



Corporate Social Responsibility in India

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Abstract

Corporate social responsibility is a broad concept that can take many forms depending on the company and industry. Through CSR programs, philanthropy, and volunteer efforts businesses can benefit society while boosting their own brands. As important as CSR is for the community, it is equally valuable for a company. CSR activities can help forge a stronger bond between employee and corporation; they can boost morale; and can help both employees and employers feel more connected with the world around them. This view is reflected in the Business dictionary which defines CSR as "A company's sense of responsibility towards the community and environment (both ecological and social) in which it operates. Companies express this citizenship (1) through their waste and pollution reduction processes, (2) by contributing educational and social programs and (3) by earning adequate returns on the employed resources."

Key words: CSR, philanthropy, ecological.

A: INTRODUCTION:-

Corporate Social Responsibility is not a new concept in India, however, the Ministry of Corporate Affairs, Government of India has recently notified the Section 135 of the Companies Act, 2013 along with Companies (Corporate Social Responsibility Policy) Rules, 2014 "hereinafter CSR Rules" and other notifications related thereto which makes it mandatory (with effect from 1st April, 2014) for certain companies who fulfil the criteria as mentioned under Sub Section 1 of Section 135 to comply with the provisions relevant to Corporate Social Responsibility. As mentioned by United Nations Industrial Development Organization (UNIDO), CSR is generally understood as being the way through which a company achieves a balance of economic, environmental and social imperatives ("Triple-Bottom-Line-Approach"), while at the same time addressing the expectations of shareholders and stakeholders.

WHAT IS CSR?

The term "Corporate Social Responsibility (CSR)" can be referred as corporate initiative to assess and take responsibility for the company's effects on the environment and impact on social welfare. The term generally applies to companies efforts that go beyond what may be required by regulators or environmental protection groups.

Corporate social responsibility may also be referred to as "corporate citizenship" and can involve incurring short-term costs that do not provide an

immediate financial benefit to the company, but instead promote positive social and environmental change.

Moreover, while proposing the Corporate Social Responsibility Rules under Section 135 of the Companies Act, 2013, the Chairman of the CSR Committee mentioned the Guiding Principle as follows: "CSR is the process by which an organization thinks about and evolves its relationships with stakeholders for the common good, and demonstrates its commitment in this regard by adoption of appropriate business processes and strategies. Thus CSR is not charity or mere donations. CSR is a way of conducting business, by which corporate entities visibly contribute to the social good. Socially responsible companies do not limit themselves to using resources to engage in activities that increase only their profits. They use CSR to integrate economic, environmental and social objectives with the company's operations and growth³."

B: FOR WHOM it's APPLICABLE:-

The companies on whom the provisions of the CSR shall be applicable are contained in Sub Section 1 of Section 135 of the Companies Act, 2013. As per the said section, the companies having Net worth of INR 500 crore or more; or Turnover of INR 1000 crore or more; or Net Profit of INR 5 crore or more during any financial year shall be required to constitute a Corporate Social Responsibility Committee of the Board "hereinafter CSR Committee" with effect from 1st April, 2014. The pictorial representation below gives the representation of Section 135 (1).

The above provision requires every company having such prescribed Net worth or Turnover or Net Profit shall be covered within the ambit of CSR provisions. The section has used the word "companies" which connotes a wider meaning and shall include the foreign companies having branch or project offices in India.

C: REPORTING FOR CSR:-

Rule 8 of the CSR Rules provides that the companies, upon which the CSR Rules are applicable on or after 1st April, 2014 shall be required to incorporate in its Board's report an annual report on CSR containing the following particulars:

- A brief outline of the company's CSR Policy, including overview of projects or programs proposed to be undertaken and a reference to the web-link to the CSR policy and projects or programs;
- The composition of the CSR Committee;
- Average net profit of the company for last three financial years;
- Prescribed CSR Expenditure (2% of the amount of the net profit for the last 3 financial years);
- Details of CSR Spent during the financial year;
- In case the company has failed to spend the 2% of the average net profit of the last three financial years, reasons thereof.

