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PART V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:-

THE INDIAN PARTNERSHIP (GUJARAT AMENDMENT) BILL, 2021.

GUJARAT BILL NO. 23 OF 2021.

A B I L L

further to amend the Indian Partnership Act, 1932 in its application to the State of Gujarat.

It is hereby enacted in the Seventy-second Year of the Republic of India as follows:-

1. (1) This Act may be called the Indian Partnership (Gujarat Amendment) Act, 2021. **Short title and commencement.**
- (2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint:

Provided that different dates may be appointed for different provisions of this Act.

Amendment of section 58 of 9 of 1932.

2. In the Indian Partnership Act, 1932 (hereinafter referred to as “the principal Act”), **9 of 1932.**
in section 58,-
- (a) in sub-section (1),
- (i) for the words “The registration of a firm”, the words, brackets, figure and letter “Subject to the provisions of sub-sections (1A) to (1C), the registration of a firm” shall be substituted;
- (ii) for the words “sending by post or delivering”, the word “furnishing” shall be substituted;
- (iii) for the words “a statement in the prescribed form and accompanied by the prescribed fee”, the words “a statement in such form and manner alongwith such documents and accompanied by such fee as may be prescribed” shall be substituted;
- (iv) after clause (a), the following clause shall be inserted, namely:-
“(aa) the nature of business of the firm.”;
- (b) after sub-section (1), the following sub-sections shall be inserted, namely:-
- “(1A) Each partner signing the statement and the firm shall have a Permanent Account Number (PAN) issued under the Income Tax Act, 1961 in order to be eligible for grant of registration of a firm under section 59: **43 of 1961.**
- Provided that a non-resident person being a partner in any firm may be allowed on the basis of such other documents as may be prescribed.
- (1B) On and from the date specified by the State Government, by notification in the *Official Gazette*, every individual partner shall, in order to be eligible for grant of registration of a firm under section 59, undergo authentication, or furnish proof of possession of Aadhaar number, in such manner as may be prescribed:
- Provided that if the Aadhaar number is not assigned to an individual, such individual shall be offered alternate and viable means of identification in such manner as may be prescribed.
- (1C) On and from the date specified by the State Government, by notification in the *Official Gazette*, every person, other than an individual partner, shall, in order to be eligible for grant of registration of a firm under section 59, undergo authentication, or furnish proof of possession of Aadhaar number of the Karta, Managing Director, whole time Director, such number of partners, Members of Managing Committee of Association, Board of Trustees, authorised representative, authorised signatory and such other class of persons, in such manner as may be prescribed:
- Provided that where such person or class of persons have not been assigned the Aadhaar Number, such person or class of persons shall be offered alternate and viable means of identification in such manner as may be prescribed.
- (1D) The provisions of sub-section (1B) or sub-section (1C) shall not apply to such person or class of persons, as the State Government may by notification in the *Official Gazette*, specify.
- Explanation.**— For the purposes of this section, the expression “Aadhaar number” shall have the same meaning as assigned to it in clause (a) of section 2 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016.”; **18 of 2016.**
- (c) for sub-section (3), the following sub-section shall be substituted, namely:-
- “(3) No firm shall be registered by any of the names or emblems specified in the Schedule to the Emblems and Names (Prevention of Improper Use) Act, 1950, or any colourable imitation thereof, unless permitted so to do under that Act, or any **12 of 1950.**

name which is likely to be associated by the public with the name of any other firm on account of similarity, or any name which, in the opinion of the Registrar, for reasons to be recorded in writing, is undesirable:

Provided that nothing in this sub-section shall apply to any firm registered under any such name, before the date of the commencement of the Indian Partnership (Gujarat Amendment) Act, 2021.

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Explanation.- For the purpose of this sub-section, the name shall be considered undesirable, if-

- (i) it includes the name of a registered trade mark or a trademark which is subject of an application for registration, unless the consent of the owner or applicant for registration, of the trade mark, as the case may be, has been obtained and produced by the firm;
- (ii) it includes any word or words which are offensive to any section of the people.”.

