

# **EVOLUTION OF LIMITED LIABILITY PARTNERSHIPS AND WHETHER THEY FORM BETTER MEANS OF INCORPORATION**

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## **ABSTRACT**

Limited Liability Partnerships are the most recent forms of incorporation of a business enterprise and have emerged as a convenient and appropriate form of a business enterprise. In India, Limited Liability Partnerships got legal recognition after the enactment of the Limited Liability Partnership Act of 2008. Hence, the law on Limited Liability Partnerships is certainly new as compared to the laws governing companies and conventional partnerships in India. It is often considered that Limited Liability Partnerships are a better form of incorporation since it has the qualities of a partnerships but the liability of partners is kept as limited, similar to the liability of shareholders in a company. This paper would present a study on the features of Limited Liability Partnerships and would determine whether Limited Liability Partnerships are better in terms of incorporation as a business enterprise as against a conventional partnership firm and a public or private company. This Research Paper would look into the concept of liability in a Limited Liability Partnership and their particulars with respect to fiduciary duties, securities and bankruptcy and also provide means in which further research needs to be conducted in order to establish a determined law on LLPs. The paper would also present certain crucial statistical data that would represent the growth in terms of number of Limited Liability Partnerships registered in India on a monthly basis as well as how the COVID-19 pandemic has affected the decision of businessmen relating to selecting the most appropriate form of incorporation of their businesses.

## INTRODUCTION

In commerce, partnership plays a crucial role and has proved to be of advantage to the public as well as served the interests of individuals. But as an option of incorporation, it did not gain popularity among the public which originally demanded the introduction of partnerships but the liability of the partners would be unlimited. This means that all partners in a partnership would be liable to the extent of their personal assets if in case the partnership does not have sufficient means to pay of a debt.

Partnership is indifferent when it comes to the business and its owners. Unlike in case of a company where the members and board of directors and the company are considered as separate entities, a partnership is a business enterprise owned, managed and controlled by the partners and the two cannot be separated from each other. Hence, partners cannot shy away from their responsibility towards the business.

Limited Liability Partnerships (*hereinafter* LLP) is often viewed as an alternate corporate vehicle which contains the principal advantages of a partnership as well as a company. This is achieved by giving the freedom of flexibility to organize the structure of internal management as a partnership which is established by way of mutual agreement while limiting the liability of the partners to the extent of their individual interests in the LLP just like the separate legal entity concept of a company.

## LITERATURE REVIEW

### *“Disputing Limited Liability”*

Christina Boyd and David Hoffman

Christina L. Boyd & David A. Hoffman, *Disputing Limited Liability*, 104 NW. U. L. REV. 853 (2010)

This article enumerates different ways in which limited liability of a company can be disputed as well as circumstances under which the corporate veil can be lifted to include liability of the board of directors. It talks about how veil piercing complaints are written as well how a litigant can succeed in bringing such suits to the court. The article however limits its study to limited liability of a company and not of LLPs. This article hence provides of scope of research towards

identifying circumstances under which partners of a LLP firm could also be held personally liable and how would such suits look like.

***“The Extension of Limited Liability”***

Xin-Rong He

Xin-Rong He, The Extension of Limited Liability, 2015 JURA: A PecsI TUDOMANYEGYETEM ALLAM- es JOGTUDOMANYI KARANAK tudomanyos IAPJA 151 (2015).

This article is a description of the Chinese Company Law regime and how limited liability of a company can be extended. The article begins with distinguishing limited and unlimited civil liability and how limited liability extends towards partnerships and LLCs. The article also states the emergence of extension of liability in the Chinese corporate system and how changes and amendments were made overtime when China evolved from a state dominant enterprise regime to a regime now mainly comprising of private enterprises. This research paper highlights research opportunities to look into the Indian regime and how extension of liability can be applied to Indian LLPs, LLCs and General Partnerships.

***“Rethinking Limited Liability”***

Elfriede Sangkuhl

Elfriede Sangkuhl, Rethinking Limited Liability, 11 U.W. Sydney L. REV. 124 (2007)

This article compares arguments in favour and against Limited Liability of companies and identifies the need for sustenance of the concept of limited liability which is the need of the hour for corporations. The article also talks about moderating the potential negative impact of limited liability corporations. The article however does not discuss the possible negative impact of limited liability extended to partnerships.