D: ROLE OF CSR COMMITTEE:-

The CSR Committee constituted in pursuance of Section 135 of the Companies Act, 2013 shall be required to carry out the following activities:

- a) Formulate and recommend to the Board, a Corporate Social Responsibility Policy which shall indicate the activities to be undertaken by the company as specified in Schedule VII;

- b) Recommend the amount of expenditure to be incurred on the activities referred to in clause (a); and
- c) Monitor the Corporate Social Responsibility Policy of the company from time to time.

E: WHAT IF A COMPANY CEASES TO BE COVERED UNDER SECTION 135:-

Rule 3(2) of the Corporate Social Responsibility Rules, 2014 provides that every company which ceases to be a company covered under section 135(1) of the Act for three consecutive financial years shall not be required to:

- a. constitute a CSR Committee ; and
- b. comply with the provisions contained in subsection (2) to (5) of the said section till such time it meets the criteria specified in sub section (1) of Section 135.

Accordingly, if a company, for 3 consecutive years, ceases to be covered under the ambit of section 135(1), it shall not be required to fulfil the conditions relating to the constitution of CSR Committee and other related provisions.

1. The Objectives of the Policy:

This Policy shall be read in line with Section 135 of the Companies Act 2013, Companies (Corporate Social Responsibility Policy) Rules, 2014 and such other rules, regulations, circulars, and notifications (collectively referred hereinafter as Regulations) as may be applicable and as amended from time to time and will, inter-alia, provide for the following:

- Establishing a guideline for compliance with the provisions of Regulations to dedicate a percentage of Company's profits for social projects.
- Ensuring the implementation of CSR initiatives in letter and spirit through appropriate procedures and reporting
- Creating opportunities for employees to participate in socially responsible initiatives.

2. Definitions:

In this Policy unless the context otherwise requires:

- (a) "Act" means the Companies Act, 2013;
- (b) "Annexure" means the Annexure appended to these rules;
- (c) "Corporate Social Responsibility (CSR)" means and includes but is not limited to
 - (i) Projects or programs relating to activities specified in Schedule VII to the Act or
 - (ii) Projects or programs relating to activities undertaken by the board of directors of a company (Board) in pursuance of recommendations of the CSR Committee of the Board as

Per declared CSR Policy of the company subject to the condition that such policy will cover subjects enumerated in Schedule VII of the Act.

- (d) "CSR Committee" means the Corporate Social Responsibility Committee of the Board referred to in section 135 of the Act

G) "CSR Policy" relates to the activities to be undertaken by the company as specified in Schedule VII to the Act and the expenditure thereon, excluding activities undertaken in pursuance of normal course of business of a company.

- (f) "Net profit" means the net profit of a company as per its financial statement prepared in accordance with the applicable provisions of the Act, but shall not include the following, namely :-

- (i) Any profit arising from any overseas branch or branches of the company' whether operated as a separate company or otherwise;
- (ii) Any dividend received from other companies in India, which are covered under and complying with the provisions of section 135 of the Act:

Provided that net profit in respect of a financial year for which the relevant financial

(2) Words and expressions used and not defined in these rules but defined in the Act shall have the same meanings respectively assigned to them in the Act.

3. CSR Activities:

The Policy recognizes that corporate social responsibility is not merely compliance; it is a commitment to support initiatives that measurably improve the lives of underprivileged by one or more of the following focus areas as notified under Section 135 of the Companies Act

2013 and Companies (Corporate Social Responsibility Policy) Rules 2014:

