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**Corporate Social Responsibility Spend for 2014-15 - Analysis of**

**NIFTY companies**

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**Abstract of the Article:**

Corporate Social Responsibility (CSR) has been in the limelight since the passage of the new Companies Act, 2013. As per the Act, companies falling within the threshold limits, had to spend 2% of their Average Net Profits of the past 3 years towards CSR activities, in the ensuing year. The first year of implementation was 2014-15. This article describes the CSR as per the Act and the Rules there under, an analysis of the spend by the NIFTY companies (company wise and industry wise), recommendations of the High Level Committee on CSR/Company Law Committee and draws some conclusions. In the end, certain suggestions have been given for future implementation

**Introduction:** Every company depends on various stakeholders for the smooth running of its business. In the course of their operations, they exploit the environment and other resources of the common society. Hence, it was felt by the Government of India that the companies should do some common good as a responsibility towards Society. As a sequel to this, in the Companies Act, 2013 the Government has made it mandatory for certain class of companies to spend at least 2% of their average profits towards 'Corporate Social Responsibility' (CSR). The Act also gave under Schedule VII various activities on which a Company could spend its CSR funds. Rules for implementation of this guideline were framed. Formats for reporting in the Annual Report of the company were

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devised. The year 2014-15 was the first year of implementation and the companies covered by the guidelines have reported CSR spend and the activities in their Annual Report.

**Definition of CSR:**

“Corporate Social Responsibility is the continuing commitment by business to behave ethically and contribute to 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” - **Lord Holme and Richard Watts**

“Corporate social responsibility encompasses not only what companies do with their profits, but also how they make them. It goes beyond philanthropy and compliance and addresses how companies manage their economic, social, and environmental impacts, as well as their relationships in all key spheres of influence: the workplace, the marketplace, the supply chain, the community, and the public policy realm”.

**Harvard University**

“CSR is a commitment to improve community well-being through discretionary business practices and contributions of corporate resources.”

“Corporate social initiatives are major activities undertaken by a corporation to support social causes and to fulfill commitments to corporate social responsibility” **Philip Kotler & Nancy Lee**

**Strategic CSR** has been defined as :

“The idea that CSR should be integrated into the firm’s strategic perspective and operations because of the long term benefit this brings to the organisation”

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Strategic CSR focuses more on the ethical and discretionary concerns that are less precisely defined and which there is often no clear societal consensus.

### **Companies (Corporate Social Responsibility Policy) Rules 2014**

**“Corporate Social Responsibility (CSR)”** mean and includes, but is not limited to:

(i) Projects or programs relating to activities specified in Schedule VII to the Act ; or

(ii) Projects or programs relating to activities undertaken by the board of directors of a company (Board) in pursuance of the recommendations of CSR Committee of the Board as per the declared **CSR Policy of the company** subject to the condition that such policy will cover subjects enumerated in Schedule VII of the Act”

**“CSR Policy”** relates to the activities to be undertaken by the Company as specified in the Schedule VII to the Act and the expenditure thereon, excluding activities undertaken in pursuance of the normal course of business of a company. CSR Policy of a Company shall specify that the surplus arising out of the CSR projects or programs or activities shall not form part of the business profit of a company.

### **CSR Reporting**

The Board’s Report of a Company covered under these rules pertaining to a financial year commencing on or after 1st day of April 2014 shall include an annual report on CSR containing particulars specified in the annexure.

The Board approved CSR Policy of the company shall be displayed in the company’s website.

### **Why Companies to spend on CSR?**

“Business for Social Responsibility” is a leading non profit global organisation that provides business with information, tools, training and advisory services related to integrating CSR in their business operations and strategies. Their research and experience concludes that companies have gained following benefits through CSR spend:

- Increase in bottom line
- Increased sales and market share
- Strengthened brand positioning
- Enhanced corporate image and clout
- Increased ability to attract, motivate and retain employees
- Decreased operating costs
- Increased to appeal to investors and financial analysts

### **Six Reasons Companies Should Embrace CSR – Forbes**

1. Innovation
2. Cost Savings
3. Brand Differentiation
4. Long Term Thinking
5. Customer Engagement
6. Employee Engagement

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**CSR Provisions under Companies Act 2013**

**135. (1) Every company having net worth of rupees five hundred crore or more, or turnover of rupees one thousand crore or more or a net profit of rupees five crore 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.