***“Limited Liability Partnerships”***

James J. Wheaton

James J. Wheaton, Limited Liability Partnerships, 41 ANN. TAX CONF. B1 (1995).

This article is a detailed analysis of Limited Liability Partnerships and lays down its features which include liability and obligations of partners, scope of limited liability, LLP legislations across the world and the limitations of LPPs. This article provides scope of further research into identifying whether LLPs are better means of incorporation for enterprises or whether its incorporation leads to a negative image among creditors who avoid investing in LLPs.

***“Liability of Partners in a Limited Liability Partnership Regime”***

Hwee Ying Yeo

Hwee Ying Yeo, Liability of Partners in Limited Liability Partnership Regime, 15 SAclJ 392 (2003).

This article highlights the emergence of LLP laws in Singapore after the Asian Financial Crisis of 1997 and how the law makers had to critically examine the concept of limited liability and how it could be extended to partnership firms. The law makers made distinction between malpractice liability and commercial liability and how specific circumstances would determine whether liability would be kept limited or unlimited. This research paper however does not answer the issues of whether partners of a LLPs could shy away from their responsibility arising out of debts of LLPs and whether creditors have any stand of suing partners for reclamation of debt.

***“Limited Liability”***

Limited Liability, 23 LAW MAG. QUART. REV. Juris. n.s. 215 (1855)

This article states the historical establishment of the concept of liability in English Law and how, on demands made by corporates and owners, discussions were initiated on the issue of whether liability of corporates could be kept as limited and if yes, how would the law prevent misuse of this concept. Discussions were extended to include laws of France and the United States and in conclusion, limited liability concept was introduced to very limited types of corporations. This article, although historical, gives opportunity to discuss the relevance of the role of regulatory bodies in keeping misuse of limited liability under control and how effective the regulation has been.

### ***“Limited Liability Companies”***

John Dwight Ingram

John Dwight Ingram, Limited Liability Companies, 6 Bus. L. REV. 1 (2007).

This article talks about the historical emergence of limited liability companies, their formation, management and formalities required for incorporation. This article also lays down precedents used by courts in deciding on matters related to LLCs and also the procedural aspects related to litigation. The article however does not discuss about Limited Liability Partnerships which highlights the research opportunity to look into similar aspects in LLPs.

### ***“Limited Liability Partnership and Fiduciary Duties”***

Blair Munro

Blair Munro, Limited Liability Partnership and Fiduciary Duties, 21 EDINBURGH L. REV. 417 (2017).

This article, by way of case analysis, talks about the fiduciary duties of partners of LLPs. One of the main issues highlighted by this article is whether partners in an LLP have a fiduciary responsibility toward one another. Courts have held that the partners do have a fiduciary relationship however the author has a different stand. One of the limitations of this paper is that the author does not go in detail as to why partners should not hold fiduciary relationship which gives research opportunities to look into the matter.

### ***“The Limited Liability Partnership in Bankruptcy”***

Christine Hurt

Christine Hurt, The Limited Liability Partnership in Bankruptcy, 89 AM. BANKR. L.J. 567 (2015).

This research highlights the limitations creditors have to face in recovery of debt in case of bankruptcy of a Limited Liability Partnership. Because of the limited liability concept, creditors cannot sue partners for recovery of debt which leaves the creditors in an uncertain situation. The article also talks about how partners of LLPs borrow huge amounts of money to expand business and later fail to repay the debt. However, the article does not talk about the

possibility of presence of malice in borrowing and the possible legal assurance which could be given to the creditors in order to recover debt from LLP.

***“Responsibilities of Limited Liability Partnership Incorporated under Limited Liability Partnership Act, 2008”***

Siddh Nath

Siddh Nath, Responsibilities of Limited Liability Partnership Incorporated under Limited Liability Partnership Act, 2008, 1 INDIAN J.L. & Just. 115 (2010).

This article lays down in detail the various circumstances under which LLPs could be sued if they fail to perform certain responsibilities such as to fine, winding up, making good defaults and to be struck of its name. This article provides further insights in order to research more on whether partners of LLPs are responsible towards their interests in LLP and whether it could be considered as securities.

