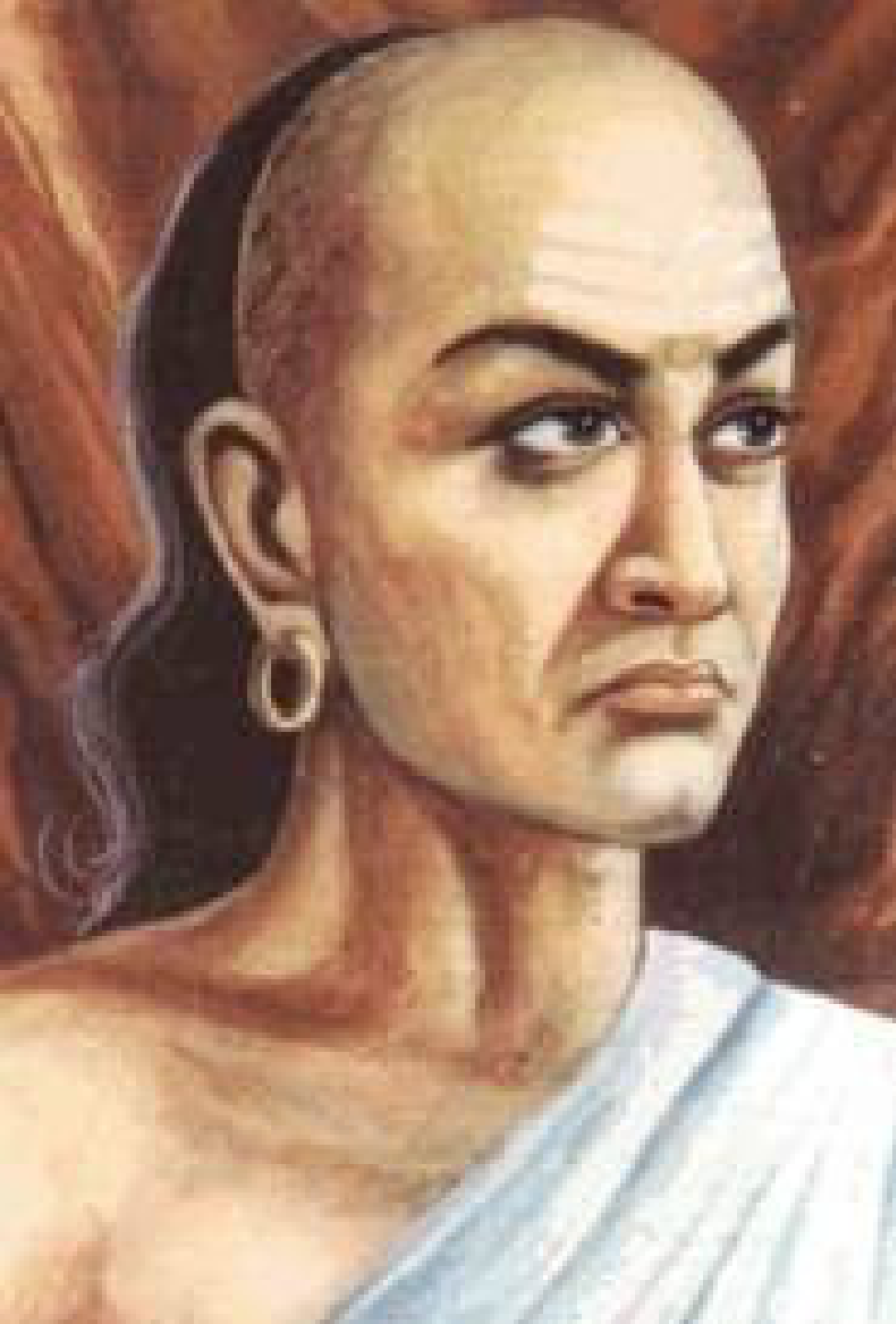
Orgaised by WIRC of ICAI

Saturday, May 27, 2017

10 AM to 1 PM

**CS Rahul P.
Sahasrabuddhe
Founding Partner**

SPBS And Co



Before you start some work, always ask yourself three questions –

- Why am I doing it,
- What the results might be and Will I be successful.
- Only when you think deeply and find satisfactory answers to these questions, go ahead.