*(By means of General Circular No. 21/2014 dt. 18th June 2014, the MCA has clarified that “any financial year” will imply “any of the three preceding financial years”)*

*Exceptions are provided under the Rules for certain unlisted public companies and private companies which are not required to appoint independent directors. If a private company has only two directors, the CSR committee shall consist of those two directors.*

(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,—**

(a) 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**;

(b) 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,—

(a) 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

(b) 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 per cent 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 profit" shall be calculated in accordance with the provisions of section 198.*

#### **Our Interpretation on CSR spending as per the Act:**

*India is the first and the only country, as of date, to have made CSR spend "MANDATORY". Though it appears Mandatory, a close reading of Sec.135 (5) doesn't say so. It only requires a company that fails to spend such amount to only report the reasons for not spending. It follows the principle 'Comply or Explain'. Having said that, one can definitely conclude that no company which comes under the provisions would like NOT to spend but Explain since it may not go well with the stakeholders in the long run.*

***SCHEDULE VII***

(See section 135)

**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) promotion of 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, day care centres 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 quality of soil, air and water including contribution to the Clean Ganga Fund setup 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 arts and handicrafts;

(vi) measures for the benefit of armed forces veterans, war widows and their dependents;

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

(viii) contribution to the Prime Minister's National Relief Fund or any other fund set up by the Central Government for socio-economic development and relief and welfare of the Scheduled Castes, the Scheduled Tribes, other backward classes, minorities and women;

(ix) contribution or funds provided to technology incubators located within academic institutions which are approved by the Central Government;

(x) rural development projects.

(xi) Slum Area Development

***P.S.: Through the FAQs and various clarifications, the MCA has made it very clear that the above is not exhaustive and it is only illustrative. A Company can spend on any activity which is broadly covered under Schedule VII***

**Companies (Corporate Social Responsibility Policy) Rules, 2014:**

*CSR Rules provide FORMAT FOR THE ANNUAL REPORT ON CSR ACTIVITIES TO BE INCLUDED IN THE BOARD'S REPORT.* The Research has found that in most of the cases, this report has been included in the Annual Report by the NIFTY companies.

**Background of the Study:**

Hitherto, big companies like TATAs, Birlas, Reliance, Infosys, Wipro were spending money on improving the society and the environment on their own volition. With the passage of the

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Companies Act, 2013 the CSR spend has more or less become mandatory for majority of the companies in India. The first year of implementation of the guidelines was 2014-15. Hence, it was thought fit to study the Annual Report of leading companies on the aspect of the CSR amount to be spent and the amount actually spent and also the activities under which these were spent.

### **Methodology of Research:**

- First we had to decide the sectors and the names of companies to be covered under the study.
- **We chose to study companies covered under the “NIFTY” index.** The reason is that these 50 companies comprise of the majority of the top companies of India and it also covers a wide range of industries from Automobile to Information Technology to Banking.  
**It covers 13 sectors of the economy.**
- It is basically “**Secondary Research**”
- The data has been taken from the published Annual Reports of the NIFTY companies. These Annual Reports of the Companies from their websites.
- First Level, analysis of the Amount to be Spent under CSR as per regulations and the amount actually spent by each of the companies has been analysed
- At second level, “Sectoral Analysis” of the CSR spent by these companies has been made
- Next Analysis was the “Activities” on which each of the companies spent the CSR amount
- Lastly, “Sector-wise Activity-Wise” analysis has been made.

**Findings of the Research:**

The table given below gives the analysis of the CSR spends by NIFTY companies in the year 2014-15:

**Table 1: Analysis of the CSR Spend in 2014-15 by NIFTY Companies**

Company Name	Indy Sector	Average of 3 years Profits Rs.Crores	2% of Avg	Actual Amt spent	Amount unspent
Mahindra & Mahindra Ltd.	Automobile	4151.74	83.03	83.24	-0.21
Bajaj Auto Ltd.	Automobile	12,133	243	239.54	3.46
Maruti Suzuki India Ltd.	Automobile	2505.3	50.11	37.25	12.86
Hero Motocorp Ltd.	Automobile	2202	44.04	2.41	41.63
Bosch Ltd.	Automobile	1359.4		10.34	-10.34
Tata Motors Ltd.	Automobile			18.62	-18.62
Ultratech Cement Ltd.	Cements	3076	61.51	44.46	17.05
Ambuja Cements Ltd.	Cements	1696	34	38.4	-4.4
A C C Ltd.	Cements	1360	27.2	27.45	-0.25
Grasim Industries Ltd.	Cements	1002	20	16.71	3.29
I T C Ltd.	Cons goods	10646.11	212.92	214.06	-1.14
Hindustan Unilever Ltd.	Cons goods	3990.93	79.82	82.35	-2.53
Asian Paints Ltd.	Cons goods	1493.73	29.87	19.01	10.86
Larsen & Toubro Ltd.	Construction	5310.29	106.21	76.54	29.67
Oil & Natural Gas Corpn. Ltd.	Energy	33030	660.61	495.23	165.38
Reliance Industries Ltd.	Energy	26648	532.96	760.58	-227.62

