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CORPORATE SOCIAL RESPONSIBILITY: ANALYZING THE CONTEMPORARY TRENDS

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Introduction

“With the passage of Section 135 of the Companies Act, 2013¹ (the ‘Act’), India became the first nation to make a corporate social responsibility (‘CSR’) framework mandatory for certain types of businesses. This approach was based on firms ‘voluntarily’ participating in CSR initiatives, with non-compliance requiring just an explanation (i.e., the ‘comply or explain’ concept).² The Ministry of Corporate Affairs’ (‘MCA’) recent announcement of several revisions to the CSR system has considerably reduced corporations’ autonomy in mapping out and carrying out their corporate social responsibility, and has moved away from the ‘compliance or explain’ regime. The purpose of this article is to look at the major changes brought about by the modifications, as well as their influence on the “comply or explain” system”.

The first section of the article discusses how the modification affects the usage of unspent CSR funds. The second section looks at the different types of CSR spending and the challenges that corporations face in implementing them. The final section emphasizes the importance of the company’s board of directors and CSR committee. The fourth section looks at the issues that have arisen as a result of the present CSR system that have not been addressed by the amendment or for which no suitable explanation has been offered. The writers’ closing comments are addressed in the last section.

Review of Literature

Cases

(a) **National Textile Workers’ Union v. P.R. Ramakrishnan:** The Supreme Court’s ruling in 1983 was the first to recognize Corporate Social Responsibility as a concept. While deciding a dispute between workers and a corporation, the Supreme Court unequivocally said that the conventional concept that a firm is the property of its shareholders is a lie. Thus, this

¹ “The Companies Act, 2013, §135, No.18, Acts of Parliament, 2013 (India)”.

² “The Companies Act, 2013, §135(5), No.18, Acts of Parliament, 2013 (India)”.

imperatively bought the concept of CSR into the Indian legal system.

(b) **Chiranjit Lal Chowdhuri v. Union of India**: The court mentioned that one should bear in mind that a corporation engaged in the production of a commodity vitally essential to the community has a social character of its own, and it must not be regarded as the concern of those who invest their money in it. Thus, regardless of who the investors are, a company has to perform its CSR obligations by its own self.

Legislative Acts

(a) **Section 135, Companies Act 2013**:

“The Companies (Corporate Social Responsibility) Amendment Rules, 2021, will come into effect on January 1, 2021, and will alter the current Companies (Corporate Social Responsibility) Rules 2014. Under the Companies Act of 2013, companies with a net worth of Rs 500 crores or more, or with a turnover of Rs 1000 crores or more, or with a net profit of Rs 5 crores or more during any financial year are required to form a corporate social responsibility (CSR) committee of the board of directors, with at least one of the directors being an independent director. The board must disclose the membership of the CSR committee in its report for the committee to be effective”.

Books

(a) **Corporate Social Responsibility in India by Sanjay K. Agarwal**: In India, Corporate Social Responsibility is likely the first complete, well-researched book on the topic. To highlight the gap between Indian company requirements and present practises, the author offers Indian examples, case studies, and CSR role models from the Indian sector. Economically developed country practises and research have also been widely adopted. As the Indian economy expands into foreign markets, it will be critical to combine CSR with corporate objectives in order to ensure long-term viability and a positive economic, social, and environmental effect. The book aims to demonstrate how CSR may be utilised as a marketing tool and for commercial gains, in addition to helping readers grasp the meaning of company beyond financial metrics. It covers the whole history of CSR, from its beginnings as charity to its current status as a legal need for firms to be CSR conscious.

(b) **Corporate Social Responsibility: Concept, Cases and Trends by Prabhakar Paleri**: In today's globalised world, where traditional management is giving way to responsible strategic

governance within the closely interconnected trinity of business, government, and society, corporate social responsibility (CSR) is a hot issue. This book serves as a textbook for students, academics, scholars, governments, officials, and other interested parties who want to learn more about the idea and how to use it in their own contexts. Csr is growing rapidly across organisations with distinct cultures, personalities, processes, and stages of growth. As a result, it must be investigated. While firms are vertically focused and conceptualising cutting-edge CSR intervention tactics, the government is also in the spotlight by providing the notion, which originated as a duty, with a legislative mandate. This action is intended to benefit the business sector. The framework that will be used to create and standardise CSR interventional procedures inside the social system, as well as increase the much-desired ethical transparency. When the Companies Act of 2013 was passed, India became the first nation to legislate CSR. This book covers all of these topics and more. With the goal of providing readers with a large amount of freedom to manoeuvre inside the expanding notion of CSR in a "how to thinking" style and apply it to any company in an inventive manner appropriate to the current business climate.

