

Social Responsibility of Business or CSR in Indian Scenario

Corporate Social responsibility (CSR) is continuing commitment by businesses to integrate social and environmental concerns in their business operations. Changes in the global environment increasingly challenge business around the world to look beyond financial performance, and to integrate social and environmental concerns into their strategic management.

There has been an inherent understanding since times ancient in India that no business can grow or succeed in isolation. The history of India provides much proof of this realization that sustainable growth of business requires inclusive development and progress of employees, community and environment. Established merchants of the past and Industrial families in modern times have emphasized social progress through philanthropy and charity by building temples, hospitals and academic institutions. The amendment of Companies Act of 2013 is a formal extension of this deep-rooted business culture based on ethical and fair means of making and sharing of the profits.

Prior to Companies Act 2013, CSR in India has traditionally been seen as a philanthropic activity. And in keeping with the Indian tradition, it was believed that every company has a moral responsibility to play an active role in discharging the social obligations, subject to the financial health of the company. In the early 90's Mahatma Gandhi introduced the concept of trusteeship helping socio-economic growth. CSR was influenced by family values, traditions, culture and religion.

CSR in India is now a Law

On 29th August 2013, **The Companies Act 2013** replaced the Companies Act of 1956. The New Act has introduced far-reaching changes that affect company formation, administration, and governance, and incorporates an additional section i.e. Section 135 – clause on Corporate Social Responsibility obligations (“CSR”) for companies listed in India. The clause covers the essential prerequisites pertaining to the execution, fund allotment and reporting for successful project implementation.

India became the first country to legislate the need to undertake CSR activities and mandatorily report CSR initiatives under the new Companies Act 2013. This is the beginning of a new era for CSR in India.

Businesses can invest their profits in areas such as education, poverty, gender equality, and hunger as part of any CSR compliance. The new rules in Section

135 of India's Companies Act make it mandatory for companies of a certain turnover and profitability to spend two percent of their average net profit for the past three years on CSR.

Amid the COVID-19 (coronavirus) outbreak, the Ministry of Corporate Affairs has notified that companies' expenditure to fight the pandemic will be considered valid under CSR activities. Funds may be spent on various activities related to COVID-19 such as promotion of healthcare including preventive healthcare and sanitation, and disaster management.

➤ Every company having:

- > Net Worth of Rs.500 Crores or More
- > Turnover of Rs.1000 Crores or More
- > Not Profit of Rs.5 Crore or More (Net Profit Before Tax)

during the immediately preceding financial year shall **establish a Corporate Social Responsibility Committee of the Board** involving of three or more directors, out of which at least one director shall be an independent director.

Provided that where a company is not required to appoint an independent, it shall have in its Corporate Social Responsibility Committee two or more directors.

What is the Role of Corporate Social Responsibility Committee?

- formulate and recommend to the Board, a Corporate Social Responsibility Policy,
- recommend the amount of expenditure to be incurred on the activities and
- Monitor the Corporate Social Responsibility Policy of the company from time to time.

What Board Will Do?

The Board of every company shall —

- approve the Corporate Social Responsibility Policy for the company and disclose contents of such Policy in its report and also place it on the company's website,
- ensure that the activities as are included in Corporate Social Responsibility Policy of the company are undertaken by the company,
- Ensure that the company spends, in every financial year, at least 2% of the average net profits of the company made during the three immediately preceding financial years, where the company has not completed the period of

three financial years since its incorporation, during such immediately preceding financial years (Yet to be notified)

Provided that the company shall give preference to the local area and areas around it where it operates, for spending the amount kept for Corporate Social Responsibility activities:

If a company contravenes the provisions shall be:

- punishable with fine which shall not be less than fifty thousand rupees but which may extend to twenty-five lakh rupees and every officer of such company who is in default shall be punishable with imprisonment for a term which may extend to three years or
 - with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees, or
 - with both.
- The amendment notified in the Companies Act, 2013 requires every companies with a
- net worth of INR 5 billion (US\$70 million) or more, or
 - an annual turnover of INR 10 billion (US\$140 million) or more, or
 - net profit of INR 50 million (US\$699,125) or more,
- to spend 2 percent of their average net profits of three years on CSR.
- Prior to that, the CSR clause was voluntary for companies, though it was mandatory to disclose their CSR spending to shareholders. CSR includes but is not limited to the following:
- Projects related to activities specified in the Companies Act; or
 - Projects related to activities taken by the company board as recommended by the CSR Committee, provided those activities cover items listed in the Companies Act.
- Businesses must note that the expenses towards CSR are not eligible for deduction in the computation of taxable income. The government, however, is considering a re-evaluation of this provision, as well as other CSR provisions recently introduced under the Companies (Amendment) Act, 2019 (“the Act”).

