

# AN ANALYSIS OF LIMITED LIABILITY PARTNERSHIPS AND THEIR EFFECTS ON SMALL ENTERPRISES

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## Abstract

*There are many different ways that a business can be structured, and the type of business structure that one decides to use will have a significant impact. There are many different kinds of business entities, each of which has its own set of advantages and disadvantages, with the end goal of overcoming the challenges posed by the fluctuating circumstances and economy. It started with individual ownership of limited companies and eventually spread to other businesses. In India, it is against the law for many professionals to work through companies. These professionals include advocates and lawyers, chartered accountants, company secretaries, and medical professionals. When it comes to providing these kinds of professional services, the structure of an LLP would be especially helpful. In the years to come, it's possible that professionals in India will offer these kinds of valuable services to a large number of organisations in other countries. Multidisciplinary combinations will be needed to help international clients with a wide range of problems. So, people think there should be an alternative to the traditional partnership: a new corporate entity with limited liability and a flexible business environment that can be set up and run in a way that is both flexible and effective. If there was a new company, this would be the case. To be able to compete effectively on the international market, business owners, professionals, and providers of services will have the ability to collaborate and run their businesses in an effective manner. The purpose of this study is to demonstrate how LLP can adapt to the ever-changing dynamics of a company. By analysing the trend of small businesses or enterprises, one can also discover the advantage of choosing to register in India as an LLP.*

**Keywords :** LLP, Limited Liability Partnerships, Small Enterprises, India

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## 1. Introduction

It is of the utmost importance to conduct research on and gain a comprehension of the history of LLPs before delving further into the idea of a limited liability partnership. Common business structures in India include the limited liability company, the sole proprietorship, and the partnership.

However, there was a lack of clarity regarding the type of business model that would be most appropriate for chartered accountants, professional firms, or small and medium-sized businesses. As a result, a report on the "Regulation of Private Companies and Partnership" was published by the committee headed by Naresh Chandra, and a report on "Company law" was published by the committee headed by Dr. J. J. Irani. These reports were instrumental in the development of the idea of a limited liability partnership (Limited Liability Partnership). It is said to be a combination of the positive and advantageous aspects of both the partnership act and the companies act.

The LLP act is needed because partnerships have strict rules, such as a limit on the number of partners (which is set at 20) and a joint liability that is unlimited. This means that, in addition to the capital contributed by the firm's capacitors, the partners' personal property can also be used to pay off the business's debts. This is why we need the LLP act. This is one of the most important reasons why the partnership model of business hasn't grown much at all. When it comes to the LLP mode, on the other hand, there are none of the limits that the partnership has. With its flexible legal structure and limited liability to protect partners, the limited liability partnership (LLP) has become the most popular type of hybrid corporation and the most common type of business.

*"The Notification of the Limited Liability Partnership Act, 2008 was issued by the Ministry of Law and Justice on January 9th, 2007, and the Act itself was ratified on December 12th, 2008. On January 7, 2009, the President gave his approval to the bill by signing it. This Act has been passed in order to make provisions for the formation and regulation of limited liability partnerships, as well as for matters that are connected with or incidental to limited liability partnerships".*

**Table 1: The LLP Act, 2008 has 81 sections and 4 schedules**

<b>The First Schedule</b>	Deals with mutual rights and duties of partners, as well limited liability partnership and its partners where there is absence of a formal agreement with respect to them.
<b>The Second Schedule</b>	Deals with conversion of a firm into LLP.
<b>The Third Schedule</b>	Deals with conversion of a private company into LLP.
<b>The Fourth Schedule</b>	Deals with conversion of unlisted public company into LLP.

The Registrar of Companies and the Ministry of Corporate Affairs (MCA) are the ones in charge of its administration (RoC). In accordance with the Limited Liability Partnership Act of 2008 (LLP Act), the Central Government is entrusted with the responsibility of formulating the Rules, and it is able to make alterations to these Rules at any time by publishing amendments in the Official Gazette.

### Concept of LLP

LLP is a relatively new type of legal business entity. [Paragraph 2(n)] The term "Limited Liability Partnership" refers to a partnership formed and registered pursuant to this Act. Not only does it offer the benefits of limited liability at a low compliance cost, but it also provides its partners with the flexibility to organise their internal structure as a conventional partnership based on an agreement reached by all parties. This alternative corporate form is known as a limited liability company (LLC). The LLP is a separate legal entity; consequently, while the LLP is responsible for the entirety of its assets, the partners' personal liability is limited. A limited liability partnership (LLP) is referred to as a hybrid between a corporation and a partnership because it combines elements of both "a corporate structure" and "a partnership firm structure."