N T P C Ltd.	Energy	14173.78	283.48	205.18	78.3
G A I L (India) Ltd.	Energy	5933.37	118.67	41.36	77.31
Power Grid Corpn. Of India Ltd.	Energy	5525.53	110.51	47.42	63.09
Bharat Petroleum Corpn. Ltd.	Energy	3800.53	76.01	33.95	42.06
Tata Power Co. Ltd.	Energy	1491.7	29.8	31.1	-1.3
Cairn India Ltd.	Energy	6489.82	129.8	70.36	59.44
State Bank Of India	FS	18257.21	365.14	115.8	249.34
I C I C I Bank Ltd.	FS	169.22	3.39	3.39	0
H D F C Bank Ltd.	FS	9856.35	197.13	118.55	78.58
Axis Bank Ltd.	FS	6688.67	133.77	123.22	10.55
Housing Development Finance Corpn. Ltd.	FS	6130.73	122.61	49.18	73.43
Bank Of Baroda	FS	5593.16	111.86	17.83	94.03
Punjab National Bank	FS	6087.71	121.75	3.76	117.99
Kotak Mahindra Bank Ltd.	FS	1959.79	39.2	11.97	27.23
Yes Bank Ltd.	FS	1901.35	38.02	15.71	22.31
Indusind Bank Ltd.	FS	1632.45	32.64	17.53	15.11
Bharat Heavy Electricals Ltd.	Indl Mfg	8222.33	165	102.06	62.94
Tech Mahindra Ltd.	IT	1544	30.88	53.21	-22.33
Tata Consultancy Services Ltd.	IT	14250	285	219	66
Infosys Ltd.	IT	12133	243	239.54	3.46
Wipro Ltd.	IT	6415.4	12.83	13.27	-0.44
H C L Technologies Ltd.	IT	4499.27	89.99	6.16	83.83
Zee Entertainment Enterprises Ltd.	Media	965.8	19.3	16.8	2.5
Coal India Ltd.	Metals	1202.12	24.04	24.72	-0.68

Tata Steel Ltd.	Metals	8412.82	168.26	171.46	-3.2
Hindalco Industries Ltd.	Metals	1741.94	34.84	32.42	2.42
Vedanta Ltd.	Metals		0.00	25.5	-25.50
Lupin Ltd.	Pharma	1981.7	39.63	12.58	27.05
Dr. Reddy'S Laboratories Ltd.	Pharma	1830.78	36.61	29.17	7.44
Cipla Ltd.	Pharma	1743.21	34.86	13.43	21.43
Sun Pharmaceutical Inds. Ltd.	Pharma			4.67	-4.67
Adani Ports & Special Economic Zone Ltd.	Services	1790	35.79	35.9	-0.11
Bharti Airtel Ltd.	Telecom	6966.1	139.322	41.1	98.222
Idea Cellular Ltd.	Telecom	1578.72	31.58	0	31.58

Source: Annual Reports of the respective companies

**Note:** The figures of the average profits of the past 3 years and 2% of the average profits were not available in the Annual Reports of SBI, Bank of Baroda and Punjab National Bank. These figures have been incorporated by taking Total Revenue, Total Expenses and the Income Tax Provision from the CMIE data base and the PBT has been arrived as Total Revenue minus Total Expenses plus Income Tax Provision. This method was adopted due to lack of other data required for calculation as per Sec.198 of the Companies Act, 2013.

### **Analysis of the Amount spent on CSR by the NIFTY Companies during 2014-15:**

#### **1. Companies which spent more than the statutory requirement of 2% of the Average Net**

**Profits:** 12 (24%) out of 50 Companies ( Mahindra & Mahindra Ltd, Ambuja Cements Ltd, ACC Ltd, ITC Ltd, Hindustan Unilever Ltd, Reliance Industries Ltd, Tata Power Company Ltd, Tech Mahindra Ltd, Wipro Ltd, Coal India Ltd, Tata Steel Ltd, Adani Ports) spent amounts towards CSR activities more than the required amount. A close look at the table shows that the extra amount spent by 10

of the 12 companies was just marginally more. Maximum *extra amount spent* was by **Reliance Industries Ltd** Rs.760.58 crores which was more than the statutory requirement by Rs.227.62 crores (**2.85%** of the Average profit), followed by Tech Mahindra Ltd which spent Rs.53.21 crores : Rs.22.33 crores more than the requirement (**3.45%** of the Average Profit). ***In percentage terms Tech Mahindra scores over Reliance Industries Ltd.***

**2. Companies not required to spend statutorily but still spent on CSR Activities:** Three of the companies (Tata Motors Ltd, Vedanta & Sun Pharma) incurred losses in the past 3 years, hence not required to spend. In the case of Bosch Ltd, the rules are applicable to them from the next years since the company's annual report covered 15 months period from 1st January 2014 to 31st March, 2015. Prior to current year they were following calendar year. Totally four companies spent on CSR even though they need not have spent. The total amount spent by these 4 companies amounts to Rs.59.13 crores.