CSR amendments under the Companies (Amendment) Act, 2019

- Until now, if a company was unable to fully spend its CSR funds in a given year, it could carry the amount forward and spend it in the next fiscal, in addition to the money allotted for that year.

The CSR amendments introduced under the Act now require companies to **deposit the unspent CSR funds into a fund prescribed under Schedule VII** of the Act within the end of the fiscal year. This amount must be utilized within three years from the date of transfer, failing which the fund must be deposited in to one of the specified funds.

If the company fails to spend such amount, the Board shall, in its report made specify the reasons for not spending the amount and, unless the unspent amount relates to any ongoing project referred transfer such unspent amount to a Fund specified in Schedule VII (FOR EXAMPLE “PM RELIEF FUND”, within a period of six months of the expiry of the financial year

- Any amount remaining unspent shall be transferred by the company within a period of thirty days from the end of the financial year to a special account to be opened by the company in that behalf for that financial year in any scheduled bank to be called the **Unspent Corporate Social Responsibility Account**, and such amount shall be spent by the company in pursuance of its obligation towards the Corporate Social Responsibility Policy within a period of three financial years from the date of such transfer, failing which, the company shall transfer the same to a Fund specified in Schedule VII, within a period of thirty days from the date of completion of the third

Suggested Areas of Activities for companies to implement their CSR in PROJECT MODE are: (as per Schedule VII)

Activities which may be included by companies in their Corporate Social Responsibility Policies Activities relating to:

- (i) Eradicating hunger, poverty and malnutrition, ‘promoting health care including preventive health care and sanitation including contribution to the Swach Bharat Kosh set-up by the Central Government for the promotion of sanitation and making available safe drinking water.
- (ii) promoting education, including special education and employment enhancing vocation skills especially among children, women, elderly and the differently abled and livelihood enhancement projects.
- (iii) promoting gender equality, empowering women, setting up homes and hostels for women and orphans; setting up old age homes, day care centres and such other facilities for senior citizens and measures for reducing inequalities faced by socially and economically backward groups.

(iv) ensuring environmental sustainability, ecological balance, protection of flora and fauna, animal welfare, agroforestry, conservation of natural resources and maintaining quality of soil, air and water including contribution to the Clean Ganga Fund set-up by the Central Government for rejuvenation of river Ganga.

(v) protection of national heritage, art and culture including restoration of buildings and sites of historical importance and works of art; setting up public libraries; promotion and development of traditional art and handicrafts;

(vi) measures for the benefit of armed forces veterans, war widows and their dependents;

(vii) training to promote rural sports, nationally recognised sports, paralympic sports and olympic sports

(viii) contribution to the prime minister's national relief fund or any other fund set up by the central govt. for socio economic development and relief and welfare of the schedule caste, tribes, other backward classes, minorities and women;

(ix) Contribution to incubators funded by Central Government or State Government or any agency or Public Sector Undertaking of Central Government or State Government, and contributions to public funded Universities, Indian Institute of Technology (IITs), National Laboratories and Autonomous Bodies (established under the auspices of Indian Council of Agricultural Research (ICAR), Indian Council of Medical Research (ICMR), Council of Scientific and Industrial Research (CSIR), Department of Atomic Energy (DAE), Defence Research and Development Organisation (DRDO), Department of Biotechnology (DBT), Department of Science and Technology (DST), Ministry of Electronics and Information Technology) engaged in conducting research in science, technology, engineering and medicine aimed at promoting Sustainable Development Goals (SDGs).

(x) rural development projects

(xi) 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.

(xii) disaster management, including relief, rehabilitation and reconstruction activities

- The new law prescribes for a monetary penalty as well as imprisonment in case of non-compliance. The penalty ranges from INR 50,000 (US\$700) to INR 2.5 million (US\$35,000) whereas the defaulting officer of the company may be liable to imprisonment for up to three years, or a fine up to INR 500,000 (US \$7,023), or both.
- The government, however, is reviewing these rules after the industry objected to the strict provisions, especially with respect to the jail terms for CSR violations, and is yet to operationalize them.