**RESEARCH QUESTIONS AND OBJECTIVES**

Upon review of the abovementioned literature, the following research issues would be addressed with the objective of identifying whether LLPs are better means of incorporation:

- 1) WHETHER LIMITED LIABILITY PARTNERSHIPS ARE BOUND BY COMMERCIAL LIABILITY AS WELL AS MALPRACTICE LIABILITY.
- 2) WHETHER MEMBERS OF A LIMITED LIABILITY PARTNERSHIP IS BOUND BY FIDUCIARY DUTIES.
- 3) WHETHER INTERESTS IN LIMITED LIABILITY PARTNERSHIPS WOULD AMOUNT TO SECURITIES.
- 4) WHETHER PARTNERS WOULD BE PERSONALLY LIABLE FOR DEBTS OF THE LLP IN CASE OF BANKRUPTCY.



## CONCEPT OF LIMITED LIABILITY

### *History of Limited Liability*

Mr. Bellenden Ker prepared a report on the Law of Partnership of the United Kingdom which was later published in the by order of the House of Commons. In the report, Mr. Ker classified the limitations of the Law of Partnership in three categories; firstly, limitations that arise from the problem of suing or being sued, secondly, limitations that arise from the difficulty faced by the partners from suing among themselves and thirdly, limitations that arise from the rule that any person who takes share of profits becomes liable as a partner.<sup>i</sup>

Mr. Ker pointed out that initially, legal experts and the general public had conflicting opinions when it came to limiting the liability of partners in a partnership where the law makers were in favour of keeping the liability of the partners unlimited in order to prevent possibilities of commission of fraud by the partners while on the other hand, the general public strongly believed that liability of partners should be kept limited as it often affected the profits earned by the partners.

The House of Commons appointed a committee in 1850 to partially investigate the subject matter of the investments of the middle and working classes. The report which was submitted by the committee after conducting the investigation recommended that, without pledging the committee to any positive opinion, charters of limited liability should be granted by the Crown though with utmost diligence with due caution and a moderate cost. In a later report submitted by Mr. Slaney's Committee stated that the law of limited liability of partners should be adopted after due regulations although, it did not include banking, mining, insurance and foreign trade enterprises.

### *Emergence of Limited Liability Partnership Law*

The concept of Limited Liability Partnership arose from the United States after the 1980s crisis of the real estate and energy sectors where the liability was extended towards advocates who had represented the financial institutions in crisis.<sup>ii</sup> As an aftermath, there was a widespread demand for enacting a law which would govern the LLPs. As a result, the first LLP legislation was passed by the State of Texas.<sup>iii</sup>

After the LLP law was passed in Texas, many UK based enterprises also initiated a campaign for introduction of LLPs with the aim to limit liability of partners. As a result, the UK

Companies Act 1989 was amended after which accounting firms were allowed to function as limited liability companies. However, general partnership firms that ran day to day activities could still be held as jointly or severally liable. A campaign was then constructed in order to extend limited liability to general partnership firms.<sup>iv</sup> The UK LLP Act was passed in the year 2000. The LLP Act of the UK is based on three main principles- limitation of liability, separate corporate personality and flexibility of partnership.

The main difference between the LLP models of the US and the UK is that the US considers LLPs to be as partnerships, while the UK considers them to be as companies.<sup>v</sup> In the UK, LLPs having a separate legal entity means that the LLP has its own rights and liabilities which is different from the partners. LLP also differs from a company on the point that LLPs are more flexible and have a less stringent tax imposition.<sup>vi</sup> LLPs are treated to be as separate entities while general partnerships are treated as an association of persons.

In India, the JJ Irani Committee Report stated that there is a need to introduce law that would govern LLPs based on the legislations of the UK and Singapore and the law would be extended to small enterprises.<sup>vii</sup> The Finance Standing Committee stated the need to introduce law which would govern LLPs is apparent and the LLP bill introduced in the Lok Sabha would be a transformative incident in the Indian business market.<sup>viii</sup> Finally, in the year 2008 Limited Liability Partnership Act 2008 was enacted and law on LLPs was introduced for the first time in India.

## **WHETHER LIMITED LIABILITY PARTNERSHIPS ARE BOUND BY COMMERCIAL LIABILITY AS WELL AS MALPRACTICE LIABILITY**

After the Asian Financial Crisis of 1995, the Government of Singapore constituted a committee in order to conduct a detailed review of the development strategy of Singapore and accordingly restructure the economic policy. The Committee report pointed out that the Government must legalise Limited Partnership and Limited Liability Partnership. The committee report also expressed their opinion that commercial liability and malpractice liability must be examined after which the liability of the partners should be kept as limited. The committee report gave a suggestion to enact a legal framework for new business enterprises which would lay down



clearly the level of protection which would be accorded to a partner for any form of liability of LLP.<sup>ix</sup>

The issue that arises is whether a partner should be protected from personal liability for LLPs ordinary business activities like that of shareholder's liability in a company. The LLP Legislation of State of Texas provides partial protection to the partners as the innocent partners are protected from liabilities arising out of malpractice but not of the LLPs ordinary debts.