3. In the principal Act, section 59 shall be renumbered as sub-section (1) of that section and,-

Amendment of section 59 of 9 of 1932.

- (a) in sub-section (1) as so renumbered, for the words “, and shall file the statement”, the words “within such period as may be prescribed, and shall file the statement on the date such entry is recorded; and such firm shall be deemed to be registered on such date” shall be substituted;
- (b) after sub-section (1) as so renumbered, the following sub-sections shall be added, namely:-

“(2) Where the Registrar finds that the statement or any document furnished under section 58 is defective or incomplete with respect to any of the particulars required under this Act or rules made thereunder or any discrepancy or anomaly is found in the details furnished therein, he may intimate to the firm within such time and in such manner as may be prescribed for due rectification or clarification.

(3) The certificate of registration shall be issued in such form and in such manner as may be prescribed.

(4) In respect of intimation under sub-section (2), where no rectification or clarification is made within such time and in such manner as may be prescribed or where the Registrar is not satisfied with rectification, clarification, information or documents furnished, he shall, for reasons to be recorded in writing, refuse the registration of firm and shall inform the firm in such form, within such time and in such manner as may be prescribed.

(5) The firm which is registered, shall use the brackets and word “(Registered)” immediately after its name.”.

4. In the principal Act, in section 60,-

Amendment of section 60 of 9 of 1932.

- (a) in sub-section (1),
 - (i) for the words “a statement may be sent to the Registrar accompanied by the prescribed fee ”, the words “a statement may be furnished to the Registrar in such form and manner alongwith such documents and accompanied by such fee as may be prescribed,” shall be substituted;
 - (ii) the following proviso shall be inserted, namely:-

“Provided that no alteration in the firm name shall be made unless such firm furnishes a Permanent Account Number issued under the Income Tax Act, 1961.”; **43 of 1961.**

- (b) in sub-section (2),
- (i) after the words “accordance with the statement”, the words “within such period as may be prescribed” shall be inserted;
- (ii) after the words and figures “section 59”, the words “and the details of such firm shall be deemed to be altered on such date” shall be inserted;
- (c) after sub-section (2), the following sub-sections shall be added, namely;-

“(3) Where the Registrar finds that the statement or any document furnished under sub-section (1) is defective or incomplete with respect to any of the particulars required under this Act or the rules made thereunder or any discrepancy or anomaly is found in the details furnished therein, he shall intimate to the firm within such time and in such manner as may be prescribed for due rectification or clarification.

(4) In respect of intimation under sub-section (3), where no rectification or clarification is made within such time and in such manner as may be prescribed or where the Registrar is not satisfied with clarification, information or documents furnished, he shall, for reasons to be recorded in writing, refuse the alteration and shall inform the firm in such form, within such time and in such manner as may be prescribed.”.

Amendment of section 61 of 9 of 1932.

5. In the principal Act, in section 61, for the words “may send intimation thereof”, the word “may furnish intimation thereof in such form and manner alongwith such documents and accompanied by such fee as may be prescribed,” shall be substituted.

Amendment of section 62 of 9 of 1932.

6. In the principal Act, in section 62, for the words “may be sent”, the words “may be furnished in such form and manner alongwith such documents and accompanied by such fee as may be prescribed,” shall be substituted.

Amendment of section 63 of 9 of 1932.

