

Topic – Deadlock situation and Appointment of Designated Partners from Back End in the LLP & MGT-7A

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Introduction:

Limited Liability Partnership (LLP) is the Format that provides a combination of Partnership Firm and a Company and now days it becomes famous for the start up business.

LLP is governed by the Limited Liability Partnership Act, 2008. Whereas everything is decided based upon the Agreement between the Partners, be it change in the Contribution, profit sharing ratio or change among the partners themselves.

Practical Difficulties:

Let us assume that an LLP is having only 2 Designated Partners and now both the Partners are no more. So what shall be the remedies available with the LLP in this kind of situation? So in this case, as the LLP being a Body Corporate, continue to remain in the existence and do not get dissolved unlike Partnership Firm. The Designated Partners of the LLP can be appointed from the Back End System of

the ROC and RD.

Following are some of the important points that need to keep in mind while making the Application to ROC.

1. The Nominee of the Deceased Designated Partners must be having the DIN Allotted. In case the Nominees are not having any DIN then they cannot be appointed as a Designated Partners.
2. An Affidavit should be executed by both the Nominees to Comply with relevant Provisions of the LLP Act, 2008 and rules and regulations made thereunder.
3. Supplementary Agreement Shall be executed by both the Nominees of the Deceased Designated Partner.
4. A Draft Form 3 and 4, Death Certificates, Consent letters from Nominee and ID Proofs, needs to attach with the application. In case the Nominees are not having any DIN then other relatives having DIN should appoint as Designated Partner first and later they can be replaced by Original Nominee.

By this way an ROC will add the name of the Designated Partner from his Back End system and the LLP can start functioning again.

Conclusion:

So to deal with this kind of deadlock situation, there is no written formulas and concepts in the LLP Act, 2008 but this is the normal practice which is followed by the professional in case of the Companies. Hence we can surely assume that where the LLP Act is silent about any particular Situation, we should look into the Companies Act and Partnership Act for its possible solutions.

MGT-7A

Ministry of Corporate Affairs recently came up with the amendment in definition of Small Companies. As per this amendment, if the Company is having Turnover not exceeding Rs. 2 Crore as per previous year's Profit and Loss Account or Paid up Capital not exceeding Rs. 50 Lakh, will be considered as small Company. Earlier (i.e before 01.04.2021) the Company was considered as a Small Company, if both the Criteria were fulfilled but now "and" replaced with "Or". Hence if any of the

Criteria gets triggered, the Company shall be considered as Small Company. The Following Companies are not considered as small Companies; - Public Company - Holding or Subsidiary Company - Section 8 Company - If the Company is governed by any special act. MCA has launched new Annual Return called MGT-7A, which specifically designed for this Small Companies. Some of the features of this Form is as follows; - Whenever you will pre-fill CIN in the Form MGT-7, and the Company is a small Company as per the Form filled with MCA, then it will show an error that, for this Company, please file e form MGT-7A. - List of Director is a mandatory attachment to Form MGT-7A - Professional Certificate is dispensed with for MGT-7A. - Details of Directors need to enter manually in the Column for Attendance of Directors in Board and Committee Meeting (the Names of Directors are getting prefilled in MGT -7). So these are the features of the New Form MGT-7A.