Prologue



Prologue

- Naresh Chandra Committee
- JJ Irani Committee

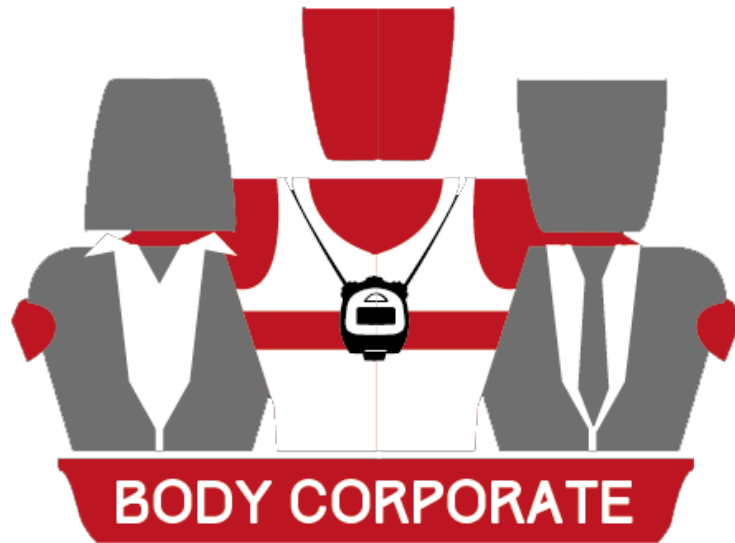
Characters

- A Corporate Legal entity
- All the basic features of Co
- Simple Compliance
- Blend and virtues of Partnership and Ltd Lia

Def. 1.
Mutations

DEFINITIONS

Se 2 (1) (d)



Means

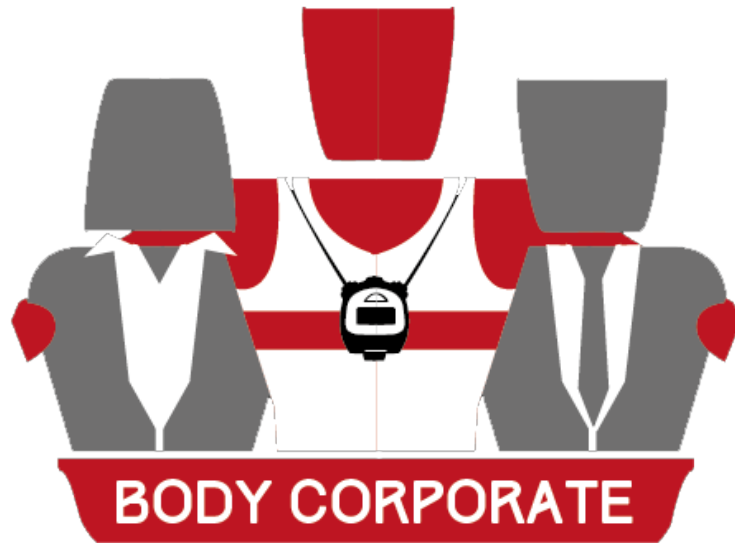
- Co defined U/s 2 (20) of CoA 2013
- LLP registered within India
- LLP registered outside India
- Co incorporated outside India

But excludes;

- Corporation Sole
- Co-op Society
- Government notified

DEFINITIONS

Se 2 (1) (d)



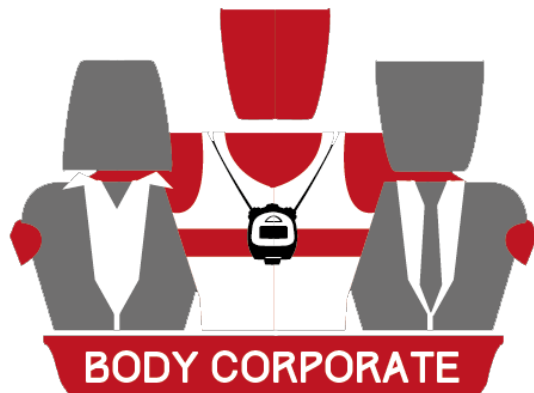
Re: Dartmouth College Case –

A corporation being an artificial being, invisible, intangible, and existing only in contemplation of law.

