

# A Conceptual Study of Corporate Social Responsibility (CSR) under Companies Act, 2013

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## Abstract

Corporate Social Responsibility (CSR) also called as Corporate Citizenship, Corporate Conscience, Social Performance or Sustainable Responsible Business or just Responsible Business. It is a form of corporate self-regulation, integrated into a business model. 'Since ancient times we Indians have followed the philosophy that 'Service to mankind is service to God'. Corporate Social Responsibility (CSR) is based on moral grounds. . It helps to realise that what is required by corporate entity to pursue its long term goals which are good for the society and its welfare. It is an obligation beyond the lawIt is a continuous commitment made by the business entity to behave ethically and through that, contribute to the economic development of its own business and also of the society and the nation as a whole. The CSR activity is not forced by the law and is completely self driven till August, 2013. As stated in Corporate Social Responsibility Voluntary Guidelines 2009, in order to assist the businesses to adopt responsible governance practices, 'the Ministry of Corporate Affairs has prepared a set of voluntary guidelines which indicate some of the core elements that businesses need to focus on while conducting their affairs.

The Lok Sabha of India on 18<sup>th</sup> December, 2012 passes the Companies Bill which requires companies to spend 2 per cent of their net profit for Corporate Social Responsibility (CSR) activities, thus probably making India the first country in the world where CSR will become a mandatory requirement for companies once the Bill becomes an Act.

Ministry of Corporate Affairs has recently notified Section 135 and Schedule VII of the Companies Act as well as the provisions of the Companies (Corporate Social Responsibility Policy) Rules, 2014 i. e. CSR Rules which has come into effect from 1 April 2014

The Companies Act, 2013, enacted on 29<sup>th</sup> August 2013 on accord Hon'ble President's assent, has a potential to be a historic milestone, as it aims to improve corporate governance, simplify regulations enhance the interests of minority investors and for the first time legislates the role of whistle- blowers. The new law will replace the nearly 60 year old Companies Act, 1956. Clause 135 of the

Companies Bill (the "CSR Clause") requires a qualifying corporation to spend on CSR at least 2 percent of its average net profits made in the preceding three financial years (the "2 Percent Formula"). A qualifying company that fails to spend the required amount will have to explain that failure in the report of the board of directors. Certain criterion / list are also suggested from which companies can choose to undertake CSR activities depending upon the area in which the company is interested. This is an indicative and not an exhaustive list.

**Keywords -** Corporate Social Responsibility (CSR), Companies Act, 2013

## I. INTRODUCTION

'Since ancient times we Indians have followed the philosophy that 'Service to mankind is service to God'. Thus socially responsible behavior has been essence of our ancient culture for years together. Basically man is a social animal and cannot leave without the society in isolation. Man controls business of corporate which is further linked with the society. Corporate business and society always go hand in hand. Business activities create both positive and negative impacts/externalities for the society as well as the environment. Over the years the expectations that the business should take care of society and environment is on continuous rise. Business has responded to these increased expectations through a set of activities called as Corporate Social Responsibility.<sup>1</sup>

'Corporate Social Responsibility (CSR) also called as Corporate Conscience, Corporate Citizenship, Social Performance, or Sustainable Responsible Business/ Responsible Business. It is a form of corporate self-regulation, integrated into a business model. CSR policy functions as a built-in, self-regulating mechanism whereby a business monitors and ensures its active compliance with the spirit of the law, ethical standards, and international norms. In some models, a firm's implementation of CSR goes beyond compliance and engages in actions that appear to further some social good, beyond the interests of the firm and that which

is required by law. CSR is a process with the aim to embrace responsibility for the company's actions and encourage a positive impact through its activities on the environment, consumers, employees, communities, stakeholders and all other members of the public sphere.<sup>2</sup>

## II. IMPORTANCE OF THE STUDY

Corporate Social Responsibility (CSR) is based on moral grounds. It is an obligation beyond the law. It helps to realise that what is required by corporate entity to pursue its long term goals which are good for the society and its welfare. It is a continuous commitment made by the business entity to behave ethically and through that, contribute to the economic development of its own business and also of the society and the nation as a whole. Thus, CSR is about how companies manage the business to produce an overall positive impact on the Society at large.

Social Responsibility or Corporate Social Responsibility (CSR) is 'Making Good Business Sense'. 'It is a continuing commitment by business to behave ethically and contribute to the economic development while improving the quality of life of the workforce and their families as well as of the local community and society at large.'<sup>3</sup>

## III. OBJECTIVES OF THE STUDY

- To know the concept of Corporate Social Responsibility (CSR)
- To study norms and regulations of Corporate Social Responsibility (CSR) under Companies Act, 2013

## IV. RESEARCH METHODOLOGY

This research paper is totally based on Secondary data only. Researcher has used books, journals, articles, reports, guidelines by Ministry of Corporate Affairs and some internet sites for collection of information to fulfill the objectives of paper.

## V. CSR NORMS AND REGULATIONS

India's new Companies Act, 2013 (Companies Act) has introduced several new provisions which change the face of Indian corporate business to some extent. One of such new provisions is Corporate Social Responsibility (CSR). The concept of CSR based on the ideology of give and take. Companies take resources in the form of human resources, raw materials, etc from the society at large. By performing the task of CSR activities, the companies are giving something back to the society.

