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Corporate Social Responsibility in India

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Corporate Social Responsibility (CSR) is a phrase or word known by pretty much everyone associated with the corporate sector, across the globe. In today's age of globalisation, one of the major hurdles faced by firms is the incorporation of Corporate Social Responsibility (CSR) in business. Stakeholders demand a lot more from business organisations and companies than mere growth and profits. Corporate Social Responsibility (CSR) has traveled a long journey in India and other growing economies. From philanthropic activities to sustainable undertakings, corporates have deployed their ability to bring about a considerable change in society and improve the overall living standard of the people. This paper focuses on the concept of Corporate Social Responsibility (CSR), its objectives and needs, CSR activities, and other incidental matters with respect to India.

Keywords: *company, activities, society, philanthropy.*

INTRODUCTION

There was no express provision contained in the Companies Act, 1956 regarding Corporate Social Responsibility (CSR). However, the Ministry of Corporate Affairs had issued 'CSR Voluntary Guidelines, 2009' in the month of December 2009. As per these said guidelines, each corporate entity should formulate and design a specific Corporate Social Responsibility policy to aid and direct its strategies and chalk out a roadmap for its Corporate Social Responsibility

ventures, which should be channelized in such a way as to form an integral part of the overall business policy and it should be in sync with its business goals. The policy should be framed and designed with the participation and input addition by various level executives and it should be subsequently approved by the Board of Directors.

CSR POLICY AND ITS CORE ELEMENTS

The policy is expected to normally cover the following core elements:

1. Care for all stakeholders
2. Ethical functioning
3. Respect for workers' rights and welfare
4. Respect for human rights
5. Respect for environment
6. Activities for social and inclusive development.

WHAT IS CSR?

“The term 'Corporate Social Responsibility (CSR) term is not defined in the Companies Act, 2013.¹ CSR has many interpretations but can be understood to be a concept imposing liability on the Company to contribute to society (whether towards environmental causes, educational promotion, social causes, etc.) along with the reinforced duty to conduct the business in an ethical manner.² corporate Social Responsibility (CSR) is a form of self-regulation integrated into a business model. It is also known as corporate conscience, corporate citizenship, social performance or sustainable business/responsible business.”³

BENEFITS OF CSR

¹ Companies Act 2013

² *Ibid*

³ 'Company Law' (*Icsi.edu*, 2020)

<<https://www.icsi.edu/media/webmodules/FinalCompanyLawBook22092020.pdf>> accessed 01 October 2021

The benefits of CSR are as follows:

1. Enhancement with regards to brand positioning
2. Betterment of corporate image and reputation
3. Moral satisfaction of contributing to society
4. Contribution to the betterment of society
5. Increases the pull to attract, retain and motivate employees
6. Enhancement in terms of sales and market share
7. Betterment of appeal to investors and financial analysts
8. Local economy gains in all dimensions.⁴

WHY CSR?

Although the Indian companies seem wary of this new regulation, not wanting to be forced to do 'charity or finding themselves unequipped to deal with the implementation of such a CSR Policy, there are numerous positives to this concept:

- Development of 'reputation capital' for capturing and sustaining markets. Therefore, CSR has developed as a new business strategy, to reduce investment risks and maximize profits by taking all the key stakeholders into confidence.
- Long-term gains as opposed to short-term profits, which are the outcome of good CSR policies.
- Environmental stability and sustainability-being an important resource for companies are ensured.
- Social stability and acceptance in society.

⁴ *Ibid*

- Facilitates sustainable economic development as corporate become drivers of economic growth.
- With globalization, the negative aspects of businesses have been intensified and exploitation is widespread - CSR Policies may work to counter this effect.
- Also, it is a fact that a successful company cannot co-exist in a society that fails, and therefore, a company being a member of the society is required to contribute positively and effectively.

UNDERLYING THEME OF THE CSR

“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:

- CSR is not charity or mere donations;
- CSR is a way of conducting business, which makes corporate entities socially responsible citizens, visibly contributing to the social good;
- Socially responsible companies do not limit themselves to using resources to engage in activities that increase only their profits;
- Companies use CSR to integrate economic, environmental, and social objectives with the company's operations and growth;
- Companies may engage in CSR activities in different modes - projects or ongoing programs. Such activities may focus on integrating business models with social and environmental priorities and processes in order to create shared value.”⁵

SECTION 135 OF THE COMPANIES ACT, 2013

Section 135 of the Companies Act, 2013 describes the type of companies on whom these CSR provisions are applicable. Section 135 states, **Corporate Social Responsibility** as—

⁵ *Ibid*

1. Every company having a net worth of rupees five hundred crores or more, or turnover of rupees one thousand crore or more or a net profit of rupees five crores or more during any financial year shall constitute a Corporate Social Responsibility Committee of the Board consisting of three or more directors, out of which at least one director shall be an independent director.
2. The Board's report under sub-section (3) of section 134 shall disclose the composition of the Corporate Social Responsibility Committee.
3. The Corporate Social Responsibility Committee shall –
 - 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;
 - 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.
4. The Board of every company referred to in sub-section (1) shall, –
 - after taking into account the recommendations made by the Corporate Social Responsibility Committee, 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, if any, in such manner as may be prescribed; and
 - ensure that the activities as are included in Corporate Social Responsibility Policy of the company are undertaken by the company.
5. The Board of every company referred to in sub-section (1), shall ensure that the company spends, in every financial year, at least two percent. of the average net profits of the company made during the three immediately preceding financial years, in pursuance of its Corporate Social Responsibility Policy: Provided 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 activities: Provided further that if the company fails to spend such amount, the Board shall, in its report

made under clause (o) of sub-section (3) of section 134, specify the reasons for not spending the amount.