**3. Companies that have not spent the entire amount in the current year:** 33 Companies (66%) have not spent the entire amount provided for CSR as per the government guidelines. The reasons given vary from "amounts already committed", "since first year, time spent on identifying projects" etc.

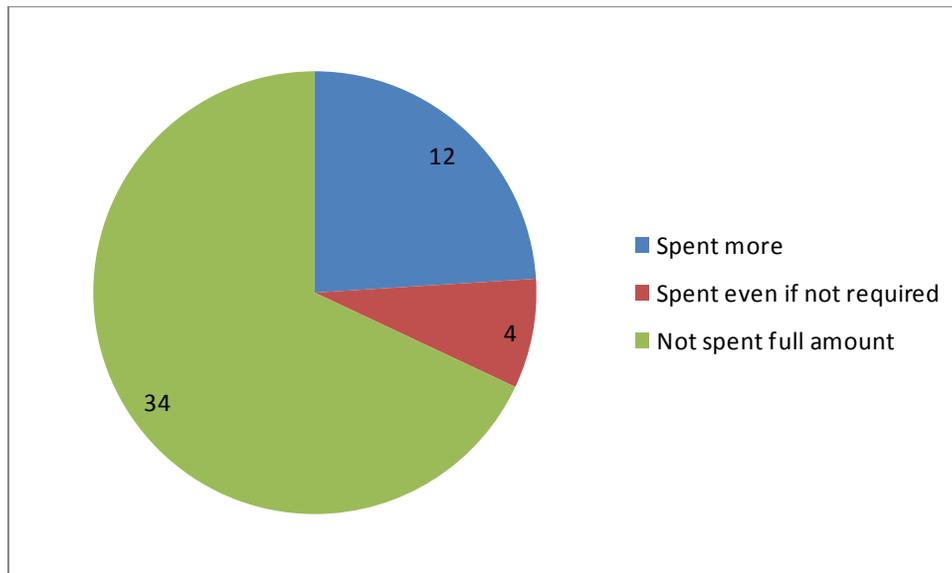
**4. Two Companies figures are very interesting:** *While ICICI Bank Ltd spent the exact amount required (Rs.3.39 crores), Idea Cellular Ltd. has not spent even one rupee in this year (Rs.31.58 crores).* The reason given by Ideal Cellular for non spending of any amount is:

"The financial year 2014-15, was a preparatory year for the implementation of CSR policy as per the Companies Act, 2013. Being the initial year, the Company was in the process of evaluating the various focus areas for its CSR activities and conducted number of consultations with organizations

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working in the area of education, health, sanitation, poverty eradication and livelihood generation. The Company identified some key projects which will be executed during the current financial year 2015-16. A dedicated team is also in place to look after the CSR works. For the said reasons, no amount towards CSR was spent in the Financial Year 2014-15.”

Chart 1: Analysis of the Amount spent on CSR by NIFTY Companies



The table given below gives the Sectoral Analysis of the CSR spends by NIFTY companies in the year 2014-15:

**Table 2: Sectoral Analysis of CSR spend in 2014-15 by NIFTY Companies**

Sl	Sector	No. of companies	Total CSR Amount spent	Per cent to the total spent by NIFTY cos	Intra Industry Company Average of CSR amount
1	Automobile	6	194.77	4.83	32.5
2	Cements	4	127.02	3.15	31.8
3	Cons goods	3	315.42	7.82	105.1
4	Construction	1	76.54	1.90	76.5
5	Energy	8	1685.21	41.78	210.7
6	FS	10	476.94	11.82	47.7
7	Indl Mfg	1	102.06	2.53	102.1
8	IT	5	647.90	16.06	129.6
9	Media	1	16.80	0.42	16.8
10	Metals	4	254.10	6.30	63.5
11	Pharma	4	59.85	1.48	15.0
12	Shipping & Port	1	35.90	0.89	35.9
13	Telecom	2	41.10	1.02	20.6
	<b>TOTAL</b>	<b>50</b>	<b>4033.61</b>	<b>100.00</b>	