## 2. Benefits of LLPs in Entrepreneurship and Inclusive Growth of the Small Enterprises

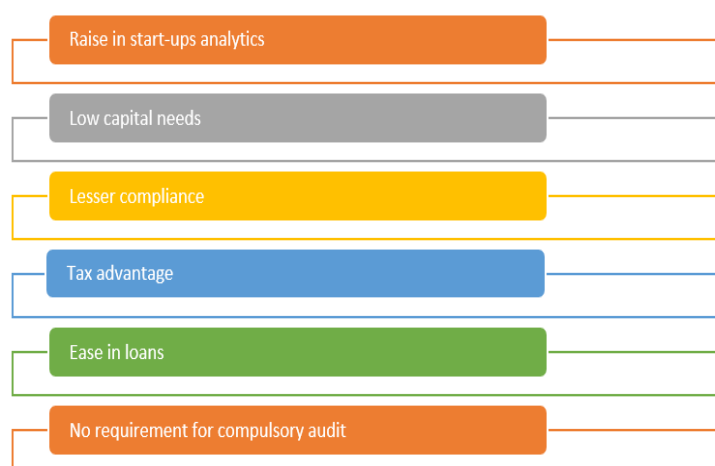


Figure 1

## 3. Review Literature

Sharma and Garg wrote a paper about limited liability partnerships in 2014. In it, they tried to answer a number of questions about how limited liability partnerships work and how they work in general. Based on what the research showed, it was decided that the number of limited liability partnerships (LLPs) in India will grow in the near future. This is because this type of organisation has many advantages over partnership and company. Because taxation, along with limited liability, is a big reason why LLP partners want to work together, Singh (2007) suggested that changes should be made to the income tax rules that deal with taxation issues. These changes would be made because taxes are a big reason why people do things. The results of Bharat (2013) show that the Limited Liability Partnership (LLP) will be helpful and will give the Indian business environment a bright and rosy future. Varottil (2014) explained the political and legislative process and looked at important parts of the Indian LLP Act. He also looked at some of the problems and unknowns that could stop the LLP form from working. Since there hasn't been much research on limited liability partnerships (LLPs) in India before, this study's findings led to the conclusion that the LLP Act's history and reasons for being are very important and timely. Even though not much research had been done on LLPs in India before, this was the conclusion that was reached. Gandhi and Thakur came to the conclusion that a limited liability partnership (LLP) is the best choice for small and medium-sized enterprises (SMEs) that want a business structure with limited liability and easier setup and taxation. After looking into the subject, they came to this conclusion. They also said that lawmakers should deal with these problems to make sure that these structures work well. According to Khan and Azam's (2012) explanation, the Goods and Services Tax (GST) would be good for customers because it would lower the overall tax burden. These articles come from many different places, some of which are national and some of which are international. This study looks into and explains why there are more and more LLPs in the business world. This report also looks at both the obligation to contribute and the business activity of LLPs in India as of June 30, 2018. In these situations, the most recent research is different from earlier research in a number of ways and presents information that has already been written about.

As a consequence of this, it is not entirely clear whether limited liability partnerships (LLPs), also known as limited partnerships with limited liability, are primarily entities that provide financial or professional services, as was typically the case with the non-limited partnership form. But, as was already said, limited liability is thought to encourage the creation of new businesses in all fields. Studies show that professional or service organisations would mostly use the new form (Moizer and Hansford-Smith, 1998). (McCahery and his coworkers, 2007) This is because using the LLP form to limit personal liability is important for partners in businesses that offer services where "things can go wrong," where lawsuits are possible or likely, and where personal assets need to be protected. This is because businesses that offer services where "things can go wrong" should use the LLP form to limit