Explanation—For the purposes of this section —average net profit⁶ shall be calculated in accordance with the provisions of section 198.”⁶

Section 135 seeks to provide that every company having:

- **The net worth** of Rs. 500 Cr or more; or
- **Turnover of Rs. 1,000 Cr** or more; or
- **Net profit** of Rs. 5 Cr or more,⁷

During immediately preceding FY shall constitute a CSR Committee of Board comprising of 3 or more directors, one of whom shall be an independent director. The composition of the committee shall be included in the Board's Report. The Board shall disclose the content of policy in its report and place it on the website if any of the company. The section further provides that the Board shall ensure that at least 2% of average net profits of the company made during 3 immediately preceding financial years shall be spent on such policy every year. If the company fails to spend such an amount the Board shall give in its report the reasons for not spending. Basically, Section 135 of the Companies Act, 2013 seeks to provide the entire skeletal framework of the CSR Requirements in India, starting from criteria to the minimum amount to be spent.

COMPOSITION OF THE CSR COMMITTEE

The CSR committee shall consist of three or more directors, out of which one director shall be an Independent Director. The presence of an Independent Director shall ensure that the Committee is not just a quasi- committee addressing the whims of the Board, but is in fact, taking up an initiative. The composition of such Corporate Social Responsibility Committee shall have to be disclosed in the Board's Report as required u/s134(4).

⁶ Companies Act 2013, s 135

⁷ *Ibid*

An unlisted public company or a private company that is not required to appoint an independent director shall have in its CSR Committee 2 or more directors. A private company having only 2 directors on its Board shall constitute its CSR Committee with two such directors. With respect to a foreign company, the CSR Committee shall comprise of at least 2 persons of which one person should resident in India and another person shall be nominated by the foreign company. The CSR Committee shall institute a transparent monitoring mechanism for implementation of CSR projects or programs or activities undertaken by the company.”⁸

To sum it up we can say that composition of the CSR Committee for various kinds of companies is as follows:

- Public Company which is required to appoint an Independent Director- At least 3 Directors out of which 1 should be an Independent Director.
- Unlisted Company which is not bound to appoint an Independent Director- At at least 2 Directors.
- Private Company having 2 directors- Those two directors.
- Foreign Company- 2 persons, one of them should compulsorily be an Indian resident and the other person can be nominated and appointed by such company.⁹

CSR ACTIVITIES THAT CAN BE UNDERTAKEN

CSR Activities can be undertaken vide 3 methods:

- *Self* - Company can undertake the activities suo moto, prepare trust and employ its own staff for the purpose.
- *Contract* - Company can enter into a contract with NGOs or similar agencies to outsource the CSR Activity.
- *Charity* - Company can donate to a charitable trust etc., even this way it satisfies the requirement of undertaking a CSR activity.

⁸ Company Law (n 2)

⁹ *Ibid*

Schedule VII of The Companies Act, 2013 states about the activities that are classified as CSR activities. It states, "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 Swachh 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, daycare centers, 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 the 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, Central Armed Police Forces (CAPF) and Central Para Military Forces (CPMF) veterans, and their dependents including widow;

(vii) Training to promote rural sports, nationally recognized sports, Paralympic sports, and Olympic sports;

(viii) Contribution to the prime minister's national relief fund 8[or Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund (PM CARES Fund)] or any other fund set up by the central govt. for socio-economic development and relief and welfare of the scheduled caste, tribes, other backward classes, minorities, and women;

(ix) (a) Contribution to incubators or research and development projects in the field of science, technology, engineering and medicine, funded by the Central Government or State Government or Public Sector Undertaking or any agency of the Central Government or State Government; and

(b) Contributions to public-funded Universities; Indian Institute of Technology (IITs); National Laboratories and autonomous bodies established under Department of Atomic Energy (DAE); Department of Biotechnology (DBT); Department of Science and Technology (DST); Department of Pharmaceuticals; Ministry of Ayurveda, Yoga, and Naturopathy, Unani, Siddha and Homoeopathy (AYUSH); Ministry of Electronics and Information Technology and other bodies, namely Defense Research and Development Organization (DRDO); Indian Council of Agricultural Research (ICAR); Indian Council of Medical Research (ICMR) and Council of Scientific and Industrial Research (CSIR), 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."¹⁰

¹⁰ Companies Act 2013, schedule VII

CONCLUSION

The Corporate Social Responsibility of a company is handled by the brightest minds. A company that is splashing out a large number of its funds will always make sure that its money is spent well. In order to attain this, it is executed by the most competent individuals. Therefore, it is bound to come with huge responsibility and scope for the future. While India is a fast-growing nation, it is not doing particularly well in the field of research. Investment in research in education, technology, medicine, space technology, policy formulation, and so on is required to encourage indigenous solutions for indigenous problems. CSR can become a reason to spark a revolution in the field of research. India suffers highly because of the problem of brain drain. Corporate Social Responsibility is competent enough to prevent that from happening.¹¹ CSR can perform a major role in addressing the operational issues among government agencies. This will eventually, improve the efficiency of government services. CSR can encourage the informal sector as well as the Indian citizens to indulge in social as well as national development vide the route of philanthropy.

¹¹ *Ibid*