**Sectoral Analysis of the Amount spent on CSR by the NIFTY Companies during 2014-15:**

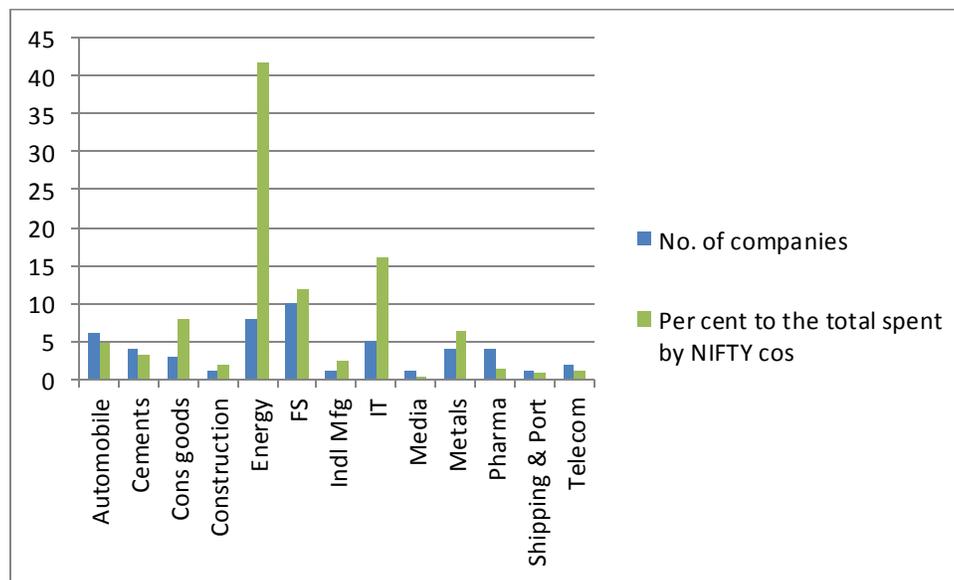
1. Total Amount spent by these companies amounted to Rs.4033.61 crores. The highest amount was spent by the Energy Sector (comprising 8 companies) - Rs.1685.21 crores (41.78%). Main companies in the Energy Sector include Reliance Industries Ltd, NTPC Ltd, Cairn India Ltd, GAIL,

Power Grid Corporation. Other two sectors had double digit contribution – Information Technology (5 companies) accounting for 16.06% and Financial Services (10 companies) – 11.82%.

2. Media Sector comprising one company (Zee Entertainment) had the lowest share 0.42%.

3. A study of the last column of the above table gives an idea about the average amount spent by each of the companies in a particular sector. Even in this analysis the average spend of Rs.210.70 crores by Energy Companies stand out. The second position is captured by Information Technology companies with average company spend of Rs.129.60 crores. Consumer goods sector comprising 3 companies (ITC, Hindustan Unilever and Asian Paints) stood third with average company spend of Rs. 105.10 crores.

**Chart 2: Sectoral Analysis of CSR spend in 2014-15 by NIFTY Companies**



**Sector-Wise -Activity Wise Analysis of the Amount spent on CSR by the NIFTY Companies during 2014-15:**

The following table gives the details:

Sl	Industry	Activities on which CSR Amount Spent during 2014-15										
		A1	A2	A3	A4	A5	A6	A7	A8	A10	A12	Total
1	Automobile	38.97	92.05	1.32	9.3	2	0.1	0.97	23.03	16.52	10.51	194.77
		20.01	47.26	0.68	4.77	1.03	0.05	0.5	11.82	8.48	5.4	100
2	Cements	30.34	41.99	11.88	4.14	4.63		0.27		26.33	7.44	127.02
		23.89	33.06	9.35	3.26	3.65		0.21		20.73	5.85	100
3	Cons Goods	32.61	84.88	58.32	81.95	21.42	0.01	20.17		16.06		315.42
		10.34	26.92	18.49	25.98	6.79		6.39		5.09		100
4	Construction	9.14	59.49		3.61				3.6		0.7	76.54
		11.94	77.72		4.72				4.71		0.91	100
5	Energy	691.39	144.9	35.15	295.6	1.59		25.28		146.8	344.5	1685.21
		41.03	8.6	2.09	17.54	0.09		1.5		8.71	20.44	100
6	Finl Services	88.15	244.94	4.28	23.23		0.01	0.18	0.06	83.09	33	476.94
		18.48	51.36	0.9	4.87			0.04	0.01	17.42	6.92	100
7	Incl.Mfg	50.45	37.42	1.87	1.97	0.8		0.04		5.64	3.87	102.06
		49.44	36.66	1.83	1.93	0.78		0.04		5.53	3.79	100
8	IT	129.82	282.1	4.75	38.31	5.4			1.49	7.04	178.99	647.9
		20.04	43.54	0.73	5.91	0.83			0.23	1.09	27.63	100
9	Media	1.26	12.44	0.25						2.7	0.15	16.8
		7.5	74.05	1.49						16.07	0.89	100
10	Metals	75.86	111.82	5.9	8.57	5.73		8.66		26.52	11.04	254.1
		29.85	44.01	2.32	3.37	2.26		3.41		10.44	4.34	100
11	Pharma	18.91	27.84	0.34	0.59				0.05	10.46	1.66	59.85
		31.6	46.52	0.57	0.99				0.08	17.48	2.76	100
	Shipping	5.66	14.66					0.15	1	14.43		35.9