Statement of Problem

With the introduction of section 135 of the Companies Act, 2013, India established itself as the pioneer in obligating a corporate social responsibility framework for specific categories of companies. This framework initially relied on companies choosing to engage in CSR activities voluntarily, with non-compliant companies merely required to provide an explanation. However, the recent announcement by the Ministry of Corporate Affairs (MCA) regarding various changes to the CSR regulations has substantially limited companies' freedom to define and execute their corporate social responsibility initiatives. This marks a departure from the previous 'comply or explain' approach.

Hypotheses

Numerous aspects of the Amendment come with various challenges. While the CSR policy has been expanded, the significance of CSR has diminished, with greater obligations placed on the board of directors. Consequently, the new rules have placed a heavy burden on companies to overhaul their current CSR frameworks to align with the Amendment, marking a substantial departure from the previous 'comply or explain' approach.

Research Question

The research seeks to answer the following questions, which are elucidated as follows:

- (a) How CSR's unspent amount is utilized and what are the legal provisions for the same?
- (b) What is the amount of discretion that the Board of Directors of a Company exercises in allocating CSR projects?
- (c) What is the takeaway of the recent amendment concerning the unspent CSR amount?
- (d) What are the administrative overheads that are required for CSR to be exercised?

Research Objectives

This study is based on a historical and descriptive approach i.e. documents and published materials as are relevant to the present study have been analyzed. Secondary data is relied upon like books, journals & various websites. "The research has been conducted by using a pragmatic approach and in accordance with majorly doctrinal research methodology, whereby, various triangulation methods have been used which include": -

- a) Reform oriented research (Analysis of existing provisions and making suggestions for future changes);
- b) Methodological triangulation (Use of multiple methods for getting a good result such as reference to various journals, and different books).

Method of Study

This research project uses only the doctrinal method of study.

Corporate Social Responsibility: A Brief

The significance of corporate social responsibility has never been more pronounced. The impact of companies on our world has become increasingly evident in recent years. However, the reasons behind why businesses should practice socially responsible behavior remain unclear. This lack of clarity stems from a limited understanding of the fundamental nature of corporations.

Many corporate leaders believe they have a moral obligation to engage in socially responsible activities. They often present two arguments to support their engagement in such activities.

Some managers argue that this conduct is legitimate because it benefits the company, while others assert that it is simply the right thing to do.³

This explanation is widely accepted and has a solid legal basis, as socially responsible actions are considered acceptable when they align with a business's commercial objectives, as established in the famous case of Dodge v. Ford Motor Co.⁴ According to case law, for-profit companies must operate with the primary goal of making a profit.

However, this legal perspective does not fully clarify why firms should participate in such activities unless it directly contributes to profit maximization. For instance, most business managers would struggle to justify choosing a socially responsible course of action over a non-socially responsible one if both options yielded the same level of profit. Furthermore, corporate executives may find it challenging to explain why a company should prioritize socially responsible behavior when its impact on profitability is uncertain.

As a result, many business executives resort to the second rationale for engaging in socially responsible activities: the belief that it is simply the right thing to do. However, this rationale often relies on the intuition of corporate leaders who believe that being perceived as socially conscious can lead to better outcomes for their companies. In summary, while the idea that firms should engage in socially responsible conduct is widely accepted, it remains far from fully comprehended.

Corporate Social Responsibility in India

The Companies Act of 2013 in India didn't mark the inception of corporate social responsibility (CSR) in the country. Over time, the concept of CSR has evolved, transitioning from a focus on corporate philanthropy to the recognition of CSR.