- ONGC
- In simple words, Body Corporate means an artificial person created by law and;
- Corporation means a
 - body corporate authorized to act as a single;
 - an artificial person created by royal

DEFINITIONS

Se 2 (1) (d) and Se 3



Limited Liability Partnership

- Shall be Body Corporate
- Shall have perpetual succession
- Shall not be affected by any changes in the partners thereon in its existing rights and obligations.

Financial Year

Means

- April 1 to March 31
- LLP incorporation after Sep 30 may end its FY on March 31 the next of the year following that year.

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Se 4



Indian Partnership Act, 1932

Se 5, 6 - Partners



- Minimum 2
- Maximum ?
- Any Individual or representative nominated by Body Corporate except
 - Person of unsound Mind
 - Un-discharged insolvent
 - Application of insolvency pending.

Se 7, 9, R 7-10 Designated Partner



- Minimum 2
- Body Corporate may appoint nominees as DP
- 1 DP must be Resident in India (182 days or more in preceding 1 year)
- DP must be mentioned in LLPA
- Prior consent to act as DP required
- DPIN/ DIN is must for every DP.

Se 8 - Liabilities of Designated Partner

- Responsible for all day to day affairs
- Compliance
- Liable for all the penalties imposed



Se 10 – Punishment for contravention of Se 7-10



- Contravention of Se 7(1) – LLP and partner may be fined upto INR 10K to INR 5 Lac
- Contravention of Se 7(4) and (5), 8 and 9 - LLP and partner may be fined upto INR 10K to INR 1 Lac

Se 11-13, 15 & 16
INCORPORATION AND REGISTRATION



- Form 1 - Application for Reservation of Name
- Form 2 – Incorporation Documents
 - Consent to act as DP
 - Proof of Address
 - Subscribers’ Sheet
 - In principle approval from Regulatory authorities
 - DP’s existing Directorships/ Dpship
- Form 3 - LLPA
- Undesirable Names Se 18

Se 13 – Registered Office Address



- Every LLP must have Regd Address
- Any document may be served on such address
- The Address may be changed
- Contravention – Penalty upto INR 2K-25K

Se 14
EFFECT OF REGISTRATION



LLP shall be capable of

- Suing and being sued
- Acquire, own, dispose any property
- May have Common Seal
- Do such lawful acts.

Se 20 – Improper
Use of words “LLP”



Use of words “Limited Liability Partnership” or “LLP” unless the entity is duly registered shall attract penalty upto INR 50K to INR 5 Lacs.

Se 21

PUBLICATION OF NAME AND LTD



- LLP shall ensure that its name, address and Ltd Liability status must be displayed on all its invoices and official publication.
- Contravention shall be punishable with a fine of INR 2K to 25K

Se 22

ELIGIBILITY TO BE PARTNER



- LLPA
- Person other than mentioned in LLPA is not eligible to become Partner

Absence of LLPA- refer First Schedule

Se 23-25
Relationship of Partners, etc

- Se 23 – Relationship of Partners
- Se24- Cessation of Partnership Interest
- Se 25 – Registration of Changes in Partners