In the UK case of *Williams v Natural Life Health*<sup>x</sup> the House of Lords held that the director of a company would not be personally liable in case of negligence arising out of bad advice given by him while holding the position of a director unless he has presented that he has wilfully accepted the personal liability. However, the Williams ruling, which is based on the fundamental principle of separate corporate personality of company law, has no relevance with regards to a partnership as law of partnership would be governing the rules and partners who have been negligent would be individually liable of negligence due to the principle of joint and several liabilities.

Section 13 of the Indian Partnership Act specifies the circumstances under which partners of a partnership firm would be jointly or severally liable.<sup>xi</sup> With regards to Limited Liability Partnership, section 27 (2) of the Limited Liability Partnership Act states that a LLP would be liable if the partner of the LLP is liable to any person out of wrongful act or omission arising out of his own conduct in the course of LLP business or with his authority.<sup>xii</sup>

## **WHETHER MEMBERS OF A LIMITED LIABILITY PARTNERSHIP ARE BOUND BY FIDUCIARY DUTIES**

The application of fiduciary duties within the context of partnership has long standing historic origins linking back to the Roman context of *societas*.<sup>xiii</sup> Gaius was of the view that a Roman partnership was an imitation of a relationship between brothers and is connected by a community of co-heirs.<sup>xiv</sup> Erskine considered partnership as united in a kind of brotherhood by virtue of the *delectus personae* that exists between them.<sup>xv</sup> Hence, partners in a partnership were considered to have a bond with one another and an ethical relationship of trust exists among them.

The modern approach to fiduciary duties has shifted from the status of an individual as the source of his fiduciary duties. Emphasis is now placed on various fiduciary indicators such as the existence of discretionary and management powers of an individual who is a partner in a partnership, his ability to affect someone else's interest and the authority to decide how to promote the best interests of the beneficiary.<sup>xvi</sup>

Limited Liability Partnerships being a new field of law, there has been a limited discussion on the application of fiduciary duties in the context of Limited Liability Partnerships. In the leading case of *F&C Alternative Investments*<sup>xvii</sup>, Justice Sales stated that: “*there is nothing in the Partnership Act to qualify the usual fiduciary obligations which an agent owes his principal in relation to the transactions which the agent enters into on the principal's behalf*”.

In the case of *Hosking v. Marathon Asset Management LLP*<sup>xviii</sup>, “Jeremy Hosking had filed an appeal against an arbitration award in the favour of Marathon Asset Management LLP. It was established by the arbitrator that Hosking had entered into discussions with three other employees in order to start a new business which led to Marathon Asset Management LLP losing a real or substantial chance of retaining three of its important clients. In reaching his conclusion, the arbitrator considered the application of the forfeiture principle as proportionate and equitable given the severity of the breach of Hosking's fiduciary duties. This specific point carried a significant amount of weight in the arbitrator's rebuttal of Hosking's submission that the forfeiture remedy was inconsistent with the LLP deed.

In the appeal, counsel on behalf of the claimant mainly focused on the distinction between share in profits and remuneration arguing that share in profits did not amount to remuneration simply by virtue of the fact that the partner provides services to the LLP. While the payment of share in profits would compensate the partner for providing his services, it was because of his interest in the partnership. Accordingly, the principle of forfeiture would not apply to the claimant's share of profits.

Agreeing with the argument's put forward by the defendant, Justice Newey held that the principle of forfeiture could apply to partners as well as LLP members by virtue of the fact that both are considered to be as agents. This judgement has received several criticisms which state that Justice Newey was not correct in considering partners and members of LLP as agents.

## **WHETHER INTERESTS IN LIMITED LIABILITY PARTNERSHIPS WOULD AMOUNT TO SECURITIES**

Whether an interest in an LLP is a security or not is of a great deal of important to practitioners. Interest in LLP being classified as securities gives rise to issues arising out of interests to be registered as securities, broker requirement, liability arising out of securities fraud and disclosing all obligations.<sup>xix</sup> This classification becomes a matter of great concern as the Securities and Exchange Board of India as well as private parties could institute a suit in case of violation of securities law and, under some circumstances, criminal liability could also be imposed.