Corporate Social Responsibility (CSR) is a societal expectation for businesses to operate ethically and contribute to the economic well-being of society. It can be defined as "a company's sense of responsibility for the community and the environment (both ecological and social) in which it operates," as per dictionary definitions. This ethical responsibility extends beyond improving the quality of life for employees and includes the local community and society as a whole. CSR is a business concept in which corporations consider sociological and environmental factors while conducting business and engaging with stakeholders. Its objective is to strike a balance between environmental and social obligations to society while meeting

³ "Joe W. Pitts III, Corporate Social Responsibility: Current Status and Future Evolution, 6 RUTGERS J.L. & PUB. POL'Y 334, 343 (2009)".

⁴ "Dodge v. Ford Motor Co., 170 N.W. 668, 684 (Mich. 1919)".

stakeholder expectations.

“CSR, a strategic corporate management concept, differs fundamentally from philanthropy, which is purely a humanitarian idea. CSR's contribution to society not only enhances a company's reputation but also serves as the foundation for a business concept. It aims to align private firms with the goal of long-term global development, going beyond profit as the sole objective. When correctly implemented, CSR can be highly advantageous to a business, improving access to capital and markets, increasing revenue, reducing operational costs, enhancing efficiency, fostering customer loyalty, and assisting in decision-making and risk management”.

“The Supreme Court’s ruling in 1983 was the first to recognize Corporate Social Responsibility as a concept.⁵ While deciding a dispute between workers and a corporation, the Supreme Court unequivocally said that the conventional concept that a firm is the property of its shareholders is a lie. Today’s social scientists and philosophers see a business as a living, alive, and dynamic social organism with strong and deep ties to the rest of the society in which it operates”. The Supreme Court also cited a 1950 ruling by the same court, which stated that “*we should bear in mind that a corporation engaged in the production of a commodity vitally essential to the community has a social character of its own, and it must not be regarded as the concern of those who invest their money in it*”.⁶

Legal Provision for CSR in India

History of the CSR Regime in India

Under the Companies Act of 1956 and its predecessors, there was no official recognition of CSR. Corporate Social Responsibility Voluntary Guidelines, 2009 was the first CSR guideline published in 2009. National Voluntary Guidelines on Business’s Social, Environmental, and Economic Responsibilities broadened the scope even further. The Companies Bill of 2011 paved the way for official acknowledgment of CSR.

“CSR was not included in the Companies Bill, 2009 when it was first tabled in the Lok Sabha. When the measure was sent to this committee, the standing committee on finance suggested a provision on CSR. When the Companies Bill, 2009 was superseded by the Companies Bill, 2011, which was tabled in the Lok Sabha on December 14, 2011, the provision was added into the Companies Bill, 2011. The Companies Bill, 2011, was referred to the standing committee

⁵ “National Textile Workers’ Union v. P.R. Ramakrishnan, (1983) 1 SCC 228: 1983 SCC (L&S) 72 : 1983 SCC (Tax) 2”.

⁶ Chiranjit Lal Chowdhuri v. Union of India AIR 1951 SC 41 : 1950 SCR 869 : 1951 SCJ 29.

once again, and various revisions were requested. The revisions were properly integrated, and the Companies Bill, 2011 was approved by the Lok Sabha in 2012 as the Companies Bill, 2012, and then by the Rajya Sabha in 2013 as the Companies Bill, 2013. On August 19, 2013, the Companies Bill obtained Presidential assent”.

For the first time anywhere in the world, the Companies Act of 2013 became a historic Act by recognizing CSR as a legislative provision. The current provisions of section 135 are as follows:

1. “Companies with a net worth of Rs 500 crore or more, a turnover of Rs 1,000 crore or more, or a net profit of Rs 5 crore or more in the previous financial year must form a CSR committee of the board of directors”.
2. The CSR committee will be in charge of developing, recommending, and monitoring the company’s CSR policy.
3. The board must guarantee that the firm spends at least 2% of its average net earnings over the past three years on CSR initiatives, as outlined in Schedule VII.
4. Local areas and regions surrounding it where it works will be given priority.
5. Any failure to spend the allocated funds must be explained in detail in the board’s report.