their personal liability. Because of this, it is important for companies that offer services where "things can go wrong" to use the LLP form to protect themselves and limit their personal liability. Unless the members of a limited liability partnership (LLP) agree to something different or a liquidator brings a claim for illegal trading, the members' liability for the partnership's debts is limited to the proportion of the partnership's assets that corresponds to their share of those debts. Because of this, the LLP is an attractive choice in these kinds of situations (Young, 2000). To put it another way, we can say that "because the LLP is a body corporate, any acts that are performed by its members are considered to be the agents of their respective principals." As a direct consequence of this, the LLP is the legal entity that is accountable for clearing any debts and delivering on any obligations. Due to this fact, individual members are protected from the risk of incurring any personal liability (Blair, 2008, p3). As a result, the Act functions under the presumption that third parties will typically enter into contracts with the LLP as opposed to contracting directly with an individual member of the LLP (Freedman and Finch, 2002). As a result, the LLP will be solely responsible for any contractual liability (Freedman and Finch, 2002), whereas the individual partners and the LLP will each be partially responsible for any professional negligence that may occur.

#### 4. Problem Statement

A study of LLPs in relation to SMEs is important because there is a lot of academic literature on how small and medium-sized businesses start up and grow in the UK (for example, Hughes and Storey, 1994), but this literature doesn't usually talk about the legal form that SMEs choose to use. 15 Most studies, on the other hand, look at how banks lend money to businesses based on things like the size of the borrower's business, how long it has been in business, or what kind of business it is (Berry et al., 2004; de la Torre et al., 2010).

#### 5. Research Methodology

The research being done now is quantitative and uses a secondary approach. Only secondary data have been used as the basis for the research. The information came from books, online journals, and government websites.

#### 6. Objectives of the Study

- To analyse the economic activity-wise active LLP in India
- To showcase obligation of contribution wise active LLPs in India
- To examine the benefits of LLPs for small enterprises in India

**Table 2: Economic Activity wise Active LLP During 2022**

Sl. No.	Economic Activity of LLPs	No. of LLPs
1	Business Services	1107
2	Manufacturing	1381
3	Trading	1862
4	Community, Personal and Social Services	2833
5	Construction	1010
6	RE & R	1132
7	Agriculture and allied activities	129
8	Finance	183
9	Transport, Storage and Communication services	798
10	Electricity, Gas and Water Supply	80
11	Mining and Quarrying	74
12	Insurance	3
<b>TOTAL</b>		<b>10592</b>

**Table 3: Distinction between LLP and Limited Liability Company**

Sr. No.	Basis	LLP	Limited Liability Company
1.	Regulating Act	The LLP Act, 2008.	The Companies Act, 2013.
2.	Members/Partners	The persons who contribute to LLP are known as partners of the LLP.	The persons who invest the money in the shares are known as members of the company.
3.	Internal governance structure	The internal governance structure of a LLP is governed by contract agreement between the partners.	The internal governance structure of a company is regulated by statute (i.e., Companies Act, 2013).
4.	Name	Name of the LLP to contain the word "Limited Liability partnership" or "LLP" as suffix.	Name of the public company to contain the word "limited" and Pvt. Co. to contain the word "Private limited" as suffix.
5.	No. of members/partners	Minimum – 2 members Maximum – No such limit on the members in the Act. The members of the LLP can be individuals/or body corporate through the nominees.	Private company: Minimum – 2 members Maximum – 200 members Public company: Minimum – 7 members  Maximum – No such limit on the members. Members can be organizations, trusts, another business form or individuals.
6.	Liability of members/partners	Liability of a partners is limited to the extent of agreed contribution in case of intention is fraud.	Liability of a member is limited to the amount unpaid on the shares held by them.
7.	Management	The business of the company managed by the partners including the designated partners authorized in the agreement.	The affairs of the company are managed by board of directors elected by the shareholders.
8.	Minimum number of directors/designated partners	Minimum 2 designated partners.	Pvt. Co. – 2 directors Public co. – 3 directors

**Table 4 : Economic Activity-wise Active LLPs During November 2022-January 2023**

Sl. No.	Economic Activity	Number	Obligation of Contribution (in Rs Crore)
<b>I</b>	<b>Agriculture and Allied Activities</b>	<b>157</b>	<b>24.65</b>
<b>II</b>	<b>Industry</b>	<b>2,580</b>	<b>349.61</b>
1	Manufacturing	1,318	154.49
2	Construction	1,091	128.39
3	Mining & Quarrying	87	8.53
4	Electricity, Gas & Water Companies	84	58.20
<b>III</b>	<b>Services</b>	<b>7,741</b>	<b>585.35</b>
1	Business Services	1,063	29.49
2	Trading	1,790	122.76
3	Real Estate and Renting	1,297	168.11
4	Community, personal & Social Services	2,662	154.29
5	Transport, storage and Communications	767	71.56
6	Finance	162	39.14
7	Insurance	-	-
<b>IV</b>	<b>Others</b>	<b>-</b>	<b>-</b>
	<b>Total</b>	<b>10,478</b>	<b>959.61</b>