Se 26-33
RIGHTS AND DUTIES



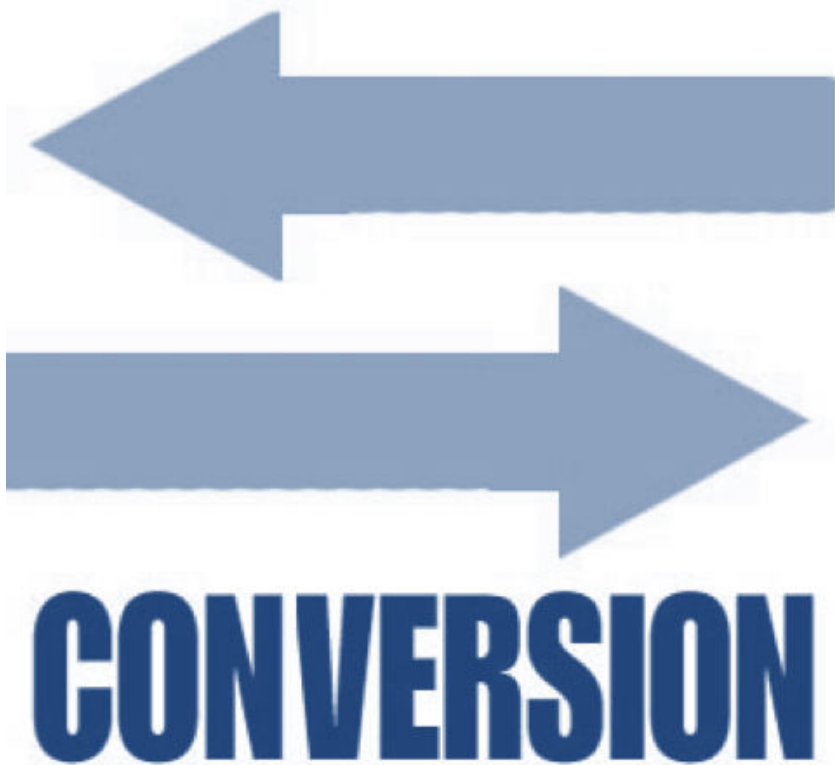
- Se 26 – Partner as Agent
- Se 27 – Extent of Ltd Lia of LLP
- Se28- Extent of Ltd Lia of Partner
- Se 29 – Holding Out
- Se 30 – Un ltd Lia in case of fraud
- Se 31 – Whistle Blowing
- Se 32-33 – Form of contribution and Obligation to contribute

Se 39

Compounding of Offences



- CG may compound offence punishable with fine only.
- Compounding fee shall be upto Max fine as may be prescribed



Second Schedule

- Convert means , transfer of property, assets, interests, rights, privileges, liabilities, obligations, and undertaking of the Firm
- Firm under PF Act, 1932
- Same partners
- File statement by existing partners along with incorporation documents.
- Registrar's refusal to register – Tribunal may be approached

