Differences between a Company and Partnership

The special features of a joint stock company can be well understood if we compare the features of a company form of organization with that of a partnership firm. The important points of distinction between the company and partnership are given below:

1. Definition

Any voluntary association of persons registered as a company and formed for the purpose of any common object is called a company. But a partnership is the relation between two or more individuals who have agreed to share the profits of a business carried on by all or any of them acting for all. The partners are collectively called as a firm.

2. Law

A company is regulated and controlled by the Companies Act. But a partnership firm is regulated by the Partnership Act, 1932.

3. Registration

A company should be compulsorily registered under the Companies Act. Its formation is very difficult. But registration of a partnership firm is not compulsory under the Partnership Act. The firm is based on the partnership deed. Its formation is very easy.

4. Legal Position

A company is a body corporate and a legal person having a corporate personality distinct from its members. The members are not liable for the acts of the company. But a partnership has no legal existence distinct from its members. Partners are liable for the acts of the firm.

5. Life Time

A company is a mere abstraction of law. So its existence is not affected by the change of membership or death or insolvency of its members. But a partnership is a mere aggregation of individuals. So the life of a partnership ends on the death or insolvency or insanity of any one partner.

6. Liability

The maximum liability of the shareholders, in case of a limited company, is limited to the face value of the shares purchased by them. In case of companies limited by guarantee, the liability of the shareholders will be up to the amount guaranteed by them. But in case of a partnership. the liability of the partners is unlimited. The partners are jointly and severally liable for all the debts of the partnership firm.

7. Transferability of Shares

Shares of a company are freely transferable unless restricted by the Articles. But a partner cannot transfer his share without the consent of all other partners.

8. Contract

A member of a company can enter into a contract with the same company. But a partner of a firm cannot enter into contract with the same partnership firm.

9. Number of Members

A private company should have a minimum of 2 members and can have a maximum of 50 members. A public company should have a minimum of 7 members and there is no maximum limit. But a partnership should have a minimum of 2 and can have a maximum of 20 persons [10 in the case of banking business].

10. Audit

The accounts of a company should be audited by a qualified auditor. But in the case of a partnership, the accounts need not be audited. Even though the partners decide to arrange for the audit of their firm, the auditor need not be a qualified person. The powers, duties and liabilities of an auditor of a company are regulated by the Companies Act.