



भारत सरकार / GOVERNMENT OF INDIA

पोत परिवहन मंत्रालय / MINISTRY OF SHIPPING

नौवहन महानिदेशालय / DIRECTORATE GENERAL OF SHIPPING

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Sub - Clarification on registration of vessels owned by partnership firms- reg.

The Directorate General of Shipping [DGS], Govt. of India, Mumbai has received queries seeking clarification with regard to the ambiguity as to "*whether partnership firms could register vessels in the name of the firm under the provisions of Merchant Shipping Act, 1958 and also whether partnerships comprising Indian nationals and foreign nationals could also be considered for registering vessels owned by such partnership firms*".

2. The matter was examined at the Directorate in light of the provisions of the Merchant Shipping Act, 1958 [MS Act] and the Partnership Act, 1932.
3. Section 21 & 22 of the Merchant Shipping Act, 1958 deals with 'Indian ships' and 'obligation to register'. Section 21 of the Merchant Shipping Act, 1958 is as follows:

"Quote

Indian Ships - For the purposes of the Act, a ship shall not be deemed to be an Indian ship unless owned wholly by persons to each of whom any of the following descriptions applies

- (a) a citizen of India; or
- (b) a company or a body established by or under any Central or State Act which has its principal place of business in India; or
- (c) a co-operative society which is registered or deemed to be registered under the Co-operative Societies Act, 1912, or any other law relating to co-operative societies for the time being in force in any State.

Unquote"

4. In view of clause (b) of Section 21 of the MS Act, the issue whether a partnership firm could be considered as '*a body established by or under any Central or State Act which has its principal place of business in India*' was examined, so as to consider its eligibility for registering vessels owned by them in the name of the firm.

5. In order to examine the subject matter, it is pertinent to discuss in brief the related provisions of the Partnership Act, 1932 and the MS Act, 1958.

6. Section 4 of the Indian Partnership Act, 1932 defines 'Partnership' as the relation between persons who have agreed to share the profits of a business carried on by all or any of them acting for all. Also, as per Section 5 of the Partnership Act, the relation of partnership arises from contract and not from status. In addition, as per Section 2(a) of the Partnership Act, "act of a firm" means any act or omission by all the partners, or by any partner or agent of the firm which gives rise to a right enforceable by or against the firm.

7. Section 10 of the Partnership Act indicates that partners will indemnify the firm for loss by fraud in conduct of business. The rights and duties of the partners are decided by contract as mentioned in section 11 of the Partnership Act. Dissolution of the firm can be done by contract, or even by consent of partners.

8. These provisions of the Partnership Act, 1932 indicates that a partnership firm is centric to its partners and its existence depends upon the partners. The above provisions also indicates that partnership is a relationship between persons and it therefore cannot be considered as '*a body established by or under any Central or State Act*', even if the partnership is registered with an Appropriate Authority.

9. Further, clause (b) & (d) of section 25 of MS Act allows only Individuals to be registered in the books as joint owner. Clause (e) of same section allows company or cooperative society to be registered as owner by its name. It does not allow partnership firm to be registered as an owner in its name.

10. Section 26 of MS Act provides that application for registry can be made by or on behalf of individuals, group of individuals and company or co-operative society; thereby indicating that partnership firm cannot apply for registration in its name.

11. A harmonious reading of the provisions of section 21, 25 and 26 of the MS Act read with provisions of the Partnership Act, clearly establishes that body established by or under the Central or State Act, as required by clause (b) of section 21 of the MS Act means a body corporate. A body corporate may apply for registration along with individual citizen or group of individuals. Partnership firm is not a body corporate within the meaning of the above mentioned clause as partnership is a relation between persons created by agreement between two or more persons.

12. In view of the foregoing, it is clarified that the vessels owned by partnership firms cannot be registered in the name of the firm under the provisions of the Merchant Shipping Act, 1958.

13. Any vessel already registered in the register book of the Registrar of Indian Ships at the Mercantile Marine Department [MMD] indicating the 'partnership firm' as owner of the vessel, before issue of this clarification, needs to be corrected by ensuring that the vessel is re-registered in the name of the joint owners as per the number of shares owned by them on the vessel, provided they are citizens of India.

14. This is issued with the approval of the Director General of Shipping & Additional Secretary to the Govt. of India.


(Capt. K.P. Jayakumar)

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