Securities Law applies when a certain transaction involves a security. In the United States, some states have made specific amendments in order to include interests in LLP as security although the Federal Securities Act and security laws of states have no specific mention that interest in LLPs would amount to securities.<sup>xx</sup>

### ***Interests of partners constitute an investment contract***

In *SEC v. W.J. Howey and Co.*<sup>xxi</sup>, the US Supreme Court laid down a four-prong test in order to establish whether an interest in LLP would amount to securities under investment contract test and. An investment contract is a contract, transaction or scheme where a person invests money in an enterprise and is expected to gain profits from the efforts of a promoter or a third party.<sup>xxii</sup> An interest would amount to security by considering it to be an investment where a person has invested certain sum of money, the money has been invested in a common enterprise, the money has been invested with the motive of earning profits in future and the investment has been made solely from the efforts of a promoter or a third party. If the test is to be used, it would certainly pass the test because a partner in LLP has invested money in the LLP with the intention of earning profits in the future and prior to the commencement of the LLP, the partners could be considered as promoters.

### ***Interests meet requirements of Risk-capital test***

Risk Capital Test is used by many jurisdictions as a way of determining whether an investment would amount to security or not. The risk capital test is used by many state jurisdictions in the United States as it serves as an independent means of determining securities.<sup>xxiii</sup> An investment

in LLP normally satisfies elements of Risk Capital Tests as partners of LLPs are normally required to invest in the venture by contributing money, property or services.<sup>xxiv</sup>

In situations where interest in LLPs is expressly listed in the definitions in state laws of securities. Some state security commissions have also argued that interests in LLP do amount to securities as they fell into other catch- all categories as mentioned in state security laws.<sup>xxv</sup>

In India, Section 2(h) of the Securities Contracts (Regulation) Act 1956 defines the term securities which does not include interest in a LLP as a security.<sup>xxvi</sup>

## **WHETHER PARTNERS WOULD BE PERSONALLY LIABLE FOR DEBTS OF THE LLP IN CASE OF BANKRUPTCY**

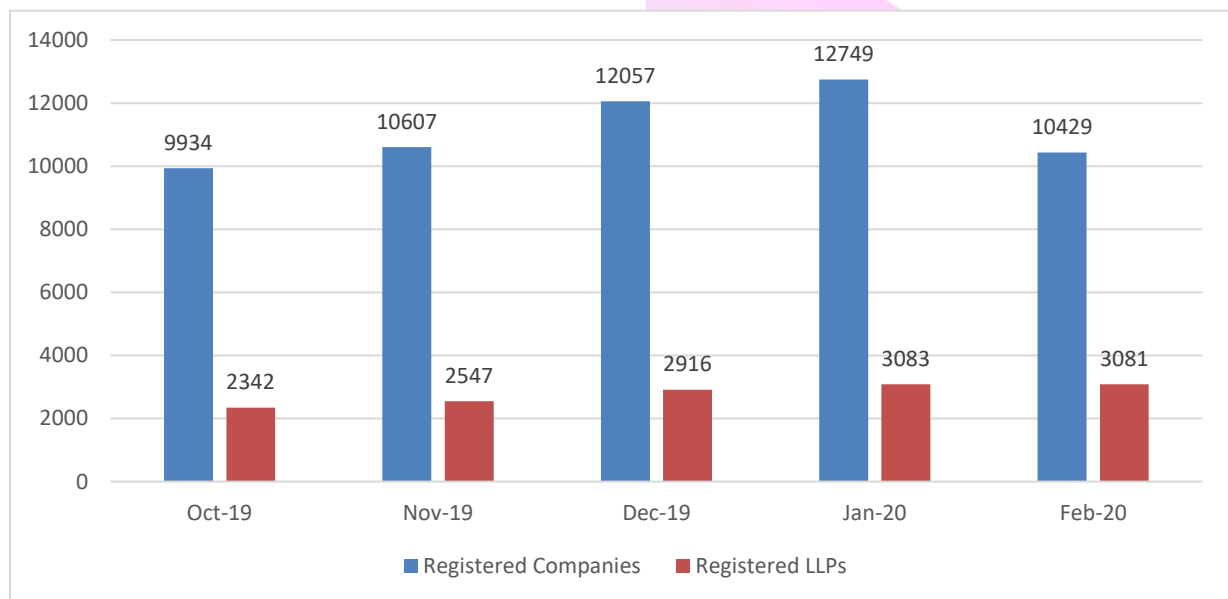
It is often seen that LLP firms expand by way of hiring employees and mergers, obtaining expensive lease, borrow huge amount of money and later fail to commit to their financial obligations when market environment takes a negative turn and practice groups scatter to other firms.<sup>xxvii</sup> When an LLP becomes insolvent and does not have sufficient assets in order to furnish their financial obligations, the creditors would not be able to put pressure on the partners to fulfil the financial obligations. In Indian LLP law, section 28 of the LLP Act 2008 states that a partner would not be personally liable if the obligation is to be met solely by the LLP.<sup>xxviii</sup>

