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# **CORPORATE SOCIAL RESPONSIBILITY IN THE LIGHT OF COMPANIES ACT 2013**

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## **ABSTRACT**

Since the 1970s, studying corporate social responsibility has become more popular and more controversial. CSR is the process by which a company considers and enhances its stakeholder relationships for the common good, and demonstrates its commitment to doing so by implementing the appropriate business procedures and strategies. CSR is not equivalent to charity or monetary donations. Governments all over the world and worldwide agreements are putting more pressure on the private sector to switch from focusing only on making money to what is now called "triple bottom line" (people, planet and profit).

India is the first country to make Corporate Social Responsibility (CSR) a law by adding a Corporate Social Responsibility clause. Companies don't have to do CSR, but the rules are based on the "Comply or Explain" principle, and penalties only happen if an description isn't given.

This paper is about the Companies Act of 2013 and its requirements for spending money on and telling the public about Corporate Social Responsibility activities.

## **INTRODUCTION**

Corporate social responsibility is a way to run a business that aims to improve a company's impact on society while meeting business goals like growth and revenue goals. It can also mean anything a company does to make itself more eco-friendly or reduce its carbon footprint. Companies can use CSR as a separate program or as a part of a larger campaign.

The idea that businessmen should have some level of social duty is not a recent one, especially in India. This can be easily observed in the shape of majestic temples, high mosques, vast dharmshalas, and excellent educational institutions. The annals of Indian literature are replete with tales of businesspeople going above and beyond to assist in rescuing kings and entire civilizations from perilous situations. When it comes to looking out for the interests of their workers and the communities in which they operate, many Indian companies are notorious for staying one step ahead of the government.

Until the end of the 20th century, businesses only cared about making money. People are becoming more aware of their rights because of changes in the business environment, such as the shift of power from capital to knowledge, higher levels of literacy, and the shrinking of geographical boundaries due to faster transportation and communication. This has led to a rise in what society expects from business. People are very interested in the stories of people who went from having average or low incomes to become billionaires, and they expect business organisations to treat them as partners in creating wealth instead of just as people who give them money. Corporate houses can't feel responsible no matter how much pressure is put on them. It has to come from inside them.

The way businesses help with social causes has changed over time. It has moved away from charity and dependence and toward giving people more power and working together. In the well-informed world of today, starting a business based on financial strength is not a free pass to make money, and businesses need to be aware of what society and regulators expect from them. Businesses have to work with many different groups in society, including religious groups. This forces them to get used to working in a society with many different groups, where no one group has the most power but how each group works affects the other groups. The fact that these different groups exist not only keeps the powers and wild wishes of others in check,

but also makes sure that each group knows what the others are doing<sup>1</sup>.

## **THE CONCEPT OF CORPORATE SOCIAL RESPONSIBILITY**

Customers, consumers, governments, regulatory bodies, suppliers, employees, and shareholders are examples of stakeholders. Stakeholders represent diverse parts of society, of which business is one component that extracts resources and meets the needs and desires of different groups. Without providing anything in return, corporations are the explorers and extractors of resources from society, the environment, and nature. Consequently, the concept of CSR was created and implemented.

The concept of corporate social responsibility (CSR) has its roots in the concept of ethics. It focuses on compensating numerous different stakeholders, including the society as a whole, who have a direct interest with the quality of life in the society. The word "responsibility" suggests that a corporate organisation has some form of commitment toward the society in which they exist to deal with social problems and give more than simply economic benefits<sup>2</sup>.

Studies conducted over the past several decades have consistently pointed to the fact that there is a connection between society and the corporate world. Nevertheless, the same issues are debated across a variety of time periods. Since the 1950s and 1960s, there has been a significant shift in society's expectations of what the business sector should provide, as shown by research conducted by Carroll and Lantos in 1999 and 2000, respectively.

CSR refers to an approach to business that enables corporations to make measurable improvements to society. CSR is used by socially responsible businesses to balance the company's financial, environmental, and social goals.

CSR is defined by the act as activities that work to reduce poverty and improve education, health, the environment, equality between men and women, and job skills. Companies may invest in the area of their choosing or contribute to funds established by the federal or state government for economic growth. Even though this definition of CSR is wide and can be interpreted in different ways, it is clear that it puts more emphasis on corporate giving than on

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<sup>1</sup> Volume 1 1st Edition, D.S. Chopra, *The Corporate Law*, 1009, Thomas Reuters, 2018

<sup>2</sup> Meena Lochani Raghunathan, *Corporate Social Responsibility in India*, Volume 2, *Amity Journal of Corporate Governance*, pg. 18-37, 2017

strategic CSR. Companies "must give preference to the local area and areas surrounding its operations," as the law requires<sup>3</sup>.