Se 55

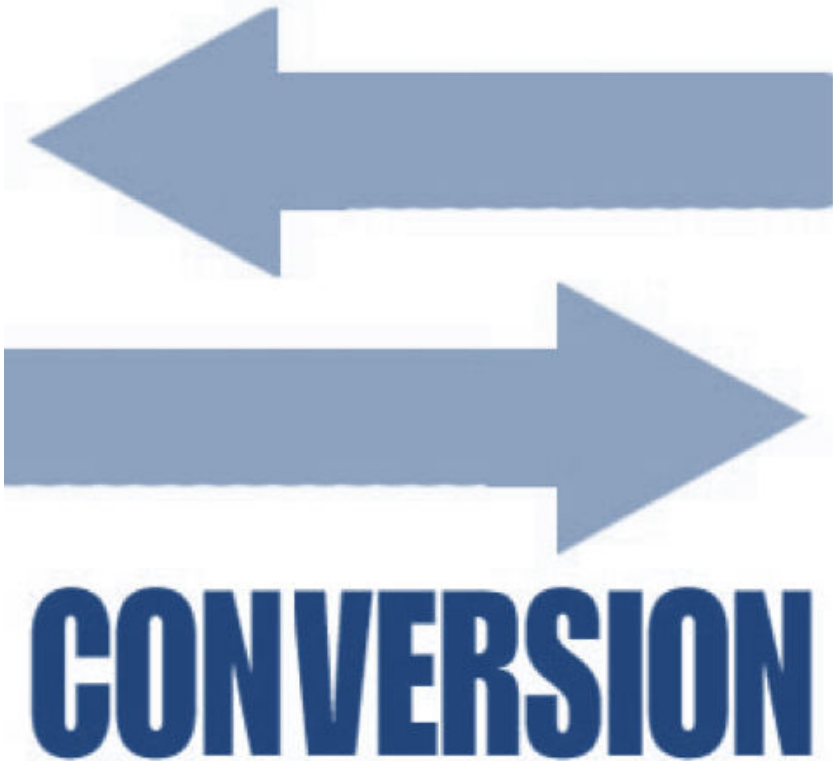
Conversion of Firm into LLP



CONVERSION

Effect of Registration

- PF shall deemed to be dissolved.
- All tangible assets (liabilities?) shall be automatically taken over by LLP
- Pending proceedings
- Existing Agreements, Contracts
- Continuance of Employment
- Partner's liable for earlier liabilities
- Notice of conversion in
correspondence - 12 months



Third Schedule

- Convert means , transfer of property, assets, interests, rights, privileges, liabilities, obligations, and undertaking of the Pvt co
- All SH shall be partners
- No subsisting security interests
- File statement by existing SH along with incorporation documents
- Registrar's refusal to register – Tribunal may be approached

Se 56

Conversion from
Pvt Co. into LLP



CONVERSION

Effect of Registration

- Registrar to issue COI
- Pvt Co shall deemed to be dissolved and removed from RoC records
- All tangible assets (liabilities?) shall be automatically taken over by LLP
- Pending proceedings
- Existing Agreements, Contracts
- Continuance of Employment
- Partner's liable for earlier liabilities
- Notice of conversion in

Se 56 -
Conversion from
Unlisted Public

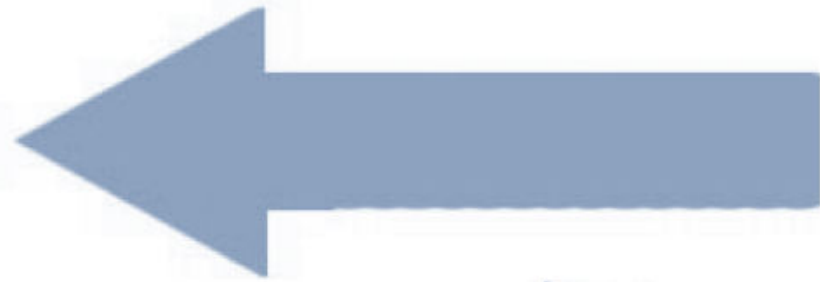


CONVERSION

Fourth Schedule

- Convert means , transfer of property, assets, interests, rights, privileges, liabilities, obligations, and undertaking of the Pvt co
- All SH shall be partners
- No subsisting security interests
- File statement by existing SH along with incorporation documents
- Registrar's refusal to register – Tribunal may be approached

Se 56 -
Conversion from
Unlisted Public



CONVERSION

Effect of Registration

- Registrar to issue COI
- Co shall deemed to be dissolved and removed from RoC records
- All tangible assets (liabilities?) shall be automatically taken over by LLP
- Pending proceedings
- Existing Agreements, Contracts
- Continuance of Employment
- Partner's liable for earlier liabilities
- Notice of conversion in

Se 63, 64 Winding up and Liquidation



- Voluntary
- Non Voluntary

Circumstances

- No. of partners falls below 2 over 6 months
- LLP unable to pay its debts
- LLP acted against sovereignty and integrity
- Default in filing SoA, Annual Returns and Solvency for over 5 years

Various Forms





**"If you think compliance is expensive,
try non-compliance."**

Former Deputy U.S. Attorney General Paul McNulty

CS Rahul P.
Sahasrabuddhe



THANK YOU