LLPs having the advantage of being a body corporate, have a separate legal entity distinct from its members.<sup>xxix</sup> Hence, a loan taken by the LLP would solely be an obligation which would be met by the LLP. Hence, in case of insolvency, creditors cannot sue the partners in order to recover the loan provided to the LLP and partners would not have to sacrifice their personal assets in order to pay the debts of the LLP. Creditors doing business with an LLP take up the risk and do not have the exception of satisfaction of claims by individual partners. While bankruptcy proceedings involving general partnerships may not have been very common, bankruptcy proceedings involving LLPs have become a common phenomenon.<sup>xxx</sup>

## GROWTH OF LIMITED LIABILITY PARTNERSHIPS IN INDIA

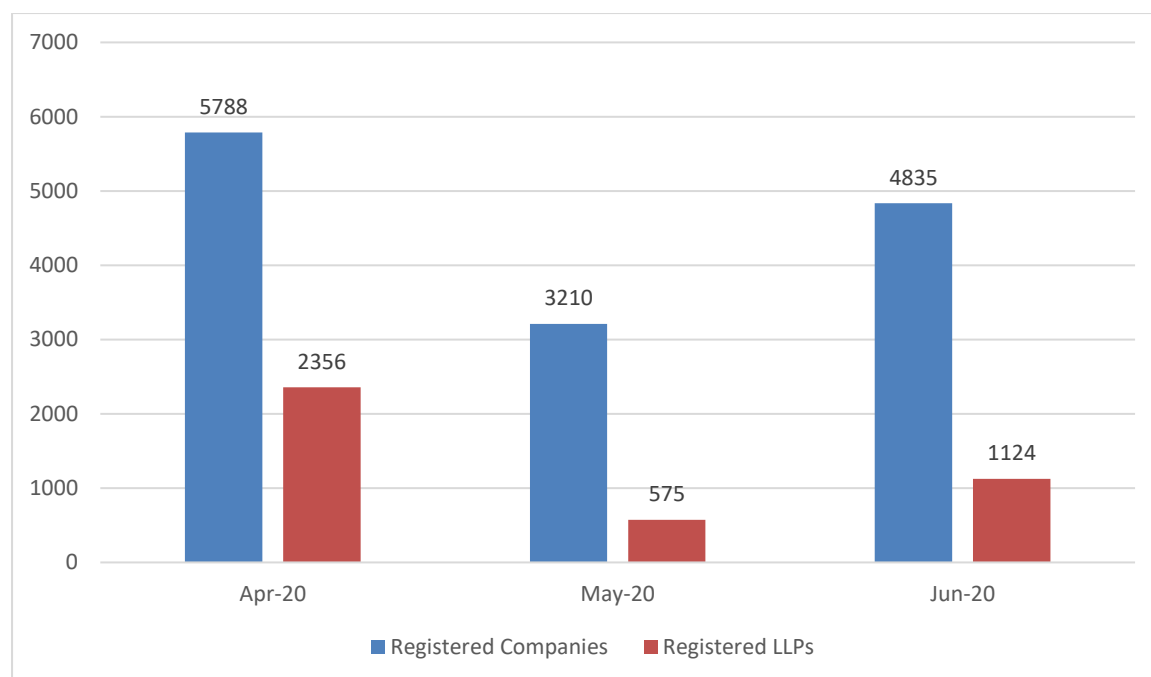
India has seen a positive trend when it comes to number of LLPs being registered in every state. However, when compared to incorporated companies, it is observed that the LLPs are still extremely behind.

