Syllabus subtopic: Indian Economy and issues relating to Planning, Mobilization of Resources, Growth, Development and Employment.

Prelims and Mains focus: about the scheme and its benefits; about LLPs and their advantages

News: The government is set to introduce an amnesty scheme for Limited Liability Partnership (LLP) firms for delays in mandatory filings which could benefit 20-25 per cent of the 1.25 lakh LLPs registered in the country.

Aim: The move is aimed at bringing non-compliant LLPs into the legal fold.

Background

The government had in January extended a provision in the Companies Act to LLPs allowing it to condone delays in filing of documents. LLPs are a lower cost and lower compliance business structure relative to companies.

About the amnesty scheme

• Under the scheme, LLPs will be given a three-month window to complete overdue filings of four forms through which LLPs provide details of the LLP agreement, partners as well as statement of accounts and annual returns.

• The scheme which is set to be run for 90 days from March 16 to June 13 will allow LLPs to file these forms for a delay fee of Rs 10 per day with a maximum of Rs 5,000 per form. Under the LLP act, the charge for delayed filing is Rs 100 per day with no upper limit.

Non-compliance by LLPs

• Over 11,000 LLPs had not yet filed forms 3 and 4 which provide details of the LLP agreement and partners.
In cases where these forms have not been filed for 10 years, a stakeholder may have to pay over Rs 3.5 lakh (under the LLP Act). They are presently not completing filings because it is too expensive.

**Benefit of the move**

Experts say the move would improve compliance and may even prompt some LLPs to re-initiate business activity.

**Concept of "limited liability partnership" (LLPs)**

- LLP is an alternative corporate business firm that gives the benefits of limited liability of a company and the flexibility of a partnership.

- The LLP can continue its existence irrespective of changes in partners. It is capable of entering into contracts and holding property in its own name.

- The LLP is a separate legal entity, is liable to the full extent of its assets but liability of the partners is limited to their agreed contribution in the LLP.

- Further, no partner is liable on account of the independent or un-authorized actions of other partners, thus individual partners are shielded from joint liability created by another partner’s wrongful business decisions or misconduct.

- Mutual rights and duties of the partners within a LLP are governed by an agreement between the partners or between the partners and the LLP as the case may be. The LLP, however, is not relieved of the liability for its other obligations as a separate entity.

- Since LLP contains elements of both ‘a corporate structure’ as well as ‘a partnership firm structure’ LLP is called a hybrid between a company and a partnership.

**Advantages**
LLP form is a form of business model which:

i. is organized and operates on the basis of an agreement.

ii. provides flexibility without imposing detailed legal and procedural requirements

iii. enables professional/technical expertise and initiative to combine with financial risk taking capacity in an innovative and efficient manner.

**Difference between LLP & "traditional partnership firm"**

- Under “traditional partnership firm”, every partner is liable, jointly with all the other partners and also severally for all acts of the firm done while he is a partner.

- Under LLP structure, liability of the partner is limited to his agreed contribution. Further, no partner is liable on account of the independent or unauthorized acts of other partners, thus allowing individual partners to be shielded from joint liability created by another partner’s wrongful acts or misconduct.

**Difference between LLP & a Company**

- A basic difference between an LLP and a joint stock company lies in that the internal governance structure of a company is regulated by statute (i.e. Companies Act, 1956) whereas for an LLP it would be by a contractual agreement between partners.

- The management-ownership divide inherent in a company is not there in a limited liability partnership.

- LLP will have more flexibility as compared to a company.

- LLP will have lesser compliance requirements as compared to a company.