Source : MIB\_January-2023

Table 5: Detailed Economic Activity-wise Active LLPs as on 31st January, 2023

Sl. No.	Economic Activity	Number	Obligation of Contribution (in Rs Crore)
<b>I</b>	<b>Agriculture and Allied Activities</b>	<b>5,456</b>	<b>1,768.35</b>
<b>II</b>	<b>Industry</b>	<b>63,895</b>	<b>32,398.87</b>
<b>1</b>	Manufacturing	36,852	18,593.14
<b>i</b>	<i>Metals &amp; Chemicals, and products thereof</i>	10,303	7,123.64
<b>ii</b>	<i>Machinery &amp; Equipments</i>	6,628	4,455.81
<b>iii</b>	<i>Food stuffs</i>	7,645	2,161.71
<b>iv</b>	<i>Textiles</i>	5,092	2,207.10
<b>v</b>	<i>Others</i>	3,576	1,477.39
<b>vi</b>	<i>Paper &amp; Paper products, Publishing, printing and reproduction of recorded media</i>	2,681	904.11
<b>vii</b>	<i>Leather and products thereof</i>	478	117.94
<b>viii</b>	<i>Wood Products</i>	449	145.44
<b>2</b>	Construction	23,455	10,085.43
<b>3</b>	Mining & Quarrying	1,751	541.03
<b>4</b>	Electricity, Gas & Water Companies	1,837	3,179.26
<b>III</b>	<b>Services</b>	<b>198,364</b>	<b>128,384.60</b>
<b>1</b>	Business Services	84,396	48,055.27
<b>2</b>	Trading	45,084	12,803.28
<b>3</b>	Real Estate and Renting	25,669	16,962.04
<b>4</b>	Community, personal & Social Services	30,985	11,593.63
<b>5</b>	Transport, storage and Communications	8,002	1,076.73
<b>6</b>	Finance	3,822	37,198.01
<b>7</b>	Insurance	406	695.64
<b>IV</b>	<b>Others</b>	<b>3</b>	<b>0.11</b>
	<b>Total</b>	<b>267,718</b>	<b>162,551.92</b>

Source : MIB\_January-2023

Table 6: Obligation of Contribution wise Active LLPs as on 31st January, 2023

Sl. No.	Obligation of Contribution Range	Number	Obligation of Contribution (in Rs Crore)
<b>1</b>	Up to 1 lakh	196,662	1,472.34
<b>2</b>	Above 1 lakh to 5 lakh	29,684	933.25
<b>3</b>	Above 5 lakh to 10 lakh	14,293	1,321.62
<b>4</b>	Above 10 lakh to 25 lakh	8,259	1,514.11
<b>5</b>	Above 25 lakh to 50 lakh	5,849	2,370.61
<b>6</b>	Above 50 lakh to 1 crore	4,939	4,175.52
<b>7</b>	Above 1 crore to 2 crore	2,658	4,126.61
<b>8</b>	Above 2 crore to 5 crore	2,711	9,497.55
<b>9</b>	Above 5 crore to 10 crore	1,217	9,389.06
<b>10</b>	Above 10 crore to 25 crore	842	13,611.09
<b>11</b>	Above 25 crore to 100 crore	477	23,311.52
<b>12</b>	Above 100 crore	127	90,828.63
	<b>Total</b>	<b>267,718</b>	<b>162,551.92</b>

Source : MIB\_January-2023

### 7. LLPs (Limited Liability Partnerships) are becoming increasingly popular among small business entities in India because of the following reasons:

- Protection from Personal Liability: LLPs provide their partners with limited protection from personal liability. This ensures that the personal assets of the partners are not put in jeopardy in the event that the LLP is subject to any kind of legal action. To the extent of each partner's contribution to the LLP, that person's personal liability is capped and limited.