Figure 1 shows the number of registered companies and LLPs registered within the time period of October 2019- February 2020. Upon the analysis of the data, it is observed that the ratio of registered companies to registered LLPs is approximately 5:1 which means the number of incorporated companies is five times more than that of registered LLPs.



(Figure 1: Source- Ministry of Corporate Affairs, Government of India)

Since the outbreak of COVID-19 in India in the month of March, there has been a significant decline in the number of incorporated enterprises. Figure 2 shows the decline in the number of registered companies and LLPs within the months of March 2020- June 2020 which is when India witnessed a nation-wide lockdown and the business environment was severely affected.



(Figure 2: Source- Ministry of Corporate Affairs, Government of India)

The data clearly shows the corporations still prefer to incorporate themselves as private limited or public limited companies instead of limited liability partnerships. This is primarily because enterprises find it difficult to secure loans if they are incorporated as LLPs because of the financial uncertainty which arises in case of default in payments. Hence, creditors are at an uncertain position if LLP fails to make payments because of which they avoid to hold the risk in the first place. It is also observed that the lockdown due to the COVID-19 pandemic significantly reduced the level of business activity and less companies and LLPs were being incorporated. Hence, it is clear that the Indian market does not consider LLPs to be their first choice of incorporation.

## RESEARCH OBSERVATION

It is evident that, although LLPs provide financial security to enterprise owners, there are still issues which deter incorporation as LLPs:

Firstly, it is observed that the partner's commercial liability would be somewhat protected by the principle of separate legal entity as well as limited liability of the partners. Precedents have been laid down with regards to malpractice liability where individuals partners are protected in case of liability arising out of malpractice committed by one of the partners.



Secondly, it is established that the partners indeed have a fiduciary duty and partners do not have the exception of the LLP having a separate legal entity.

Thirdly, many legislations and precedents have held that interests of partners in LLPs amount to securities as they pass multiple tests of investment as well risk capital.

Fourthly, in case of bankruptcy, it is observed that, because of the limited liability of the partners, creditors cannot sue the partners of the LLP to recover debts in case the LLP has insufficient assets to pay off the debts.

## **CONCLUSION**

Since the enactment of the LLP Act 2008, although the Indian market has seen a rise in the number of registered LLPs, enterprises still prefer to incorporate themselves as private or public limited companies primarily because creditors do not wish to invest in LLPs because of financial uncertainty which comes with LLPs. There is a need to look into limited liability aspect of LLPs- the very reason why enterprises would wish to incorporate themselves as such. There is a need to balance out the interests of enterprise owners as well as the interests of the creditors if LLPs need to succeed in the market. The biggest question arises in case of bankruptcy when the creditors are unable to recover the lent money because of which sever issues arise. Hence a study on this issue needs to be conducted and measures need to be introduced within the LLP Act to provide creditors with some form of financial security while keeping the idea of limited liability in place.

Limited liability partnerships are certainly providing flexibility in terms of legal and tax issues as they allow the partners to gain benefits by way of economies of scale while at the same time limits the liability of the partners for their actions. One of the limitations as to why few LLPs are registered in India is because the professionals who would prefer to incorporate their business enterprise as a limited liability partnership rely on reputation in their respective industries. Hence, it would become quite difficult to attract business if the partners of a limited liability partnership do not share a respectable position in their respective industries.

Having said that, limited liability partnerships certainly provide several incentives that have attracted businessmen to incorporate their enterprise as a limited liability partnership. For instance, the personal assets of the partners of an LLP are protected by way of limited liability.

Limited liability partnerships also provide a more convenient option when it comes to the management of the LLP and the way in which profits are shared among the partners. Another interesting observation is that the members of an LLP could also include companies that would provide additional benefits to the functioning of the LLP in terms of financial stability and professional management. Although limited liability partnerships are new as compared to conventional partnerships and companies, they could prove to be the most suitable option for incorporation of a business enterprise however, the law on LLP being very new, there is still a lot of scope of improvement and development. Hence, it could be said that limited liability partnerships are the future of the corporate world.