“The modification to Section 135 has yet to take effect. Sections 134 and 450, in addition to section 135, play a significant role. Section 134(3)(o) establishes the firm’s requirement to disclose information regarding its corporate social responsibility policy and measures made throughout the year as part of the Board of Directors’ report, which is attached to the financial statements brought before the company in a general meeting. Failure to make disclosures as required by section 134(3)(o) may result in a monetary penalty (8). The firm shall be fined not less than fifty thousand rupees but not more than twenty-five lakh rupees, and any official of the company who is in default shall be sentenced to three years in jail or a fine of not less than fifty thousand rupees but not more than five lakh rupees, or both”.

“There is no particular mechanism in place that penalizes failing to form a CSR committee or spend the necessary amount as required by section 135 of the Act. Section 450, on the other hand, governs punishment in the absence of a defined penalty or punishment. Section 450 punishes the company and every officer of the company who is in default or any other person with a fine of up to ten thousand rupees, and where the contravention continues, with a further fine of up to one thousand rupees for each day after the first during which the contravention continues”.

Recent CSR Amendments in India

Non-compliance with CSR rules is planned to be criminalised under the Companies (Amendment) Act of 2019. If a firm fails to comply with the requirements provided in the new revised Section 135 of the Companies Act, 2013, it will be subject to a penalty of more than INR 50,000 but less than INR 25 lakhs. Each official of a non-compliant corporation will face a fine of more than INR 50,000 but less than INR 5 lakhs, or up to three years in jail, or both. Companies who are unable to spend the necessary amount on CSR activities shall transfer the unspent money to a fund listed in Schedule VII within 6 months after the financial year's end, according to newly modified section 135. If there is an ongoing project, however, the remaining funds will be moved to the Unspent Corporate Social Responsibility Account. The money has to be used towards a project within three years of it being transferred to the fund. The federal government will decide whether a project is continuing or not. It's vital to highlight that the central government will decide what constitutes an ongoing initiative. As a result, the central government may tighten the noose even further on CSR expenditure firms by establishing a high bar for classifying a project as an ongoing one.

How Companies approach CSR

“It isn't true that the government or different offices don't joke around about CSR. Indeed, even organizations have done amazingly well in the field of CSR. As per the report of KPMG worldwide, organizations in India have spent Rs 7,536.3 crore on corporate social obligation (CSR) exercises in 2017-18 which is a 47% increment when contrasted with 2014-15. The combined consumption spent by top 100 organizations from 2014-15 to 2017-18 is about Rs 26,385 crore and the typical sum spent per organization has seen a significant increment from 76.1 crore to 58.8 crore, which is a 29% increment. Energy and power areas have spent the most elevated sum towards CSR at Rs 2,464.96 crore followed by BFSI at Rs 1,352.67 crore, client items at Rs 635.41 crore, IT counseling and programming at Rs 1,100 crore and mining and metal at Rs 647.12 crore”.⁷

The number of companies allocating less than 2 percent of their CSR funds has significantly decreased by 37 percent, from 52 companies in 2014-15 to 33 companies in 2017-18. The unspent amount has also reduced, going from Rs 1,738 crore in 2014-15 to Rs 989 crore in 2017-18. Spending on education and healthcare has notably risen from Rs. 1249 crore to Rs.

⁷ KPMG International, India's CSR reporting survey 2019, available at <https://home.kpmg/in/en/home/insights/2020/02/india-s-csr-reporting-survey-2019.html>.

2404 crore, marking a 92 percent increase. Additionally, the representation of women in CSR committees has increased, with 67 percent of activated CSR initiatives including women.

Despite the telecommunications sector being burdened by debt, its CSR spending has increased by 400 percent, while pharmaceutical companies have witnessed a 234 percent rise in their CSR expenditure. Public sector undertakings (PSUs) accounted for 31 percent of the total projects, with non-PSUs representing the remaining 78 percent.

The top five states where CSR projects are most prevalent are Maharashtra, Uttar Pradesh, Tamil Nadu, Karnataka, and Odisha. These states collectively account for 31 percent of all CSR projects and initiatives across the country.

Unspent CSR Amount: What does it hold to the "comply or explain" regime?

"Any company with a net worth of Rs 500 crores or more, a turnover of Rs 1000 crores or more, or a net profit of Rs 5 crores or more in the immediately preceding financial year must establish a CSR committee as per Section 135 (1) of the Act. Additionally, such a corporation must allocate a minimum of 2% of its average net income over the past three financial years for CSR initiatives"⁸. The amendment clarifies that if a company has not completed three financial years since its inception, the average net profit during the company's existence will be used to calculate its CSR obligation.

