

F.No.1/13/2012 CL-V
Government of India
Ministry of Corporate Affairs
5th Floor, 'A' Wing, Shastri Bhavan
Dr. R.P.Road, New Delhi-110001
Dated: 27.05.2016

To
Sri Dhinal Shah, Chartered Accountant
Chairman,
Corporate Laws & Corporate Governance Committee
ICAI, ICAI Bhawan
Indraprastha Marg
New Delhi-110002

Subject: Regarding HUF/Karta can become partner/Designated Partner in Limited Liability Partnership.

Sir,

Kindly refer to your letter letter no. CL&CGC/06/2016-2017/Rep-09 dated 16-05-2016 on the subject cited above and to state that the Ministry has issued General Circular No. 13/2013 dated 29-07-2013 & Circular No. 2/2016 dated 15-01-2016 after prolonged consultation with the Ministry of Law & Justice. The Ministry of Law & Justice has observed that the Hon'ble Supreme Court in the matter reported in (1998) 2 SCC p.49, Rashiklal & Company vs. CIT has dealt with the issue and vide para 12 of the judgement has observed as under:


“Even if a person nominated by the HUF joins a partnership, the partnership will be between the nominated person and the other partners of the firm. Having regard to the definition of “partnership” and

"partners" and in view of the principle laid down in Dulichand case it is not possible to hold that an HUF being a fluctuating body of individuals, can enter into a partnership with other individual partners. It cannot do indirectly what it cannot do directly. If a Karta or any other member of the HUF joins a partnership, he can do so only as an individual. His rights and Obligations vis-à-vis other partners are determined by the Partnership Act and not by Hindu Law. Whatever may be the relationship between an HUF and its nominee partner, in a partnership, neither the HUF nor any member of the HUF can claim to be partner or connected with the partnership through a nominee. Where the Karta of an HUF enters into a partnership agreement with a stranger, the Karta alone in the eye of law is the partner."

2. In view of above, it is clear that HUF cannot be a partner but its Karta or any individual of HUF can be a partner in a partnership firm in its individual capacity and not the HUF.

3. This issues with the approval of the Secretary, MCA.

Yours faithfully,


(Kamna Sharma)
Deputy Director