## ENDNOTES

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- <sup>i</sup> Limited Liability, 23 LAW MAG. QUART. REV. Juris. n.s. 215 (1855).
- <sup>ii</sup> Robert W. Hamilton, *Registeied Limited Liability Partnership: Present at the Birth (arly)*, 66 U. COLO. L. REV. 1065, 1069 (1995).
- <sup>iii</sup> Nivedita Sen & Neha Mathen, *Decoding the New Business Vehicle of India: The Limited Liability Partnership*, 4 NUJS L. REV. 669 (2011)
- <sup>iv</sup> Ashish Ahuja, *Limited Liability Partnership Act, 2008- Some Issues*, available at <http://www.beasonline.org/webadmin/resmaterial/resfiles/LM%o20Ashish%20Ahuja%o204Feb09.pdf>
- <sup>v</sup> *Unreliable Assumptions in the Aodern Laiw o Negligence*, (1993) 109 LQR 461, Hepple, *The Searchfor Coherence*, (1997) CURRENT LEGAL PROBLEMS, Vol. 50, 67, 88.
- <sup>vi</sup> *Limited Liability Partnership - A Chance for Peace of Mind*, (2000) BUSINESS L. REV. 257;
- <sup>vii</sup> Report of JJ Irani Expert Committee on Company Law, 2005
- <sup>viii</sup> 58<sup>th</sup> Report of the Standing Committee On Finance on the Limited Liability Partnership Bill, 2006, Ministry of Corporate Affairs, Government of India
- <sup>ix</sup> Hwee Ying Yeo, *Liability of Partners in a Limited Liability Partnership Regime*, 15 SAclJ 392 (2003).
- <sup>x</sup> *Williams and Another v. Natural Life Health Foods Limited and Another* (1998) 17 Tr LR 152
- <sup>xi</sup> Section 13, Indian Partnership Act 1932.
- <sup>xii</sup> Section 27 (2), Limited Liability Partnership Act 2008.
- <sup>xiii</sup> Blair Munro, *Limited Liability Partnership and Fiduciary Duties*, 21 EDINBURGH L. REV. 417 (2017)
- <sup>xiv</sup> Gai Inst 3,154 in W M Gordon and O F Robinson, *The Institutes of Gaius (Texts in Roman Law)* (1988).
- <sup>xv</sup> *Supra* note 7.
- <sup>xvi</sup> Valsan (n 36) at 8 and Miller (n 36) at 235.
- <sup>xvii</sup> F&C Alternative Investments at para [219].
- <sup>xviii</sup> *Hosking v. Marathon Asset Management LLP* [2016] EWHC 2418 (Ch), [2017] Ch 157.
- <sup>xix</sup> Elaine A. Welle, *When Are Limited Liability Partnership Interests Securities*, 27 J. CORP. L. 63 (2001).
- <sup>xx</sup> IND. CODE § 23-2-1-1(k) (LEXIS Supp. 2001); IOWA CODE § 502.102.19 (West Supp. 2001); N.H. REV. STAT. ANN. § 42 I B:2.XX(a) (1998).
- <sup>xxi</sup> SEC v. W.J. Howey and Co 328 U.S. 293 (1946).
- <sup>xxii</sup> *Howey*, 328 U.S. at 298-99. See also *ibid*
- <sup>xxiii</sup> ALASKA STAT. § 45.55.990(32) (LEXIS Supp. 2000)
- <sup>xxiv</sup> Dean I. Friedman, *Tax Treatment of Admittance to and Withdrawal from a Limited Liability Partnership*, in LIMITED LIABILITY PARTNERSHIPS: FORMATION, OPERATION, AND TAXATION §§ 6.1-6.17
- <sup>xxv</sup> *In re New Horizon Exploration, Inc.*, CD-97-0041, 1997 WL 572202
- <sup>xxvi</sup> Section 2(h) Securities Contracts (Regulation) Act 1956

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<sup>xxvii</sup> Christine Hurt, *The Limited Liability Partnership in Bankruptcy*, 89 AM. BANKR. L.J. 567 (2015), see also Jessica D. Gabel & Paul R. Hage, *The Belly of the Beast: Law Firm Insolvencies, Unfinished Business, and Jewel Waivers*, *Bus. L. TODAY* (Aug. 2013) (describing the downfall of these "powerhouse firms").

<sup>xxviii</sup> Section 27(3) and Section 28(1) of the Limited Liability Partnership Act 2008.

<sup>xxix</sup> Section 3 of the Limited Liability Partnership Act 2008

<sup>xxx</sup> Peter W. Rogers, *Who Gets the Jewels When the Law Firm Dissolves: The Unfinished Business Doctrine and Hourly Matters*, 101 Nw. L. REV. 311 (2014).