7. In the principal Act, in section 63,-
- (a) in sub-section (1),
- (i) for the words “may give notice to the Registrar of such change or dissolution, specifying the date thereof”, the words “shall, within a period of ninety days from the date of such change or dissolution, furnish notice to the Registrar of such change or dissolution, specifying the date thereof, in such form and manner alongwith such documents and accompanied by such fee as may be prescribed,” shall be substituted;
- (ii) the following proviso shall be inserted, namely:-

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“Provided that in case any firm registered under this Act before the date of commencement of the Indian Partnership (Gujarat Amendment) Act, 2021 and where information relating to such change or dissolution has not been provided, the notice relating to such change or dissolution shall be furnished within such period as—by the State Government may by notification in the *Official Gazette*, specify.”;

- (b) in sub-section (2),
- (i) for the words “may give notice”, the words “shall, within a period of ninety days from the date of his election, furnish notice in such form

and manner and containing such documents and accompanied by such fee as may be prescribed,” shall be inserted;

(ii) the following proviso shall be inserted, namely:-

“Provided that in case any firm registered under this Act before the date of commencement of the Indian Partnership (Gujarat Amendment) Act, 2021 and where information relating to such election has not been provided, the notice relating to such election shall be furnished within such period as may be specified by the State Government by notification in the *Official Gazette*.”;

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(c) after sub-section (2), the following sub-sections shall be added, namely:-

“(3) Where the Registrar finds that the notice or any document furnished under sub-section (1) or sub-section (2) is defective or incomplete with respect to any of the particulars required under this Act or rules made thereunder or any discrepancy or anomaly is found in the details furnished therein, he shall intimate to the partner or his agent within such time and in such manner as may be prescribed for due rectification or clarification.

(4) In respect of intimation under sub-section (3), where no rectification or clarification is made within such time and in such manner as may be prescribed or where the Registrar is not satisfied with the clarification, information or documents furnished, he shall, for reasons to be recorded in writing, refuse the change or dissolution and shall inform the partner or his agent in such form, within such time and in such manner as may be prescribed.

(5) Where a notice under sub-section (1) or sub-section (2) is not furnished to the Registrar, within the period specified therein, the Registrar may, make the record of such notice, upon payment of charges as may be prescribed, for delay in furnishing the same, in respect of the period between the date of expiry of the specified period and the date of making such payment.”.

8. In the principal Act, after section 70, the following sections shall be added, namely:-

Insertion of new sections 70A to 70C in 9 of 1932.

Permanent Account Number of partners and the registered firm.

“70A. Every partner and the registered firm shall furnish a Permanent Account Number (PAN) issued under the Income Tax Act, 1961 in such manner and within such time as may be prescribed:

43 of 1961.

Provided that in case of failure to furnish a Permanent Account Number, registration allotted to such firm shall be deemed to be invalid.

Aadhaar Authentication of partners of the registered firm.

70B. Every partner of the registered firm shall undergo authentication, or furnish proof of possession of Aadhaar number, in such form and manner and within such time as may be prescribed:

Provided that if an Aadhaar number is not assigned to the partner of the registered firm, such partner shall be offered alternate and viable means of identification in such manner as the State Government may prescribe:

Provided further that in case of failure to undergo authentication or furnish proof of possession of Aadhaar number or furnish alternate and viable means of identification, registration allotted to such firm shall be deemed to be invalid.

70C. Any person aggrieved by an order of the Registrar under sub-section (3) of section 58, sub-section (4) of section 59, sub-section (4) of section 60 or sub-section (4) of section 63, may file an appeal before such authority, in such form, within such time, in such manner and on payment of such fee as may be prescribed; and the appeal shall be heard and decided in such manner as may be prescribed.” **Appeal.**

**Amendment
of section 71
of 9 of 1932.**

- 9.** In the principal Act, in section 71, -
- (i) in sub-section (1), -
- (a) after the words “prescribing the fees”, the words “the manner of payment and amount of fees” shall be inserted;
- (b) the existing proviso shall be deleted.;
- (ii) in sub-section (2), after clause (b), the following clause shall be inserted, namely:-
- “(bb) prescribing the portal for facilitating registration of firms and payment of fees under this Act;”.

**Deletion of
Schedule I of
9 of 1932.**

- 10.** In the principal Act, the existing Schedule I shall be deleted.