How The CSR Activities Shall Be Undertaken By The Company, As Per Its Stated CSR Policy?

The Board of a company may decide to undertake its CSR activities approved by the CSR Committee, through

(a) a company established under section 8 of the Act or a registered trust or a registered society, established by the company, either singly or along with any other company, or

(b) a company established under section 8 of the Act or a registered trust or a registered society, established by the Central Government or State Government or any entity established under an Act of Parliament or a State legislature:

Provided that- if, the Board of a company decides to undertake its CSR activities through a company established under section 8 of the Act or a registered trust or a registered society, other than those specified in this sub-rule, such company or trust or society shall have an established track record of three years in undertaking similar programs or projects

(c) Company may also collaborate with other companies for undertaking projects or programs or CSR activities in such a manner that the CSR Committees of respective companies are in a position to report separately on such projects or programs in accordance with these rules.

(d) Companies may build CSR capacities of their own personnel as well as those of their Implementing agencies through Institutions with established track records of at least three financial years

Following Activities Shall Not Be Considered As CSR Activities:

- Contribution of any amount directly or indirectly to any political party shall not be considered as CSR activity.
- The CSR projects or programs or activities that benefit only the employees of the company and their families shall not be considered as CSR activities in accordance with section 135 of the Act.

CSR trends in India

Since the applicability of mandatory CSR provision in 2014, CSR spending by corporate India has increased significantly. In 2018, companies spent 47 percent higher as compared to the amount in 2014-15, contributing US\$1 billion to CSR initiatives, according to a survey.

Listed companies in India spent INR 100 billion (US\$1.4 billion) in various programs ranging from educational programs, skill development, social welfare, healthcare, and environment conservation, while the Prime Minister's Relief Fund saw an increase of 139 percent in CSR contribution over last one year.

The education sector received the maximum funding (38 percent of the total) followed by hunger, poverty, and healthcare (25 percent), environmental sustainability (12 percent), rural development (11 percent). Programs such as technology incubators, sports, armed forces, reducing inequalities saw negligible spends.

Taking into account the recent amendments to CSR provisions, industry research estimates CSR compliance to improve and range between 97 to 98 percent by FY 2019-20.

Examples of CSR in India

Tata Group

The Tata Group conglomerate in India carries out various CSR projects, most of which are community improvement and poverty alleviation programs. Through self-help groups, it has engaged in women empowerment activities, income generation, rural community development, and other social welfare programs. In the field of education, the Tata Group provides scholarships and endowments for numerous institutions.

The group also engages in healthcare projects, such as the facilitation of child education, immunization, and creation of awareness of AIDS. Other areas include

economic empowerment through agriculture programs, environment protection, providing sports scholarships, and infrastructure development, such as hospitals, research centers, educational institutions, sports academy, and cultural centers.

Ultratech Cement

Ultratech Cement, India's biggest cement company is involved in social work across 407 villages in the country aiming to create sustainability and self-reliance. Its CSR activities focus on healthcare and family welfare programs, education, infrastructure, environment, social welfare, and sustainable livelihood.

The company has organized medical camps, immunization programs, sanitization programs, school enrollment, plantation drives, water conservation programs, industrial training, and organic farming programs.

Mahindra & Mahindra

Indian automobile manufacturer Mahindra & Mahindra (M&M) established the K. C. Mahindra Education Trust in 1954, followed by Mahindra Foundation in 1969 with the purpose of promoting education. The company primarily focuses on education programs to assist economically and socially disadvantaged communities.

Its CSR programs invest in scholarships and grants, livelihood training, healthcare for remote areas, water conservation, and disaster relief programs. M&M runs programs such as Nanhi Kali focusing on education for girls, Mahindra Pride Schools for industrial training, and Lifeline Express for healthcare services in remote areas.

ITC Group

ITC Group, a conglomerate with business interests across hotels, FMCG, agriculture, IT, and packaging sectors has been focusing on creating sustainable livelihood and environment protection programs. The company has been able to generate sustainable livelihood opportunities for six million people through its CSR activities.

Their e-Choupal program, which aims to connect rural farmers through the internet for procuring agriculture products, covers 40,000 villages and over four million farmers. It's social and farm forestry program assists farmers in

converting wasteland to pulpwood plantations. Social empowerment programs through micro-enterprises or loans have created sustainable livelihoods for over 40,000 rural women.