If a company fails to fulfill its CSR obligations in accordance with the aforementioned rules, it "must transfer the unspent funds to a fund specified in Schedule VII of the Act within six months after the end of the financial year. Currently, no separate fund has been established for this purpose, and any funds listed in Schedule VII of the Act can be used to transfer unspent funds. These funds include the Clean Ganga Fund, Prime Minister's National Relief Fund, PM Cares Fund, and any other central government fund aimed at socio-economic development and the welfare of marginalized groups, minorities, and women (referred to as the "Central Government Fund"). Additionally, companies are required to explain in the director's report why the mandated CSR amount was not spent"⁹.

Any unspent funds from an "ongoing project" undertaken by a company to fulfill its CSR obligation must be transferred to a special account called the 'Unspent Corporate Social Responsibility Account' ('Unspent Account') in any scheduled bank within thirty days. The company must utilize the unspent funds in accordance with its CSR strategy within three years

⁸ "The Companies Act, 2013, §135(5), No.18, Acts of Parliament, 2013 (India)".

⁹ "The Companies Act, 2013, §135(5), No.18, Acts of Parliament, 2013 (India)".

after transferring them to the Unspent Account, or they will be transferred to a Central Government Fund¹⁰.

However, the requirement to transfer unspent funds raises several concerns. Firstly, CSR aims to involve companies in social development and promote private-sector innovation. Transferring remaining CSR funds to a Central Government Fund essentially amounts to cash distribution and contradicts the purpose of CSR expenditure. Additionally, the High-Level Committees responsible for assessing the CSR system have recommended phasing out payments to the Central Government Fund.

Secondly, the fundamental motivation behind the CSR rule was to enable strategic CSR expenditure rather than mere charitable giving. “The three-year limit on spending on 'ongoing projects' may lead companies to divert CSR spending from long-term sustainable initiatives to smaller projects or contributions to the Central Government Fund, potentially reducing the quality of CSR investment”¹¹.

Thirdly, companies, particularly smaller or newly established ones, may encounter implementation challenges with CSR initiatives, resulting in non-spending or under-spending of the CSR budget. These challenges may include delays in identifying suitable projects, lack of prior experience, technical difficulties, difficulty in formulating an effective CSR strategy, and implementation in remote areas, which can be time-consuming. Requiring companies to transfer unspent CSR funds to the Central Government Fund if they haven't identified an "ongoing project" or imposing a three-year deadline for "ongoing project" completion could negatively impact CSR planning, allocation, and expenditure. Furthermore, the amendment does not provide an option for companies to request an extension for completing “ongoing projects” with adequate justifications. This approach is particularly burdensome for smaller and newly established businesses that lack statutory time extensions for fund utilization and project completion¹².

Lastly, under section 135(7)¹³ of the Act (the sole punitive provision under the CSR system), violations related to the transfer of unspent funds result in a monetary penalty for the company and each defaulting official. The amendment eliminates the provision for imprisonment of

¹⁰ “Injeti Srinivas, *Report of the High Level Committee on Corporate Social Responsibility 2018*, 15 (August, 2019)”.

¹¹ “Anil Baijal, *Report of the High Level Committee (to suggest measures for improved monitoring of the implementation of Corporate Social Responsibility policies)*, 15 (September, 2015)”.

¹² “Committee on Public Undertakings (2015-16), *Corporate Social Responsibility in Select Public Sector Undertakings* (CPSUs), 19, (December, 2015), available at http://164.100.47.193/lsscommittee/Public%20Undertakings/16_Public_Undertakings_8.pdf”.

¹³ “The Companies Act, 2013, §135(7), No.18, Acts of Parliament, 2013 (India).”

“officers in default” and replaces it with a monetary fine. However, this penalty clause applies only to violations of sections 135(5)¹⁴ and 135(6)¹⁵ of the Act. Other non-compliances, such as the failure to establish a CSR committee, the failure of the CSR committee to formulate a CSR strategy, and the failure of a company's board to oversee CSR activities properly, among others, will not be covered by this penalty provision. Non-compliance with other CSR requirements may result in a residual penalty under section 450 of the Act¹⁶.