- A High Degree of Management and Operational Flexibility Limited liability partnerships (LLPs) offer a high degree of management and operational flexibility. The structure of the LLP, the profit-sharing ratio, and management responsibilities are all up for discussion and decision-making among the partners. Because of this, it is possible for small businesses to run their operations according to their preferences and customise them to meet the specific requirements of their company.
- A LLP is regarded as being a separate legal entity from its partners. It has the ability to own assets, enter into contracts, sue or be sued in its own name, and enter into contracts on its own behalf. Raising capital, owning assets, and signing contracts become less difficult for smaller businesses as a result of this.
- Reduced tax burden because LLPs are taxed in the same manner as partnerships, their income is not subject to taxation at the entity level. Instead, the income is distributed to the partners, and each partner is taxed according to the proportion of the income that is attributable to them. Due to this, LLPs have a lower overall tax burden compared to other types of business structures.
- Simple to Incorporate: The process of registering a limited liability partnership (LLP) is relatively straightforward, and the requirements for compliance are minimal in comparison to those for other types of business structures. This makes it simpler for small businesses to establish their operations and continue running them.
- Perpetual Existence: A limited liability partnership (LLP) possesses perpetual existence, which indicates that it continues to exist even in the event that one or more of its partners withdraws from the LLP or dies. This provides the company with stability and ensures that it will be able to carry on its operations without any disruptions.

In general, limited liability partnerships (LLPs) are an excellent option for small business entities because they provide a variety of benefits that are crafted to meet the specific requirements of small businesses. LLPs are an appealing choice for individuals who are interested in venturing out on their own and starting their own business because of their adaptability, limited liability protection, tax efficiency, and straightforward registration process.

#### 8. Findings of the study

- As of the 28th of February in the year 2022, there were more than 264,000 limited liability partnerships (LLPs) registered in India, as reported by the Ministry of Corporate Affairs (MCA).
- With over 54,000 registered limited liability partnerships (LLPs), Maharashtra has the highest number of LLPs in the country, followed by Delhi with over 27,000 and Tamil Nadu with over 19,000.
- Distribution-wise, the number of limited liability partnerships (LLPs) that are registered is highest in the business of providing services (over 141,000), followed by the business of trading (over 57,000).
- As of the 28th of February in the year 2022, there were a total of 112 foreign LLPs that were registered in India.
- A report compiled by the MCA indicates that limited liability partnerships (LLPs) produced a total revenue of INR 1.62 lakh crore during the fiscal year 2019-20.
- It is estimated that limited liability partnerships (LLPs) have been responsible for the creation of over 2.5 million jobs in India.
- The number of limited liability partnerships (LLPs) that are registered in India has been steadily growing over the course of the past several years. Over 26,000 new limited liability partnerships (LLP) were registered during the fiscal year 2020-21.
- For the most part, the adaptability, limited liability protection, and tax efficiency offered by LLPs have contributed to their rise to prominence as a preferred option among small business owners and entrepreneurs in India.

## 9. Conclusion

Based on the results of this research, local, state, and federal governments, as well as other organisations, should think about enacting new policies and revising existing ones. This is essential for encouraging capital investment in both established and emerging fields. After major tax reforms in India, such as the Companies Act of 2013, the goods and services tax was implemented on July 1, 2017, absorbing virtually all other indirect taxes. This paved the way for both domestic and international startups to set up shop in India. One of the statutes that underwent change was the Companies Act of 2013. Due to economic liberalisation, rising domestic demand, and a high return on investment, India has become a credible investment destination for both domestic and international investors. Despite competitive international markets, India is investing in its infrastructure to help startups get off the ground, which will lead to more opportunities for those businesses.

A limited liability partnership (LLP) is the best business structure for new companies due to the low number of regulations required of them and the high potential for loss. By protecting them from the constant churn of compliance changes and removing the need for them to comply with archaic laws, it puts upstart companies in an enviable position. Moreover, it safeguards the partners' individual assets against liquidation in the event of a financial emergency. Limited liability partnerships (LLPs) seem to be a good fit for new businesses that are low on capital and lack the resources to deal with regulatory compliance issues. A limited liability partnership (LLP) is a good choice for new businesses because it requires less money to get started and fosters more open communication between partners. Aforementioned is the fact that the business world is ever-evolving. This emphasises the importance of building in some flexibility to respond to changes in the marketplace. Businesses' increasing reliance on technology and the rise of e-commerce, as well as the proliferation of small business sectors, are driving forces behind the LLP's emergence as the preferred business model.

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