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Corporate Social responsibility and companies Act, 2013

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Abstract: Social responsibility of business has been a debatable issue since last many decades. Advocates of CSR suggest that business uses resources of the society, so it is obliged towards it, while critics are of the opinion that the only business of business is to earn profits. Amongst different voices and opinions, Government of India, made it mandatory for corporates to contribute towards the society. With effect from April 1, 2014 ,every company, private limited or Public limited, which has a net worth of Rs. 500 crore or turnover of Rs. 1000 crore or net profit of 5 crore, needs to spend at least 2% of its average net profit for the immediately preceding three financial years on corporate social responsibility activities. This paper investigates the provisions in companies Act, 2013 for compulsory CSR endeavors and how the companies are following them.
Keywords: Companies Act, Corporate Social Responsibility, charity.

Introduction

Corporate social responsibility refers to business practices involving initiatives that benefit society. CSR addresses the well being of all stakeholders and not just shareholders of the company. The European commission's definition of CSR is "A concept whereby companies intregrate social and environmental concerns in their business operations and their interaction with their stakeholders on a voluntary basis". CSR in India has traditionally been seen as a philanthropic activity, and according to Indian traditions this activity was being performed but not deliberated. The practice of CSR in India still remains within philanthropic space but has moved out from institution building to community development. The companies Act, 2013 has introduced the Idea of CSR to forefront and the mandatory disclosure of CSR activities would bring in greater transparency.

Provisions in Companies Act, 2013 with respect to CSR

1. Applicability

According to companies Act2013 ,every company, Private limited or Public limited, which has a net worth of Rs. 500 crore or turnover of Rs. 1000 crore or net profit of 5 crore, needs to spend at least 2% of its average net profit for the immediately preceding three financial years on corporate social responsibility activities. CSR obligation also applies to holding and subsidiary companies as well as foreign companies whose branches or project offices in India fulfill the specified criteria.

2. Computation of profits for determining CSR obligation

- The net worth, turnover and net profits are to be computed in terms of section 198 of the 2013 Act as per the profit and loss statement prepared by company in terms of Section 381(1) (a) and Section 198 of the 2013 Act.
- Profits from any overseas branch of the company, including those branches that are operated as a separate company would not be included in computing net profits of the company.
- Dividends received from other companies in India which need to comply with the CSR obligations would not be included in computation of net profits of the company.

3. Which activities can be considered as CSR activities?

- The CSR activities should not be undertaken in normal course of business and must be with respect to any of the activities mentioned in schedule VII of the 2013 act.

- Contribution to any political party would not be considered to be a CSR activity and only activities in India would be considered for computing CSR activities.
- The activities that can be undertaken by the company to fulfill its CSR obligations include following:
  - eradicating hunger, poverty and malnutrition
  - promoting gender equality, setting up homes for women, orphans and senior citizens
  - measures for reducing inequalities faced by socially and economically backward classes
  - ensuring environmental sustainability and ecological balance; animal welfare
  - protection of national heritage, art and culture
  - contribution to prime minister's relief fund
- The 2013 Act provides that the company shall give preference to the local area or areas around which it operates.

4. Implementation and Review of CSR activities

- A company can undertake its CSR activities through a registered trust or society. If the entity through which the CSR activities are being undertaken is not established by the company or its holding such entity should have track record of three years undertaking similar activities.
- To formulate and monitor the CSR policy of a company, a CSR committee of the Board needs to be constituted. The committee would comprise of three or more directors out of which atleast one director would be independent director.
- The report of Board of Directors attached to the financial statements of the company would also need to include an annual report of CSR activities of the company in format prescribed.
- If the company has been unable to spend the minimum required on CSR initiatives, the reasons for not doing so have to be specified in Board Report.
- Where the company has a website, the CSR policy of the company would need to be disclosed on the website.

Procedure for execution of CSR activities

The committee appointed for CSR activities needs to frame, implement and review policy for CSR activities. A procedure for CSR implementation includes following steps.

1. **Developing CSR strategy and policy**: The Act requires every company to put out its CSR policy in public domain. It consists of CSR projects or programs which company wishes to undertake in implementation year.

2. Operationalising the institutional mechanism: This includes setting up an entity by company for implementing CSR activities is to be registered in India as a trust, society or not-for –profit company under section 8 of companies Act.

3. Project development and approval: Specific CSR projects have to be framed and approved by the CSR committee or project approval commitee constituting company staff or outside experts.

4. Finalizing arrangement with implementing agency: MoU has to be signed with implementation agency and roles and responsibilities are clearly defined.

5. Project monitoring and reporting: This includes routine progress monitoring to see the delays and any slippages.

6. Impact measurement: Impact measurement is done by an independent team, to acess the benefit project has given to society.

7. Report consolidation and communication: Communication of project undertaken is a mandatory disclosure in director's report.

Conclusion

CSR which had largely been a voluntary contribution by corporates was made mandatory by law in 2013. The corporate sector has responded positively to this reform measure undertaken by Government because philanthropy and CSR is not a novel concept for Indian companies. CSR activities not only benefit the society but are goodwill generators for the companies. They also help the companies in better employee recruitment and retention. CSR activities have become more organized today, and have become integral part of corporate strategy. Companies have CSR teams that devise specific policies and strategies for achieving CSR goals.

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