STATEMENT OF OBJECTS AND REASONS

The Indian Partnership Act, 1932 (the Central Act) was enacted with a view to define and amend the law relating to partnership. The power to appoint Registrar of Firms has been vested in the State Government under section 57 of the Act. Consequently, all proceedings related to registration of partnership firm and amendment therein are executed by the State Government.

As the Central Act was enacted almost ninety years back, certain anomalies in the provisions related to the registration of firm and amendments therein, charging of fees, dissolution of the firm, change of partners, etc. are found with respect to their implementation in the present circumstances. Further, important provisions such as identity of partners, a Permanent Account Number of the firm, refusal of registration and appeal against the order of Registrar are also required to be made in the said Central Act.

In order to overcome such anomalies and deficiencies, it is required to amend the Indian Partnership Act, 1932 with respect to its implementation in the State of Gujarat.

This Bill seeks to amend the said Central Act to achieve the aforesaid objects.

KANUBHAI DESAI,

MEMORENDUM REGARDING DELEGATED LEGISLATION

This Bill involves the delegation of legislative powers in the following respects:-

Clause 1.- Sub-clause (2) of this clause empowers the State Government, by notification in the *Official Gazette*, to appoint the date on which the Act shall come into force. It also empowers the State Government to appoint different dates for different provisions of the Act.

Clause 2.-

- (i) Sub-section (1) of section 58 of the Indian Partnership Act, 1932 proposed to be amended by para (iii) of sub-clause (a) of this clause empowers the State Government to prescribe by rules, the form and the manner in which, the documents alongwith which and the fees accompanied by which, the statement may be furnished to the Registrar of the area in which any place of business of the firm is situated or proposed to be situated;
- (ii) Proviso to new sub-section (1A) proposed to be inserted in section 58 of the Indian Partnership Act, 1932 by sub-clause (b) of this clause empowers the State Government to prescribe by rules, the other documents basis on which a Non-resident person being a partner in any firm may be allowed for registration of a firm;
- (iii) New sub-section (1B) proposed to be inserted in section 58 of the Indian Partnership Act, 1932 by sub-clause (b) of this clause empowers the State Government, by notification in the *Official Gazette*, to specify the date on which every individual partner shall, in order to be eligible for grant of registration of a firm under section 59, undergo authentication, or furnish proof of possession of Aadhaar number; it also empowers the State Government to prescribe by rules, the manner for authentication or furnish proof of Aadhaar number; proviso to sub-section (1B) empowers the State Government to prescribe by rules, the manner in which individual shall be offered alternate and viable means of identification if the Aadhaar number is not assigned to such individual;
- (iv) New sub-section (1C) proposed to be inserted in section 58 of the Indian Partnership Act, 1932 by sub-clause (b) of this clause empowers the State Government by notification in the *Official Gazette*, to specify the date on which every person other than an individual partner, shall, in order to be eligible for grant of registration of a firm under section 59, undergo authentication, or furnish proof of possession of Aadhaar number of

the *Karta*, Managing Director, whole time Director, such number of partners, Members of Managing Committee of Association, Board of Trustees, authorised representative, authorised signatory and such other class of persons; ; it also empowers the State Government to prescribe by rules, the manner for authentication or furnish proof of Aadhar number; proviso to sub-section (1C) empowers the State Government to prescribe by rules, the manner in which the person or class of persons shall be offered alternate and viable means of identification if the Aadhaar number is not assigned to such person or class of persons;

- (v) New sub-section (1D) proposed to be inserted in section 58 of the Indian Partnership Act, 1932 by sub-clause (b) of this clause empowers the State Government by notification in the *Official Gazette*, to specify the persons to whom or class of persons to which the provisions of sub-section (1B) or sub-section (1C) shall not apply.