12		15.77	40.84					0.41	2.79	40.19		100
		0.61	26.8								13.69	41.1
13	Telecom	1.48	65.21								33.31	100
		1173.17	1181.33	124.06	467.27	41.57	0.12	55.72	29.23	355.59	605.55	4033.61
	%	29.08	29.29	3.08	11.58	1.03	0.003	1.38	0.72	8.82	15.01	100.00

Item	Details of the activities covered as per Schedule VII
A1	Eradicating extreme hunger & Poverty, promoting preventive healthcare & sanitation
A2	Promotion of Education, Employment enhancing vocational skills, etc.
A3	Promoting Gender Equality & empowering women, Old age homes, Day care centres, etc
A4	Ensuring Environmental Sustainability
A5	Protection of national heritage, art and culture
A6	Measures for the benefit of armed forces veterans, war widows and their dependents;
A7	Training to promote rural sports, nationally recognised sports, etc.
A8	Contributn to the Prime Minister's National Relief Fund and other funds of Central/State Govt
A9	Contributions or funds provided to technology incubators, etc.
A10	Rural Development Projects
A11	Slum Area Development
A12	Others

1. Among all the activities, eradicating hunger poverty, promoting preventive health care (A1) and promoting education, employment enhancing vocational skills, livelihood enhancement projects (A2) have got the major chunk (58%) of CSR fund spent during the year under review.

2. Measures for the benefit of armed forces veterans, war widows etc. (A6) had the least spend – not even 1% - a meager 0.003%

3. *No company has contributed to the Activity A9 – Contributions or funds provided to technology incubators, etc.*

4. Let us analyse the industry-wise maximum and minimum spend on the various activities in the following table:

Sl	Industry	Maximum Amount Spent Activity	Minimum Amount Spent Activity
1	Automobile	A2 (47.26%)	A6 (0.05%)
2	Cements	A2 (33.06%)	A7 (0.21%)
3	Consumer Goods	A2 (26.92%) A4 (25.98%)	A10 (5.09%)
4	Construction	A2 (77.72%)	A11 (0.91%)
5	Energy	A1 (41.03%)	A5 (0.09%)
6	Financial Services	A2 (51.36%)	A8 (0.01%)
7	Industrial Mfg.	A1 (49.44%) A2 (36.66%)	A7 (0.04%)
8	Information Technology	A2 (43.54%)	A8 (0.23%)
9	Media	A2 (74.05%)	A11 (0.89%)
10	Metals	A2 (44.01%)	A5 (2.26%)
11	Pharma	A2 (46.52%)	A8 (0.08%)

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12	Shipping	A2 (40.84%)	A7 (0.41%)
13	Telecom	A2 (65.21%)	A1 (1.48%)

From the above table we can conclude that *almost all the industries have concentrated their CSR spend on A2* i.e., promoting education, including special education and employment enhancing vocation skills

especially among children, women, elderly, and the differently abled and livelihood enhancement projects. *The companies in the Energy Sector and Industrial Manufacturing have concentrated on A1* i.e., eradicating hunger, poverty and malnutrition, promoting preventive health care and sanitation and making available safe drinking water. *The Consumer Goods industry has spent nearly 26% on A4* i.e., ensuring environmental sustainability, ecological balance, protection of flora and fauna, animal welfare, agro forestry, conservation of natural resources and maintaining quality of soil, air and water.

Among the various activities across sectors Activities covered under A5 to A8 were not in favour of the companies as the amount spent under these is the least. *Main activities covered under these are protection of national heritage, setting up libraries, measures for the benefit or armed forces, training to promote rural sports, contribution to Prime Minister's National Relief Fund.*

**Taxability aspect of CSR spend:**

The extant provisions say that the amount spent under CSR is after payment of taxes (i.e., Net Profit or PAT). The intention of the government is not to allow the CSR expenditure as a deduction while computing Income Tax. *When the CSR mandatory provisions were introduced, everyone thought that the companies would opt for contribution to Prime Minister's National Relief Fund as CSR spend and avail of the 100% deduction as Donations under Sec. 80 (g). The analysis of the CSR amount spent*

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*activity wise in the previous paragraph shows otherwise. The total contribution under PM National Relief Fund by all the NIFTY companies in the year 2014-15 accounted for a paltry 0.72%.*

**Section 37 (1) of Income Tax Act** – “Any expenditure (not being expenditure of the nature described in sections 30 to 36) and not being in the nature of capital expenditure or personal expenses of the assessee, laid out or expended wholly and exclusively for the purposes of the business or profession shall be allowed in computing the income chargeable under the head “Profits and gains of business or profession”.