## **CORPORATE SOCIAL RESPONSIBILITY IN INDIA**

Prior to the industrial revolution in the 1850s, the pre-industrial ideas of religion had a significant impact on the CSR. According to the Vedic philosophy, the primary function of money is to satisfy the requirements of society, and the most beneficial application of money is charitable giving for the sake of the welfare of other people. Later on, the British introduced western industrialization to India, and as a result of this, a selected number of families from India's traditional merchant communities, including the Birla, Bajaj, Tata, Modi, Godrej Singhanian, and Mahindra families, became deeply committed to philanthropic CSR. After that India's post-independence development was significantly impacted by Gandhi's trusteeship philosophy. Gandhi actually believed that the capitalist should be recognised as trustees of the assets entrusted in them—provided they conduct themselves in a socially acceptable manner. As a matter of fact, many Indian scholars hold this belief. Later on, sharing information throughout the world gave the Indian government the opportunity to adopt the most effective policies, which ultimately led to India becoming the first country to require CSR.

In a nation such as India, where one-third of the population is illiterate, where two-thirds of the population has not access to basic sanitation, and also where 400 million people are still living on less than Rs 102 a day (World bank, 2010), the passage of the Companies Act must be viewed as a helpful step forward towards ensuring that business contributes to equitable and sustainable economic growth. As a result of the tremendous requirements in India, businesses are presented with a wealth of CSR possibilities and problem areas to tackle. The new CSR laws have placed a formal and higher duty on firms to establish out defined framework and process in order to ensure rigorous compliance. This is in contrast to the usual practise of many corporate houses engaging in CSR activities on a voluntary basis. Indian courts have said that a company's job isn't just to serve the needs of its shareholders, but also to help resolve social issues that the country is facing<sup>4</sup>.

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<sup>3</sup> Volume 2 18th Edition, A Ramaiya, Guide to The Companies Act, 2522, Lexis Nexis

<sup>4</sup> Dr. Reena Shyam, AN ANALYSIS OF CORPORATE SOCIAL RESPONSIBILITY IN INDIA, Vol.4, International Journal of Research – GRANTHAALAYAH, pg. 56-64, 2016.

## **COMPANIES ACT 2013 AND CORPORATE SOCIAL RESPONSIBILITY**

Corporate social responsibility (CSR), which was formerly mostly voluntary, is now regulated by legislation. The CSR Rules and Section 135 are now effective as of the first day of April 2014. The scope of compliance duties under the CSR Rules appears to be expanded to cover holding and subsidiary corporations as well as overseas businesses with branch offices in India that meet the required standards. Clarity is required with regard to a company's compliance requirements, as well as those of its holding and subsidiary companies. Companies that are subject to CSR restrictions must be exempt from such provisions for three consecutive years before they can stop adhering to the regulations pertaining to CSR. The company's surplus from CSR operations should not be viewed as business earnings, and it may be necessary to reinvest it in CSR initiatives<sup>5</sup>.

### **CORPORATE SOCIAL RESPONSIBILITY COMMITTEE**

According to sec 135, each company that meets the requirements in ss (1) of section 135 must set up a committee of the board of directors called the CSR Committee. This committee must have minimum 3 directors, and 1 of them must be an independent director. Some companies aren't required to have a CSR Committee or an independent director. These companies are:

- A corporation that is not needed to have independent directors pursuant to ss. (4) of sec 149 of the Act, such as a private company or an unlisted public company covered by ss. (1) of section 135.
- If a private company's Board only has two directors, those two directors should form a CSR Committee.

A foreign firm subject to these rules should form a CSR Committee consisting of at least two individuals, one of whom should meet the requirements of clause (d) of ss (1) of section 380 of the Act, and the other must be selected by the foreign company<sup>6</sup>.

An individual who resides in India and is authorised to accept service of process and any notifications or other papers that must be served on the firm on the company's behalf is referred to as a "person" as defined by s. 380(1)(d).

### **CSR ACTIVITIES**

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<sup>5</sup> Dr. Priyanka Verma, CSR@ 2%: A New Model of Corporate Social Responsibility in India, Vol. 4, International Journal of Academic Research in Business and Social Sciences, pg. 455, 2014

<sup>6</sup> Volume 2, CR Dutta, company law, pg. no. 2.556, lexis Nexis

CSR Activities are the programmes, projects, or activities that the company has to do according to its CSR Policy. Rule 4 says that the board can do CSR events approved by the CSR committee over a registered trust, a registered society, or a company set up through the company under Section 8 of the Act, either on its own or with its holding, subsidiary, or associate company, or with any other company's holding, subsidiary, or associate company, or in any other way.