Therefore, companies are primarily required to spend the statutorily mandated amount and transfer any unspent funds to the Central Government Fund to effectively avoid penalties. In this regard, the emphasis is more on compliance with the statutory requirement rather than the quality of CSR expenditure. The “compliance or explain”¹⁷ system remains intact to a certain extent. Additionally, since the maximum penalty is Rs 1 crore, larger companies (in terms of net worth, net profit, and revenue) may opt to pay a fine rather than undergo lengthy CSR compliance processes. As a result, enforcing this penalty may lead to a one-time payment of CSR funds, undermining the purpose of using CSR as a tool for long-term societal benefit. This penalty imposition is particularly challenging for smaller or newly established businesses, which may struggle with CSR implementation. Smaller companies and recently established ones should be exempted from these penalties, and the initial years should be viewed as a learning period.

Board of Directors and their role towards fulfillment of CSR: Analysis

The greater responsibility given to “the company’s board of directors for the fulfillment of its CSR duties is one of the significant developments brought about by the Amendment, which has resulted in a divergence from the ‘comply or explain’ paradigm. Prior to the Amendment, the board had to adopt and include the CSR policy in the board report, as well as ensure that the firm carried out the CSR policy’s actions, which were related to the areas or topics listed in Schedule VII of the Act. However, if the corporation fails to spend the statutory CSR amount, the board’s sole requirement is to publish the reasons for the failure, with no penalty placed on the board. This was in accordance with the logic of the previous ‘comply or explain’ system, which deemed yearly statutory disclosures to be a sufficient check for CSR compliance and punished corporations only if they did not spend the required amount and failed to

¹⁴“The Companies Act, 2013, §135(5), No.18, Acts of Parliament, 2013 (India).”

¹⁵“The Companies Act, 2013, §135(6), No.18, Acts of Parliament, 2013 (India).”

¹⁶ The Companies Act, 2013, No.18, Acts of Parliament, 2013 (India).

¹⁷ “Standing Committee on Finance, *Report on Companies Bill, 2011*, 59 (June 2012)”.

disclose”.¹⁸

“The Amendment adds to the board’s responsibilities: (i) transferring unspent CSR funds to the Central Government Fund (in cases where the company does not have a ‘ongoing project’); (ii) extending a single-year CSR project to a ‘ongoing project’ after providing reasonable justification; (iii) monitoring the implementation of a ‘ongoing project’ and making appropriate modifications for the project’s implementation within the prescribed time period; and (iv) ensuring that as a result, the board’s total duty for CSR monitoring and execution has expanded significantly, potentially putting the board under a lot of strain. Prior to the Amendment, the CSR committee was responsible for developing, monitoring, and proposing CSR policy and a thorough action plan, as well as recommending CSR spending. However, in light of the additional responsibilities placed on the board, the CSR committee’s function has been restricted to policy-making, with the majority of CSR implementation falling to the company’s board”.

Takeaways from the Amendment

CSR spending in local areas

A corporation that engages in CSR initiatives is required to prioritize the communities in which it works. The Standing Committee on Finance’s 37th report¹⁹ noted that local CSR spending was insignificant in comparison to CSR spending in other regions, and advised that this requirement be strictly enforced. Companies should comply with this requirement, according to a recent MCA clarification.²⁰ However, the HLC 2018 found that, as local CSR spending increased, CSR spending became concentrated in specific geographic regions and biased towards industrialized states.

According to the HLC 2018, when this clause is read in conjunction with the items in Schedule VII, it is obvious that CSR investment is not meant to be focused in certain geographic regions. The HLC 2018 also suggested that local CSR spending should be prioritized, and that CSR spending should be prioritized by comparing local CSR spending to other CSR expenditures. The MCA has not yet issued any explanation on the required nature of local CSR spending, and in the present situation, a firm must provide strict priority to local regions, and enterprises

¹⁸ “India CSR Network, *Corporate Social Responsibility a leap of Faith for the Government: Sachin Pilot, Minister Corporate Affairs*, December 20, 2012, available at <https://indiacsr.in/corporate-social-responsibility-a-leap-of-faith-for-the-government-sachin-pilot-minister-corporate-affairs/>”.