- i. Eradicating hunger, poverty & malnutrition, promoting preventive health care & sanitation & making available safe drinking water;
- ii. Promoting education, including special education & employment enhancing vocation skills especially among children, women, elderly & the differently unable & livelihood enhancement projects;
- iii. Promoting gender equality, empowering women, setting up homes & hostels for women & orphans, setting up old age homes, day care centers & such other facilities for senior citizens and measures for reducing inequalities faced by socially & economically backward groups;
- iv. Reducing child mortality and improving maternal health by providing good hospital facilities and low cost medicines;
- v. Providing with hospital and dispensary facilities with more focus on clean and good sanitation so as to combat human immunodeficiency virus, acquired immune deficiency syndrome, malaria and other diseases;
- vi. Ensuring environmental sustainability, ecological balance, protection of flora & fauna, animal welfare, agro forestry, conservation of natural resources & maintaining quality of soil, air and water;
- vii. Employment enhancing vocational skills
- viii. Protection of national heritage, art & culture including restoration of buildings & sites of historical importance & works of art; setting up public libraries; promotion & development of traditional arts & handicrafts;
- ix. Measures for the benefit of armed forces veterans, war widows & their dependents;
- x. Training to promote rural sports, nationally recognized sports, sports & Olympic sports;
- xi. Contribution to the Prime Minister's National Relief Fund or any other fund set up by the Central Government for socio-economic development & relief & welfare of the Scheduled Castes, the Scheduled Tribes, other backward classes, minorities & women;
- xii. Contributions or funds provided to technology incubators located within academic institutions, which are approved by the Central Government;
- xiii. Rural development projects, etc
- xiv. Slum area development.

Explanation.— For the purposes of this item, the term ‘slum area’ shall mean any area declared as such by the Central Government or any State Government or any other competent authority under any law for the time being in force.¶

The Above list is illustrative not exhaustive. All activities under the CSR activities should be environment friendly and socially acceptable to the local people and Society. Contribution towards C.M relief fund shall be a part of CSR activities above 2% of Net profit other than the activities mentioned above. Further Ministry of Corporate Affairs vide Notification dated 24.10.2014 increased the scope of contribution made towards Corporate Social Responsibility Activities namely. (i) In item (i), after the words "and sanitation", the words "including contribution to the Swachh Bharat Kosh set-up by the Central Government for the promotion of sanitation" shall be inserted;

(ii) In item (iv), after the words "and water", the words "including contribution to the Clean Ganga Fund set-up by the Central Government for rejuvenation of river Ganga" shall be inserted.

4. Scope:

The following fields are including in scope of corporate social responsibility.

- A. Education.
- B. Water Supply including Drinking Water.
- C. Health Care organizing, health awareness Camps on.
- D. Environment.
- E. Social Empowerment.
- F. Sports and Culture.

5. The Geographic reach:

The Act provides that the Company shall give preference to the local area and areas around it where it operates, for spending the amount earmarked for Corporate Social Responsibility. The Company will thus give preference to conducting CSR activities in the state of Bihar herein the Company has/will have its operations. However, the Committee may identify such areas other than stated above, as it may deem fit, and recommend it to the Board for undertaking CSR activities.

6. Annual spends/Allocation of Funds Annual spends/Allocation of Funds:

1 The Company would spend not less than 2% of the average Net Profits of the Company made during the three immediately preceding financial years. The surplus arising out of the CSR activity will not be part of business profits of the Company. The Corpus would thus include the 2% of average net profits, as aforesaid, any income arising there from and surplus arising out of CSR activities.

2 The Company may build CSR capacities of its personnel and/or those of its implementing agencies through Institutions with established track records of at least three financial years but such expenditure shall not exceed five percent of total CSR expenditure of the Company in one financial year.

3 However if the Company ceases to be covered under sub-section (1) of Section 135 of the Act for three financial years, then it shall not be required to, comply with the provisions laid down under sub-section (2) to (5) of the said section, till such time it meets the criteria specified in sub-section (1) of the Act.

7. CSR Committee:

The CSR Committee will consist of four Directors, who shall meet at least twice in a year to discuss and review the CSR activities and policy. The quorum shall be two members are required to be present for the proceeding to take place. The Chairperson and members of the committee of the committee are as follows:

8. Scope and functions of CSR Committee:

The CSR committee will recommend a formal CSR Policy, this document and will recommend particular CSR activities, set forth a budget, describe how the company will implement the project, and establish a transparent means to monitor progress.