Clause 3.- (i) Sub-section (1) (as so renumbered) of section 59 of the Indian Partnership Act, 1932 proposed to be amended by sub-clause (a) of this clause empowers the State Government to prescribe by rules, the period within which the Registrar shall record an entry of statement in a register of firms;

- (ii) New sub-section (2) proposed to be added in section 59 of the Indian Partnership Act, 1932 by sub-clause (b) of this clause empowers the State Government to prescribe by rules, the time within which and the manner in which the Registrar may intimate to the firm to rectify or clarify if the statement or any document furnished under sub-section (1) of section 59 of the Act is defective or incomplete with respect to any of the particulars required under the said Act or rules made thereunder or any discrepancy or anomaly is found in the details furnished therein;

- (iii) New sub-section (3) proposed to be added in section 59 of the Indian Partnership Act, 1932 by sub-clause (b) of this clause empowers the State Government to prescribe by rules, the form and the manner in which the certificate of registration of firm shall be issued;

- (iv) New sub-section (4) proposed to be added in section 59 of the Indian Partnership Act, 1932 by sub-clause (b) of this clause empowers the State Government to prescribe by rules, the form in which, the time within which and the manner in which the Registrar shall inform the firm for refusal of registration stating reasons to be recorded therein.

Clause .4- (i) Sub-section (1) of section 60 of the Indian Partnership Act, 1932 proposed to be amended by sub-clause (a) of this clause empowers the State Government to prescribe by rules, the form and the manner in which, the documents alongwith which and the fees accompanied by which, the statement specifying the alteration in the firm name or in the location of the principal place of business of a registered firm and signed and verified in the manner required under section 58, may be furnished to the Registrar;

- (ii) sub-section (2) of section 60 of the Indian Partnership Act, 1932 proposed to be amended by sub-clause (b) of this clause empowers the State Government to prescribe by rules, the period within which the registrar shall amend the entry relating to the firm in the Register of Firms;

- (iii) New sub-section (3) proposed to be added in section 60 of the Indian Partnership Act, 1932 by sub-clause (c) of this clause empowers the State Government to prescribe by rules, the time within which and the manner in which the Registrar may intimate to the firm to rectify or clarify if the statement or any document furnished under sub-section (1) of section 60 of the Act is defective or incomplete with respect to any of the particulars required under the said Act or rules made thereunder or any discrepancy or anomaly is found in the details furnished therein;

- (iv) New sub-section (4) proposed to be added in section 60 of the Indian Partnership Act, 1932 by sub-clause (c) of this clause empowers the State Government to prescribe by rules, the form in which, the time within which and the manner in which the Registrar shall inform the firm for refusal of registration stating reasons to be recorded therein.

Clause 5.- Section 61 of the Indian Partnership Act, 1932 proposed to be amended by this clause empowers the State Government to prescribe by rules, the form and the manner in which, the documents alongwith which and the fees accompanied by which, any partner or an agent of the registered firm may furnish information to the Registrar, when such firm discontinue its business at any place or begins to carry on business at any place or such place not being its principal place of business.

Clause 6.- Section 62 of the Indian Partnership Act, 1932 proposed to be amended by this clause empowers the State Government to prescribe by rules, the form and the manner in which, the documents alongwith which and the fees accompanied by which, any partner or agent of the registered firm may furnish an intimation to the Registrar, when any partner in a registered firm alters his name or permanent address.

