General Circular No 09/2013

F.No. 1/10/2012-CL-V
Government of India
Ministry of Corporate Affairs
5th Floor, A Wing, Shastri Bhavan
Dr. R.P. Road, New Delhi-110001
Dated 30.4.2013

To,

All Regional Directors,
All Registrar of Companies,

Subject: Conversion of a firm into a Limited Liability Partnership – Clarification.

Sir,

The Ministry has been examining some of the issues raised by stakeholders with regard to clarifications on the provisions of the Limited Liability Partnership (LLP) Act, 2008 with regard to conversion of a partnership firm into LLP. The issues relate to clarification with regard to (i) conversion of multiple partnership firms (including audit firms) into a single LLP and (ii) manner in which appointee company shall take note of the change in the status of auditor once the relevant CA audit has got itself converted into a CA audit LLP as per the relevant provisions of the LLP Act, 2008.

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(2) The relevant issues have been examined in the Ministry in consultation with the 'Expert committee on LLP Issues' set up in the Ministry and following clarifications are conveyed for the guidance of concerned stakeholders:-

(i) The provisions of sections 55 and 58 of the LLP Act, 2008 read with Second Schedule thereto, inter-alia, provide for requirements in respect of conversion of a single partnership firm into a single LLP. The LLP Act, 2008 does not provide for conversion of two or more firms into a single LLP.

(ii) The provisions of section 58(4) (b) of the LLP Act, 2008 provide that on conversion of a firm into an LLP, as per the provisions of the said Act all property, assets, interests, rights, privileges, liabilities, obligations relating to the firm and the whole of the undertaking of the firm shall be transferred to and shall vest in the LLP without further assurance, act or deed. Accordingly, if a CA audit firm, being an auditor in a company under the Companies Act, 1956, gets converted into an LLP after complying with the relevant provisions of the LLP Act, 2008, then, such an LLP,

in accordance with the provisions of section 58(4) (b) of the LLP Act, 2008 would be deemed to be the auditor of the said company. Reference is also drawn to the notification number SO 1152(E) dated 23rd May, 2011 and General Circular 30A dated 26th May, 2011 of the Ministry in this regard. The relevant appointee company may take note of such change in status of the auditor through a resolution of the Board.

3. The concerned stakeholders, Registrar of Companies, appointee companies should take note of the above clarifications and comply accordingly.

Yours faithfully,

(J N Tikku)
Joint Director

Endt. No. 1/10/2012 CL-V dated 30.4.2013

Copy of circular forwarded for information to:

1. PS to Hon'ble Minister Corporate Affairs,
2. Sr PPS to Secretary, MCA,
3. PPS to AS, MCA
4. PPS/ PS to all Joint Secretaries, MCA
5. e-Governance section with a request to place the General Circular on the Ministry's Website (LLP section)
6. Secretaries of the Institute of Chartered Accountants of India, Institute of Cost Accountants of India, Institute of Company Secretaries of India.
7. Guard File

(J N Tikku)
Joint Director

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