A company can also work with other companies on CSR projects, programmes, or activities in a way that lets the CSR committees of each company report on the projects or programmes separately. This means that a holding company and a subsidiary company can work together on a CSR project or programme, even though they are both required by section 135(1) to form their own CSR committees.

Rule 4 says that only costs for projects, programmes, or activities done in India can be counted as CSR activities. The basic idea behind the provision is to make sure that everyone in the country can benefit from growth. This rule says that CSR activities can't be done outside of the country. This means that an Indian MNC that does CSR in Africa won't get credit for CSR under Indian law.

### **CSR Activities Under Schedule VII**

- Advancement of education.
- Women's empowerment and gender equality.
- Lowering infant mortality and enhancing maternal health.
- The fight against HIV/AIDS, as well as other diseases, including maternal illness.
- Projects for social businesses.
- Contribution to several state and federal funds as well as the prime minister's assistance fund.
- Sustainability of the environment.
- Creating more jobs.
- Additional matters as prescribed
- Reducing or eliminating hunger and poverty.

### **REPORT ON CSR**

#### **Corporate social responsibility at RIL**

For a company like RIL that has many different types of businesses, there are many ways to increase and broaden the social impact and create value for everyone. RIL wants to strategically

combine the company's CSR projects so that they can focus on specific social problems and help people make a living. In its CSR policy, the Company has identified six areas of focus that it hopes will have a positive and all-around effect on society. RIL's six areas of focus are:

- Changes in rural areas
- Healthcare
- Environment
- Education
- National heritage, art, and culture should be protected
- Emergency measures<sup>7</sup>

### **Corporate social responsibility of INFOSYS**

They wanted to help people, so in 1996 they set up the Infosys Foundation as a non-profit trust to support their social projects. The Foundation gives money to programmes and organisations that help the homeless, the poor in rural areas, people with mental disabilities, and people who are poor. The Foundation also works to keep some of India's dying arts and ways of life alive<sup>8</sup>.

### **BOARD'S CSR RESPONSIBILITY**

- To accept the CSR Policy after considering the CSR committee's suggestions for the company.
- To make sure that the company does the things that are in the CSR Policy and that they are in line by Schedule VII of the Act.
- As part of its CSR Policy, the company should spend at least 2% of its average net profits on CSR.
- To show in the Board's Report who is on the CSR Committee, to talk about the details of the company's CSR policy in the Board's report [clause (o) of sub-section (1) of section 134].
- CSR activities and the policy will be posted on the website of the company (rule 9).

### **FAILURE TO COMPLY**

The Board Report must provide an explanation of why the company did not spend the minimum amount necessary on its CSR initiatives. There are consequences for not reporting on CSR activities or explaining why CSR spending wasn't done, but there are none for not spending

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<sup>7</sup> Reliance industry limited, <https://www.ril.com/>, 16 nov

<sup>8</sup> Infosys foundation, <https://www.infosys.com/infosys-foundation/>, 16 nov

money on CSR. This incorporates the conventional "comply-or-explain" corporate governance strategy. A fine on the company of not less than 50,000 Rs and not more than 25 lac rupees is imposed for failure to provide an explanation. Additionally, personnel who violate the reporting requirement may be sentenced to up to three years in prison and/or fines of at least 50,000 rupees and up to 5 lac rupees, or both<sup>9</sup>.

## **CONCLUSION**

The overview of a CSR provision in the Indian Companies Act is a positive development; it will compel businesses to take social responsibility seriously. To enable corporations to contribute fully in the philanthropy field, the management of CSR policies must be more inclusive, with government and industry working side-by-side, without assuming that business and CSR are incompatible. Companies must not see the CSR Clause as a reporting requirement, i.e., a cost of doing business in India, in order to maintain the benefit of having a CSR clause in the Companies Act. Instead, they must view it as an opportunity to positively benefit the communities in which they operate and the people they affect. It's still not clear if the CSR Clause will actually lead to more CSR spending, and it's also not clear how corporate India Inc. will move from philanthropy to a world where wealth is redistributed.

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<sup>9</sup> CA. Neha Saxena, *Corporate Social Responsibility: Issues & Challenges*, Volume III, Research and Scientific Innovation Society RSIS International, pg. 41, 2016