The following *Explanation* was inserted to sub-section (1) of section 37 by the Finance (No. 2) Act, 2014, w.e.f. 1-4-2015 :

**Explanation:**—*For the removal of doubts, it is hereby declared that for the purposes of sub-section (1), any expenditure incurred by an assessee on the activities relating to corporate social responsibility referred to in section 135 of the Companies Act, 2013 (18 of 2013) shall not be deemed to be an expenditure incurred by the assessee for the purposes of the business or profession.*

**In view of this, CSR expenditure is below the line item; an appropriation of profits.**

**Developments during the last one year:**

**Guidance Note on Accounting for Expenditure on CSR Activities issued by Institute of Chartered Accountants of India GN (A) 34 - Issued on May 25, 2015:**

- The objective of this Guidance Note is to provide guidance on recognition, measurement, presentation and disclosure of expenditure on activities relating to corporate social responsibility
- The Guidance Note does not deal with identification of activities that constitute CSR activities but only provides guidance on accounting for expenditure on CSR activities in line with the

requirements of the generally accepted accounting principles including the applicable Accounting Standards.

- ***No provision for the amount which is not spent, i.e., any shortfall in the amount that was expected to be spent as per the provisions of the Act on CSR activities and the amount actually spent at the end of a reporting period***, may be made in the financial statements. The Directors' Report should disclose the reasons for not spending the amount. However, if a company has already undertaken certain CSR activity for which a liability has been incurred by entering into a contractual obligation, then in accordance with the generally accepted principles of accounting, a provision for the amount representing the extent to which the CSR activity was completed during the year, needs to be recognised in the financial statements.
- *What will be the position if a Company spends in the current year more than 2% of Net Profits? the excess amount cannot be carried forward for set off* against the CSR expenditure required to be spent in future
- Rule 6 (2) of the Companies (Corporate Social Responsibility Policy) Rules, 2014, requires that *"the surplus arising out of the CSR projects or programs or activities shall not form part of the business profit of a company". Such surplus would not form part of the minimum 2% of the average net profits of the company made during the three immediately preceding financial years in pursuance of its Corporate Social Responsibility Policy'*.
- **Disclosure of CSR expenditure in Financial Statements:** should be recognised as a separate line item as 'CSR expenditure' in the statement of profit and loss. The Notes to P & L statement should disclose the break-up of various heads of expenses included in the line item 'CSR expenditure'

**Recommendations of the High Level Committee on CSR:**

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Government of India appointed a High Level Committee to suggest measures for improved monitoring of the implementation of CSR Policies by the Companies under the Chairmanship of Shri. Anil Bajjal on 3<sup>rd</sup> February 2015. The Committee submitted its report with recommendations in 22<sup>nd</sup> September 2015. Some of the recommendations of the committed are:

- Sec. 8 Companies to be exempted from CSR provisions since they are involved in charitable activities and their surplus generated by them is ploughed back
- The Committee felt that leniency to be shown against the companies for non compliance in initial two/three years to enable them to graduate to a culture of compliance since initial three years will be a 'period of learning' for all the stakeholders. Review of the programme should be conducted after three years
- The committee felt that there should be uniformity in tax treatment for CSR expenditure across all eligible activities. At the end of the report as Annexure V "Tax Exemptions and CSR" the committee has listed out various activities and provisions of Income Tax Act under which the tax exemption may be claimed
- Categorise companies on the basis of CSR Budget:
  - **Those Which have CSR expenditure of more than Rs.5/- crores** – To undertake programme based sustainable CSR activities with some measurable outcomes
  - **Those Which have CSR expenditure of less than Rs.5/- crores** – These companies could take up project based activities. These companies should be encouraged to combine their CSR programmes with other similar companies. The committee also suggested that the threshold of Rs.5 crores in CSR expenditure should be adjusted for inflation using the GDP deflator or Wholesale Price Index (WPI) once in three years and the figure should be rounded off to the nearest crore.

- Currently CSR guidelines are applicable only to entities registered under the Companies Act 2013. The committee recommends that if the threshold limits are satisfied by any type of entity these guidelines should be made applicable
- Currently there is a cap of 5% on the overheads/administrative expenses related to CSR activities. The committee has recommended increasing the same to 10%. Clarity is required on the applicability of this cap on the expenses of implementing agencies
- The committee did not agree to the suggestion of monetizing the expenses of the employee involved in CSR activities
- Carry forward of the Unspent Amount is mandatory for PSUs. Similar provisions to be made for Non PSUs also the committee recommended.
- The Committee recommended setting up of Annual Awards for CSR purposes – one each for large and small companies to incentivize undertaking CSR programmes.