- Clause 7.-**
- (i) Sub-section (1) of section 63 of the Indian Partnership Act, 1932 proposed to be amended by sub-clause (a) of this clause empowers the State Government to prescribe by rules, the form and the manner in which, the documents alongwith which and the fees accompanied by which, any person who was a partner immediately before the dissolution, or the agent of any such partner or person specially authorised in this behalf, may furnish notice to the Registrar regarding the change occurs in the constitution of a registered firm, any incoming, continuing or outgoing partner and dissolution of such registered firm, within a period of ninety days from the date of such change or dissolution;
- (ii) Proviso proposed to be inserted in sub-section (1) of section 63 of the Indian Partnership Act, 1932 proposed to be inserted by sub-clause (a) of this clause empowers the State Government to specify, by notification in the *Official Gazette*, the period within which a notice relating to change or dissolution occurred with respect to any firm registered before the date of commencement of the Indian partnership (Gujarat Amendment) Act, 2021, shall be furnished;
- (iii) Sub-section (2) of section 63 of the Indian Partnership Act, 1932 proposed to be amended by sub-clause (b) of this clause empowers the State Government to prescribe by rules, the form and the manner in which, the documents alongwith which and the fees accompanied by which, a minor who has been admitted to the benefits of partnership in a firm attains majority and elects to become or not to become a partner, and the firm is then a registered firm, he, or his agent specially authorised in this behalf, may, within a period of ninety days from the date of his election, furnish notice to the Registrar that he has or has not become a partner;
- (iv) Proviso proposed to be inserted in sub-section (2) of section 63 of the Indian Partnership Act, 1932 proposed to be inserted by sub-clause (b) of this clause empowers the State Government to specify, by notification in the *Official Gazette*, the period within which, a notice relating to election for becoming a partner or not to become a partner of any firm registered before the date of commencement of the Indian partnership (Gujarat Amendment) Act, 2021, shall be furnished;
- (v) New sub-section (3) proposed to be added in section 63 of the Indian Partnership Act, 1932 by sub-clause (c) of this clause empowers the State Government to prescribe by rules, the time within which and the manner in which the Registrar may intimate to the firm to rectify or clarify if the statement or any document furnished under sub-section (1) or sub-section (2) of section 63 of the Act is defective or incomplete with respect to

any of the particulars required under the said Act or rules made thereunder or any discrepancy or anomaly is found in the details furnished therein;

- (vi) New sub-section (4) proposed to be added in section 63 of the Indian Partnership Act, 1932 by sub-clause (c) of this clause empowers the State Government to prescribe by rules, the form in which, the time within which and the manner in which the Registrar shall inform the partner or his agent for refusal of registration stating reasons to be recorded therein;
- (vii) New sub-section (5) proposed to be added in section 63 of the Indian Partnership Act, 1932 by sub-clause (c) of this clause empowers the State Government to prescribe by rules, the charges to be paid for making the record of notice furnished under sub-section (1) or sub-section (2) of section 63 of the said Act, for delay in furnishing the same, in respect of the period between the date of expiry of the specified period and the date of making such payment.

Clause 8.-

- (i) New section 70A proposed to be inserted in the Indian Partnership Act, 1932 by this clause empowers the State Government to prescribe by rules, the manner in which and the time within which every partner and the registered firm shall furnish a Permanent Account Number (PAN);
- (ii) New section 70B proposed to be inserted in the Indian Partnership Act, 1932 by this clause empowers the State Government to prescribe by rules, the manner in which and the time within which every partner and the registered firm shall undergo authentication or furnish proof of Aadhar number;
- (iii) Proviso to new section 70B proposed to be inserted by this clause empowers the State Government to prescribe by rules, the manner in which the partner of a registered firm shall be offered alternate and viable means of identification if an Aadhar number is not assigned to such partner;
- (iv) New section 70C proposed to be inserted in the Indian Partnership Act, 1932 by this clause empowers the State Government to prescribe by rules, the authority before which, the form in which, the manner in which, the time within which and the fee to be paid with, any person aggrieved by an order of the Registrar under sub-section (3) of section 58, sub-section (4) of section 59, sub-section (4) of section 60 or sub-section (4) of section 63, may file an appeal.

The delegation of powers as aforesaid is necessary and is of a normal character.

Dated the 21st September, 2021.

KANUBHAI DESAI,

By order and in the name of the Governor of Gujarat,

K. M. LALA,

Secretary to the Governor of Gujarat,
Legislative and Parliamentary Affairs Department

Gandhinagar.

Dated the 22nd September, 2021.