¹⁹ “Standing Committee on Finance, *Report on The Companies (Amendment) Bill, 2016*, 45 (December 2016)”.

²⁰ “Ministry of Corporate Affairs, General Circular No. 06/2018 (Issued on May 28, 2018), available at https://www.mca.gov.in/Ministry/pdf/GeneralCircular2805_29052018.pdf”.

that violate the Act may face monetary penalties.

Tax exemptions and CSR expenditure

The absence of an unified tax structure for actions conducted by firms in fulfillment of their CSR duties has been a problematic component of the CSR regime. The Finance Act of 2014 stated that CSR spending by businesses cannot be considered as business expenditure under section 37(1) of the Income Tax Act of 1961 ('ITA'). This was because CSR spending was considered as a way for a corporation to put its money to good use, and deducting it would essentially be the government supporting such spending.²¹

"The restriction under section 37 of the ITA, on the other hand, does not preclude businesses from claiming deductions under other sections of the ITA (such as sections 30-36 of the ITA) for various activities listed in Schedule VII of the Act, such as rural development projects and scientific research.²² Donations to the Prime Minister's National Relief Fund, for example, are completely deductible under section 80G of the Internal Revenue Code. Companies may be enticed to focus their CSR operations in regions or sectors where they may claim tax benefits as a result of these exemptions.²³ To combat this, activities included in Schedule VII of the Act should have consistent tax advantages, and CSR spending should be allowed to be deducted when calculating taxable income".²⁴

Suggestive Remarks and Conclusion

The HLC 2015 and HLC 2018 have underscored the appropriate utilization of CSR cash, especially when guarantee of maltreatment of CSR subsidizing and wasteful CSR consumption have surfaced. To that point, large numbers of the changes delivered by the Alteration have endeavored to address such maltreatment and work on the CSR consumption process. A couple of positive changes include: I requiring carrying out organizations to enlist with the Focal Government, which will further develop responsibility and may decrease re-steering of CSR subsidizes back to the organization; (ii) expecting that capital resources utilized for CSR purposes can't be held in the organization's name, which mirrors the CSR ethos that society

²¹ "The Finance Act, 2014, § 13, No. 2, Acts of Parliament, 2014 (India)".

²² Ministry of Finance, Circular No. 1/2015 (Issued on January 21, 2015), available at https://www.incometaxindia.gov.in/communications/circular/circular1_2015.pdf.

²³ Ministry of Corporate Affairs, Frequently Asked Questions on CSR Cell, available at <https://www.mca.gov.in/MinistryV2/faq+on+csr+cell.html>.

²⁴ Satish Y Deodhar, *India's Mandatory CSR, Process of Compliance and Channels of Spending*, 9 (Indian Institute of Management Ahmendabad India, Working Paper No. 2015-05-01, 2015), available at <https://web.iima.ac.in/assets/snippets/workingpaperpdf/16048663442015-05-01.pdf>.

ought to be the recipients of CSR projects and the organization is denied from benefitting from CSR; and (iii) directing effect evaluations for CSR projects for explicit classes of organizations empowers organizations to survey the adequacy of their CSR spending; (iv) permitting organizations that spend more than the necessary add up to set off the overabundance sums inside endorsed courses of events gives organizations greater adaptability in picking and designating CSR ventures; and (vi) permitting organizations to employ global associations to help with their CSR projects gives organizations greater adaptability in picking and distributing CSR projects.

Notwithstanding, as recently referenced, a considerable lot of the Revision's arrangements are hampered by various impediments. However the CSR strategy has been extended, the occupation of CSR has taken a secondary lounge as the top managerial staff has been given more prominent obligations. The objective of laying out the CSR system was to hold firms' independence while empowering them to take part in CSR exercises individually. Presently, the required expenditure of CSR sums (or the exchange of unspent CSR sums), the danger of financial authorizations for non-expenditure of CSR, and expanded obstruction in the job of a leading group of legal administrators corresponding to CSR execution have stripped organizations of their independence comparable to CSR execution, bringing about a critical takeoff from the 'consent or make sense' system. Thus, the new system has put a weighty strain on organizations to adjust their ongoing CSR methodology to conform to the Change.

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