**Recommendations of the Company Law Committee on CSR:**

Ministry of Corporate Affairs, Government of India constituted Company Law Committee on 4<sup>th</sup> June, 2015 to make recommendations on issues arising from the implementation of Companies Act, 2013 and to examine the recommendations received from the Bankruptcy Law Reforms Committee, the High Level Committee on CSR, the Law Commission and other agencies, undertaking the implementation of the Act.

The committee submitted its Report in February 2016 on various aspects of Companies Act, 2013. Herein below, those pertaining to CSR are discussed:

- The Committee also agreed with the recommendation of the High Level CSR Committee that the term “average net profit” to be replaced with the words “net profit”, to remove any ambiguity.

- The High Level CSR Committee had recommended for allowing a carry forward of unspent amounts, from a particular year; and for transfer of any unspent balance, after a period of five-years, to one of the funds listed in Schedule VII of the Act. The Committee felt that while a carry forward might be desirable, the requirement of mandatorily transferring the unspent amount at the end of five-years would go against the principle of 'comply or explain' and would not be appropriate. In view of this, the Committee recommended the continuance of the current provisions, where the actual expenditure was reported with no obligation to carry over.
- Regarding giving preference to the local area, and areas around its areas of operations, for spending the amount earmarked for CSR activities, the Committee felt that the requirement with respect to CSR are new provisions, and as such, all companies should be given the required flexibility for a reasonable period, say five-years, to experience the implementation of this provision.
- The Committee was not in favour of exempting Section 8 companies from the existing CSR provisions.

#### **LIMITATION OF THE STUDY:**

Since 2014-15 was the first year after the CSR guidelines were enforced the data collected and analysed pertain to one year only. Hence, no statistical tool could be used. However, the study would be continued and similar analysis would be done on the information supplied by the NIFTY companies in the Annual Reports for the year 2015-16 and suitable conclusions would be drawn.

#### **SUGGESTIONS:**

- Under the National Voluntary Guidelines on Social, Environmental and Economical Responsibilities of Business which was issued in July 2011, every company has to include in
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its Annual Report a Section on “**Business Responsibility Report**”. Under Section B – Financial details of the company regarding paid up capital, total turnover, *total profit after tax, total spending on CSR and List of activities under CSR are being given*. With the introduction of *new format for CSR reporting under Companies Act 2013 this becomes redundant and in fact confusing* because here the PAT is of current year and the Percentage of CSR spend is on the current year figures while the Companies Act, 2013 wants a company *to show the average of the net profit of three immediately preceding years and the 2% mandatory spend is on this amount*.

- As suggested by the Committee, the companies coming under the CSR provisions should be classified into those having budget of more than Rs.5/- crores and those less than Rs.5/- crores and the rigour of programme mode and spending through a Trust should be made applicable only for those companies whose budget is over Rs.5/- crores.
- Government should not make any changes for next three years since it is only two years since the guidelines were introduced and all the companies are in a “learning phase”
- In the format that has been prescribed under the CSR rules for reporting CSR expenditure in the Annual Report of a Company under item 5 (c), “manner in which amount spent has to be shown”. The research study found that the companies are showing almost all the activities on which the money has spent. This constitutes a sizable portion of the Annual Report. It is suggested that the companies should show only those activities which constitute 10% or more of the current year’s spend shall be included. This would result in reduction of avoidable cost, time and saving of the natural resource paper.

### **CONCLUSION:**

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The Companies Act, 2013 has created history in the corporate world by making CSR spend of 2% of the average net profits a mandatory one. All the companies coming under this purview have taken the guidelines in the right perspective and have started earmarking funds for CSR and spending on the activities given in the Schedule VII. Companies are studying ways and means to effectively spend the CSR amount. As suggested earlier, review of the CSR expenditure of the companies should be taken after another three years and the experience drawn therefrom. Majority of the companies under NIFTY spent the amount under Health, Sanitation and Education which represent the need of the hour and would help in improving the living conditions of the under privileged. The efforts of the corporate world would improve the image of India world over.

**Reference:**

1. Annual Reports of the NIFTY Companies
2. Report of the High Level Committee on CSR
3. Report of the Companies Law Committee
4. PROWESS Database
5. Companies Act 2013
6. Six Reasons Companies Should Embrace CSR Forbes
7. S.Rajendran - CSR under Companies Act 2013-A Different Perspective – Chartered Secretary, March 2016
8. Guidance Note on Accounting for Expenditure on CSR Activities issued by Institute of Chartered Accountants of India GN (A) 34

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