Bill Summary

The Limited Liability Partnership (Amendment) Bill, 2021

- The Limited Liability Partnership (Amendment) Bill, 2021 was introduced in Rajya Sabha on July 30, 2021. The Bill seeks to amend the Limited Liability Partnership Act, 2008. The Act provides for regulation of limited liability partnerships (LLP). LLP is an alternative corporate body form to traditional partnership firms. Under LLP, a partner's liabilities are limited to their investment in the business. The Bill converts certain offences into civil defaults and change the nature of punishment for these offences. It also defines small LLP, provides for appointment of certain adjudicating officers, and establishment of special courts. Key features of the Bill include:
- **Certain offences decriminalised:** The Act specifies the manner of operations of LLPs, and provides that violating these requirements will be punishable with a fine (ranging between two thousand rupees and five lakh rupees). These requirements include: (i) changes in partners of the LLP, (ii) change of registered office, (iii) filing of statement of account and solvency, and annual return, and (iv) arrangement between an LLP and its creditors or partners, and reconstruction or amalgamation of an LLP. The Bill decriminalises these provisions and imposes a monetary penalty.
- **Change of name of LLP:** The Act states that the central government may direct an LLP to change its name on certain grounds (such as the name being undesirable or identical to a trademark pending registration). Failing to comply with such direction is punishable with a fine ranging from Rs 10,000 to five lakh rupees. The Bill removes some of these grounds, and empowers the central government to allot a new name to such an LLP instead of levying a fine.
- **Punishment for fraud:** Under the Act, if an LLP or its partners carry out an activity to defraud their creditors, or for any other fraudulent purpose, every person party to it knowingly is punishable with imprisonment of up to two years and a fine between Rs 50,000 and five lakh rupees. The Bill increases the maximum term of imprisonment from two years to five years.
- **Non-compliance of orders of Tribunal:** Under the Act, non-compliance with an order of the National Company Law Tribunal (NCLT) is punishable with imprisonment up to six months and fine up to Rs 50,000. The Bill removes this offence.
- **Compounding of offences:** Under the Act, the central government may compound any offence under the Act which is punishable only with a fine. The amount imposed may be up to the maximum fine prescribed for the offence. The Bill amends this to provide that a regional director (or any officer above his rank), appointed by the central government, may compound such offences. The amount imposed must be within the minimum and maximum fine for the offence. If an offence by an LLP or its partners was compounded, then a similar offence cannot be compounded within a three-year period.
- **Adjudicating Officers:** Under the Bill, the central government may appoint adjudicating officers for awarding penalties under the Act. These will be central government officers not below the rank of Registrar. Appeals against orders of the Adjudicating Officers will lie with the Regional Director.
- **Special courts:** The Bill allows the central government to establish special courts for ensuring speedy trial of offences under the Act. The special court will consist of: (i) a Sessions Judge or an Additional Sessions Judge, for offences punishable with imprisonment of three years or more; and (ii) a Metropolitan Magistrate or a Judicial Magistrate, for other offences. They will be appointed with the concurrence of the Chief Justice of the High Court. Appeals against orders of these special courts will lie with High Courts.
- **Appeals to Appellate Tribunal:** Under the Act, appeals against orders of the NCLT lie with the National Company Law Appellate Tribunal (NCLAT). The Bill adds that appeals cannot be made against an orders that have been passed with the consent of the parties. Appeals must be filed within 60 days (extendable by another 60 days) of the order.
- **Small LLP:** The Bill provides for formation of a small LLP where: (i) the contribution from partners is up to Rs 25 lakh (may be increased up to five crore rupees), (ii) turnover for the preceding financial year is up to Rs 40 lakh (may be increased up to Rs 50 crore). The central government may also notify certain LLPs as start-up LLPs (as recognised through notifications).
- **Standards of accounting:** Under the Bill, the central government may prescribe the standards of accounting and auditing for classes of LLPs, in consultation with the National Financial Reporting Authority.

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