CSR is a complete voluntary business initiative taken by company's entities who are engaged in doing commercial business activities. The CSR activity is not forced by the law and is

completely self driven. As stated in Corporate Social Responsibility Voluntary Guidelines 2009, in order to assist the businesses to adopt responsible governance practices, 'the Ministry of Corporate Affairs has prepared a set of voluntary guidelines which indicate some of the core elements that businesses need to focus on while conducting their affairs. These guidelines have been prepared after taking into account the governance challenges faced in our country as well as the expectations of the society. The valuable suggestions received from trade and industry chambers, experts and other stakeholders along with the internationally prevalent and practiced guidelines, norms and standards in the area of Corporate Social Responsibility have also been taken into account while drafting these guidelines.'<sup>4</sup>

Today numerous projects and activities are taken up by different companies in the area of CSR. Many companies have set up separate CSR departments and knowledgeable staff there under, that exclusively plan and execute CSR activities for their business entities.

### A. Companies Bill

The Lok Sabha of India on 18<sup>th</sup> December 2012 passes the Companies Bill which requires companies to spend 2 per cent of their net profit for Corporate Social Responsibility (CSR) activities, thus probably making India the first country in the world where CSR will become a mandatory requirement for companies once the Bill becomes an Act.'<sup>5</sup>

### B. The Companies Act, 2013

'The Companies Act, 2013 ('2013 Act'), enacted on 29<sup>th</sup> August 2013 on accord Hon'ble President's assent, has a potential to be a historic milestone, as it aims to improve corporate governance, simplify regulations enhance the interests of minority investors and for the first time legislates the role of whistle- blowers. The new law will replace the nearly 60 year old Companies Act, 1956 ('1956 Act').'<sup>6</sup>

### C. Mandatory CSR Clause

'Clause 135 of the Companies Bill (the "CSR Clause") requires a qualifying corporation to spend on CSR at least 2 percent of its average net profits made in the preceding three financial years (the "2 Percent Formula"). A qualifying company that fails to spend the required amount will have to explain that failure in the report of the board of directors.

### D. Fines and/or Imprisonment for Failure to Comply and Report

While a company is not subject to liability for failing to spend on CSR under the 2 Percent Formula, a company and its officers are subject to liability for not explaining such a failure in the report of the Board of Directors. Failure to explain is

punishable by a fine on the company of not less than 50,000 rupees (about U.S. \$900) and up to 25 lakh rupees (about U.S. \$46,000). Further, officers who default on the reporting provision could be subject to up to three years in prison and/or fines of not less than 50,000 rupees (about U.S. \$900) and as high as 5 lakh rupees (about U.S. \$9,200).

#### E. Qualifying Companies

The CSR Clause of the Companies Bill is applicable to any company with:

- A net worth of rupees 500 Crore (about U.S. \$90 million) or more;
- A turnover of rupees 1000 Crore (about U.S. \$180 million) or more; or
- A net profit of rupees 5 Crore (about U.S. \$900,000) or more in any fiscal year.<sup>7</sup>

#### F. Suggested list of CSR activities

Given below is a list of areas from which companies can choose to undertake CSR activities depending upon the area in which the company is interested. This is an indicative and not an exhaustive list.

- 1) **Education:** Illiteracy eradication, adult literacy, educating street/ slum children, girl child education, school, colleges, vocational courses, technical courses, assisting the needy.
- 2) **Literary Activities:** Poem Recitals (Kavi Sammelan, Mushaira), library for poorer sections of society.
- 3) **Performing Arts Development:** Drawing, painting, embroidery, craft, dance, drama, singing and performance of musical instruments.
- 4) **Health care and Nutrition:** sanitation, dispensary, primary health care centre, X-Ray facilities, pathological lab, hospital, ambulance, blood bank, medicines, donation of eyes, donation of organs, health check-up camps, emergency relief, reduction of incidents of Leprosy/ Malaria/TB/HIV-AIDS.
- 5) **Physical Fitness:** Physical exercises, yoga.
- 6) **Facilitating the physically challenged:** Through creation of employment opportunities, vocational training.
- 7) **Sports:** Indoor and outdoor games, including traditional Indian ones like wrestling (kushti), kabaddi etc.
- 8) **Rights:** Encouraging the observance of rights of children/ women/men/employees/consumers/animals. Providing legal assistance to victims of certain abuses.
- 9) **Consumers:** Educating consumers of their rights and any side effects related to the use of products/ services.

- 10) **Rural Development:** Development of the poorest people, self help groups, social entrepreneurship development, assisting and marginalised and people below poverty line to develop and improve earnings.
- 11) **Urban Development:** Hygiene in slums, helping street children to develop.
- 12) **Social service** in chosen field.
- 13) **Heritage Conservation:** Monuments, buildings, weaving, pottery, carvings on various wood/ bones/ stone/ metal, painting, singing, folklore, dances, others.
- 14) **NGO:** Identify and support a particular NGO and ask them to undertake the specified activity.
- 15) **Environmental concerns:** Water, air emissions, waste (hazardous, non- hazardous), global warming, energy (non-renewable and renewable), Habitat Plantations/ Forests.
- 16) **Homes for Aged:** People, Animals (Gaoshala i.e. Cow Shelter)
- 17) **Living Species:** Fish, birds, insects, reptiles and animals. The area of coverage and focus could be prevention of cruelty to animals, medication/treatment facilities, ensuring bio diversity, preservation of endangered species including wild life preservation and many others.<sup>8</sup>

## VI. CONCLUSION

Industries believe in building and improving strong businesses that have their roots planted firmly in the values of upliftment and betterment of the community and on the other side, care for the precious environment around them. In a bid to truly stay with this commitment, now industries has suggested to adopt various initiatives to make this world a better, greener and more peaceful place for the living of the mankind. Education and employability for the poor and needy people living in the society has been the main goal of industries where they try and give back to the community in as many ways as possible through Corporate Social Responsibility (CSR).

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