

## CSR - A FORCED COMPULSION IN THE CORPORATE ENVIRONMENT?

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### ABSTRACT

*Corporate Social Responsibility or CSR is a worldwide appreciated concept of social responsibility towards society delivered by the various corporates in public and private undertakings. Through the implementation of Corporate Social Responsibility whose guidelines are clearly laid down in Section 135 of the Companies Act 2013 it has been mandatory for companies to implement or pursue various policies and programs for the greater good of society. In India, there are many successfully established models and programs led by famous companies like Godrej, Reliance, Wipro, Amul, etc. who have contributed their bit to the development of society. However, the critiques question the government's steps in giving CSR guidelines statutory backing. There are many events that have been recorded in the recent past where the companies have exploited the present loopholes. In the name of performing CSR activities there have been many scams where the companies donate to trusts or Non-Governmental Organizations which are not registered with the Trusts Act of the state and the capital invested in the name of CSR activities is returned to the respected company in form cash with a small cut in the name of commission procured by the trust or the NGO. The guidelines regarding CSR have been amended several times to make the norms more tightened and transparent and to hold the companies having large enterprises socially more responsible.*

**Keywords:** Corporate Social responsibility, Companies Act, social responsibility, trusts, ease of doing index.

### INTRODUCTION

Corporate Social Responsibility or CSR finds its main motive or goal in pursuing companies to be socially more responsible and work for the greater good of society like working towards environment preservation, education sector, health infrastructure, development of backward areas, etc. CSR can be termed as a company's efforts or attempts in making society a better place. Also, the market that is providing a company with its business, capital, and

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recognition, it becomes the duty of the company to return the favor in terms of making society a better place to live. Also, CSR benefits a company in attaining its fame if worked on social causes. It is said that 91% of consumers go for companies that work towards addressing social issues and causes

### **APPLICABILITY OF THE CSR**

The Corporate Social Responsibility guidelines were first introduced in The Companies Act 2013. Under this Act, the companies are required to initiate various programs and activities mentioned under Schedule VII of the Companies Act 2013.

Basically, “CSR” included all the companies having the particular credentials in the preceding financial year –

- Net worth > 500 crore
- Turnover > 1000 crore
- Net profit > 5 crore

This provision applies to –

- Every company;
- Its holding companies;
- It's subsidiary company;
- Foreign company/

### **THE COMPANIES AMENDMENT ACT 2019**

An amendment was made to the Companies Act of 2013 by the government and Section 135 was modified. This amendment can be said to be a threshold amendment to the CSR guidelines. It was in this amendment that implementation of CSR was made a compulsory rule for a certain class of profitable companies as mentioned above. According to the rules and regulations established, the company is required to contribute 2% of its net profits made during the 3 immediately preceding financial years to CSR policies.

## **INTERNAL CSR COMMITTEE**

According to the amendments made in 2019 to the original act every company is bound to have an internal CSR Committee looking after the implementation of the policies related to CSR. This committee can be held liable for making the policies and designs on how can companies spend their capital in CSR activities. If the company fails on contributing the committee is needed to explain such failure to the board. Also, explanation of such failure needs to be explained in the annual report of the company.

## **SECTION 135**

Section 135 lays down various CSR guidelines, through the presented amendment it can be seen that there is an attempt to tighten the CSR norms by giving it a statutory backing, therefore making it compulsory and non-compliance with such rules can attract legal actions.

## **APPROPRIATION OF UNSPENT BALANCES TO CENTRAL FUND**

Previously (Companies Act 2013) the record of unspent balances was to be only mentioned in the annual report in front of the board, but now since it has a lawful backing the unspent balances will be transferred to a central fund made by the government and the funds would be used for social development.

## **PENALTY FOR NON-COMPLIANCE**

Non-compliance with CSR rules attracts regressive punishments. The company can be made liable to a penalty of an amount more than 50,000/- and less than 25 Lakhs or up to 3 years of imprisonment for the officer concerned or even both.

## **SUCCESSFUL CSR MODELS**

**Godrej:** For FY21-22 Godrej worked on various CSR policies like COVID outreach, ensuring employability and community development, and priority was given to the needs of the nation. India has 600 million people below the age of 25 and out of this 600 million only 80 million are employable which consists of only 13% of the generation as employed. Therefore, Godrej took up the task to train 1 million rural and urban youth to enhance their earning potential through employability projects. During the COVID outbreak, there were several covid outreach projects led by Godrej such as supporting the world's largest CSR

vaccination program and strengthening the supply chain and providing necessary cold storage for the vaccination programs.

**Infosys:** It is reported that during fiscal 2022, Infosys has reported spending around Rs. 344.91 crores on various CSR activities such as social and environmental causes. And had 51.91 crores as unspent balances which were resourced in various COVID-related funds and can be considered ongoing projects. Over the years the company focused on the holistic development of society and believed in the principle of sustainable development. But the implementation of the effect of CSR is not all positive, it has its dark side to be pondered upon.

### SCAMS IN CSR

According to a report 52 out of the 100 largest companies in the country have failed to accomplish the 2% rule for CSR activities. Giants like Tata, ONGC, HDFC Bank, and Bharti Airtel are the biggest tycoons. Companies or businesses have found ways to dodge the barrier of CSR activities and have found various loopholes to be exploited. One of the ways can be, it is observed that for the sake of performing CSR activities, the funds get transferred to trusts or NGO and most of these trusts are not registered with the trusts act of the concerned states as in many states there are no trusts act. Since these trusts and NGOs are generally in need of funds to sustain, the entities transfer the capital for performing social activities but the funds are returned to the particular entity by the concerned trust or NGO in cash and a small commission is kept with the trust. Since the trust is not registered with the state act of trust there is no superior authority to overlook the said transaction and to recognize that the said expenses are bogus or inflated. The transaction is only visible in the accounts of the trust. Every trust needs to file an annual accounts statement to the commissioner of States charity Commissioner, but again this commissioner is only present in the states where there is a state trust act and, in the states, where there is no trust act the trust only needs to file an income tax return and it is a known fact that till there is specific information regarding the mishandling of funds there is rarely scrutiny performed and there is no real system to track these trusts. And for the company or the entity, the financial statements need to file at the registrar, in that report there is a form known as Form AOC-4 which contains the reports of the 2% spent on CSR activities and how it has been utilized and to which agency it has been given to, it seems to be a transparent method but again there is a loophole which is exploited here. As an auditor you need to examine the finances and to just ensure whether form AOC has been filled and

attached with all the details or not, the auditor is not responsible for overcheck that the funds mentioned or if they are used in the correct way or not, therefore it's a safe passage for the company as well to mislead the funds.

## CONCLUSION

CSR is a widely accepted practice to make companies more socially responsible towards society. CSR activities generally include practices like working towards holistic development of society, working on various environmental issues, working towards last mile reach of education and healthcare infrastructure, sustainable development and many more activities leading towards inclusive development. India ranked 63<sup>rd</sup> amongst 190 countries in the ease of doing business. India needs to emphasize on ease of implementing social responsibilities so that companies willfully contribute their part in the act of social responsibility. The way forward can be optimistic. The government has now recognized the importance of CSR funding and should introspect the arbitrary conditions in the process of functioning CSR as it's a task for the public good. Therefore, it cannot be said that making CSR a compulsion can act as a hindrance to corporate governance or working, it acts as a stage for the general welfare.