9. Administration of CSR Projects:

The Corporation can meet its CSR obligations by funneling its activities on its own or through a third party, such as a society, trust, foundation or Section 8 company (i.e., a company with charitable purposes) that has an established record of at least five years in CSR-like activities. Companies may also collaborate and pool their resources, which could be especially useful for small and medium-sized enterprises. Managing Director will have the power to sanction any project for CSR up to a limit of 7.5 lakhs, above which Board's approval will be required to sanction the amount.

10. Implementation:

- a) The investment in CSR should be project based and for every project time framed periodic mile stones should be finalized at the outset.
- b) Project activities identified under CSR are to be implemented by Specialized Agencies and generally NOT by staff of the organization. Specialized Agencies could be made to work singly or in tandem with other agencies.
- c) Such specialized agencies would include:
 - i) Community based organization whether formal or informal.
 - ii) Elected local bodies such as Panchayats
 - iii) Voluntary Agencies (NGOs)
 - iv) Institutes/Academic Organizations
 - v) Trusts, Mission etc.
 - vi) Self-help groups
 - vii) Government, Semi Government and autonomous Organizations.
 - viii) Standing Conference of Public Enterprises (SCOPE)
 - ix) Mahila Mondals/Samitis and the like Contracted agencies for civil works Professional Consultancy Organization etc.

11. Funding:

1. As per the regulations the company will set aside, for annual CSR activities, an amount equal to 2% of the average net profits of the Company made during the three immediately preceding financial years. Any unutilized CSR allocation fund of a particular year, will be carried forward to the next financial year i.e. the CSR budget will be non lapsable in nature.
2. The tax treatment of CSR spent will be in accordance with the Income Tax Act, 1961 as may be notified by the central board of Direct taxes.

12. Budget:

- I. The Company Board of Directors shall ensure that in each financial year the Company spends at least 2% of the average Net Profit made during the three immediate preceding financial years.

—Net profit means the net profit as per the financial statement of the company prepared in accordance with the applicable provisions of the Act, but shall not include the following:

- (i) Any profit arising from any overseas branch or branches of the company, whether operated as a separate company or otherwise, and
- (ii) Any dividend received from other companies in India which are covered under and complying with the provisions of section 135 of the Act.

II. As per section 135 of the Companies Act, the Company will report reasons for under spending of the allocated CSR budget of the current financial year in the template provided by the Ministry of Corporate Affairs. This reporting will be done Annual Report and signed off by the Board of Directors.

III. In case of any surplus arising out of CSR projects the same shall not form part of business profits of the Company.

IV. The Company may collaborate or pool resources with other companies to undertake CSR activities, through any non-profit organization, if required.

13. Amendments to the policy:

The Board of Directors on its own and/or on the recommendation of CSR committee can amend its policy as and when required deemed fit. Any or all provisions of CSR Policy would be subjected to revision/amendment in accordance with the regulations on the subject as may be issued from relevant statutory authorities, from time to time.

F: Conclusion:-

Most Indian companies have long practiced some form of CSR with the broad goal, simply, of contributing to the well-being of the communities and society they affect and on which they depend. But, now with the law in place mandating CSR, there is an increasing trend to dress up CSR as a business discipline. That is distracting firms from what must be their underpinning goal, doing good. Traditionally, CSR space has been cluttered with heavy jargon like risk mitigation, reputation enhancement, goodwill creation, and so on, contributing to a sort of adulteration of the firms' sentiments to create a larger social impact based on triple bottom line. In fact, many firms perceived CSR under the burden of these jargons which turned out to be a spill over. Now, is the high time for India Inc to refocus its CSR activities on the fundamental goal of community good and develop a systematic process to bring coherence and discipline to CSR strategies.

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