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CORPORATE SOCIAL RESPONSIBILITY: AN INDIAN PERSPECTIVE

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ABSTRACT

India had a robust history of philanthropy. Corporate sector philanthropy can be traced in 20th century when companies provide huge funds for social welfare activities. But now in 21st century there is a need to distinguish between philanthropy and corporate social responsibility. As philanthropy is voluntary in nature, so very less companies were there who recognised their responsibility towards the stakeholders. So Companies Act, 2013 introduced the concept of corporate social responsibility under section 135 that makes it mandatory for companies of a certain size and profitability to spend 2% of their average net profits of previous 3 years on corporate social responsibility. Insertion of this section legally acknowledges that corporate sector needs to take a balanced view of the components of corporate social responsibility and implement the strategies in coherence with their vision, mission and values. In this paper an attempt has been made to highlight the need of legal recognition of corporate social responsibility provision by studying a sample of top 30 companies in India.

KEYWORDS

Corporate social responsibility, Companies Act, 2013, Philanthropy.

1. INTRODUCTION

In India many corporate houses have been traditionally engaged in doing philanthropy. Corporate philanthropy and CSR can be distinguished as corporate philanthropy is optional and often very generous donation but CSR provisions put formal and greater responsibility on companies to set out clear framework and process to ensure strict compliance. CSR provisions are effective from financial year 2014-15. Indian constitution have provided right to equality but the socio-economic realities of the country still have a long way to go to match this vision of independent India where today there are many first among equals. The inclusion of the CSR disclose-or-explain mandate under the Companies Act, 2013 is an attempt to supplement the government's efforts of equitably delivering the benefits of growth and to engage the corporate sector with the country's development agenda through promoting greater transparency and disclosure their activities. Schedule VII of the Act, lists out the CSR activities, suggests society to be imperative for the business.

2. CONCEPT OF CORPORATE SOCIAL RESPONSIBILITY**Corporate social responsibility (CSR)**

The term "corporate social responsibility" is often used interchangeably with corporate responsibility, corporate citizenship, sustainable development and business ethics and in some cases corporate governance. Although these terms are different, they all point in the same direction: throughout the industrialized world and in many developing countries there has been a sharp escalation in the social roles corporations are expected to play. Companies are facing new demands to engage in public-private partnerships and are under growing pressure to be accountable not only to shareholders, but also to all stakeholders. 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.

According to the UNIDO "Corporate Social Responsibility is a management concept whereby companies integrate social and environmental concerns in their business operations and interactions with their stakeholders. CSR is generally understood as being the way through which a company achieves a balance of economic, environmental and social imperatives ("Triple-Bottom-Line- Approach"), while at the same time addressing the expectations of shareholders and stakeholders. In this sense it is important to draw a distinction between CSR, which can be a strategic business management concept and charity, sponsorships or philanthropy. Even though the latter can also make a valuable contribution to poverty reduction, will directly enhance the reputation of a company and strengthen its brand, the concept of CSR clearly goes beyond that." So from the above we say CSR is more comprehensive concept as it includes welfare of all the stakeholders.

3. REVIEW OF LITERATURE

Asongu (2007) finds that a strategic CSR can bring both short and long term financial benefits to a socially responsible company. Those responsible for CSR programs in various companies must perceive social responsibility as not being mere charity or philanthropy. The benefits that can accrue from a properly implemented strategic CSR program entail classifying such a program as an investment for the company, not an expense. Epstein-Reeves (2012) provide six reasons companies should embrace CSR Companies that "get it" are the ones that are using CSR as a way to push the following business processes into the organization that is innovation, cost savings, brand differentiation, long-term thinking, customer engagement, employee engagement. Valor (2005) highlighted that when stakeholders have made it clear that companies must achieve social and environmental performances, managers have shown their reluctance to sacrifice profits in favour of the common good. This reluctance is labelled as "managerial capture" and which no one denies that it prevails almost all over the world.

4. OBJECTIVES

1. To study the phases of CSR in India.
2. To study need for mandating CSR under Companies Act, 2013

5. PHASES OF CSR IN INDIA

Phase I (Till 1914): CSR motivated by charity and philanthropy

The oldest form of CSR was motivated by charity and philanthropy with direct influence from culture, religion, family tradition, and industrialization process. Industrialist shared a part of their treasure with the society for various causes. But their efforts towards social as well as industrial development were not only driven selfless and religious motives but also influenced by caste groups and political objectives.

Phase II (1914-1960): CSR for India's social development

Dominated by the country's struggle for independence and influenced fundamentally by Gandhi ji's theory of trusteeship for consolidation and amplification of social development. Gandhi ji's reform programs which included activities that sought in particular the abolition of untouchability, women empowerment and rural development. According to Gandhi, Indian companies were supposed to be the "temples of modern India".

Phase III (1960-1980): CSR under the paradigm of the mixed economy

The paradigm of mixed economy with the emergence of legislation on labour and environmental standards, affected the third phase of Indian CSR. This phase is characterized by a shift from corporate self regulation to strict legal and public regulation of business activities.

Phase IV (1980-till 2013): CSR at the interface between philanthropic and business approaches

Indian companies and stakeholders began abandoning traditional philanthropic engagement and, to some extent, integrated CSR into a coherent and sustainable business strategy, partly adopting the multi stakeholder approach.

Phase V (2014 onwards): Legal Recognition under Companies Act 2013

Changing nearly six decades old regulations for corporate reporting, the new Companies Act makes it mandatory for certain class of profitable enterprises to spend profits on social welfare activities. Such move estimated to provide thousands of crore a year. Scheduled to be implemented in 2014-15, the relevant section 135 saw extensive public consultations, debates and the exercise is now completed. Several reports from the houses of Grant Thompson and KPMG have been circulated both defining, outlining and show the path for strategising the CSR both from the regulatory perspective as well as the company implementation perspective.

6. LEGAL AND PROCEDURAL ASPECTS OF SECTION 135 UNDER COMPANIES ACT, 2013

6.1 Every company having

6.1.1 Net worth \geq Rs 500cr or

6.1.2 Turnover \geq Rs 1,000cr or

6.1.3 Net profit \geq Rs 5cr;

During any financial year shall constitute a CSR Committee of the Board consisting of three or more directors, out of which at least one director shall be an independent director.

6.2 Role of CSR committee

6.2.1 formulate and recommend to the Board, a CSR Policy which shall indicate the activities to be undertaken by the company as specified in Schedule VII;

6.2.2 recommend the amount of expenditure to be incurred on the activities referred to in clause (a); and

6.2.3 monitor the Corporate Social Responsibility Policy of the company from time to time.

6.3 Role of the board of directors

6.3.1 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

6.3.2 ensure that the activities as are included in Corporate Social Responsibility Policy of the company are undertaken by the company.

6.3.3 the Board 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.

6.4 Calculation of Profit

For the purposes of this section "average net profit" shall be calculated in accordance with the provisions of section 198.

6.5 Activities which may be included by companies in their Corporate Social Responsibility Policies as per SCHEDULE VII

Activities relating to:—

6.5.1 eradicating extreme hunger and poverty;

6.5.2 promotion of education;

6.5.3 promoting gender equality and empowering women;

6.5.4 reducing child mortality and improving maternal health;

6.5.5 combating human immunodeficiency virus, acquired immune deficiency syndrome, malaria and other diseases;

6.5.6 ensuring environmental sustainability;

6.5.7 employment enhancing vocational skills;

6.5.8 social business projects;

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

&

6.5.10 such other matters as may be prescribed.

7. NEED FOR INSERTION OF SECTION 135

It is estimated that 16,000 companies will finally have to start discharging their CSR as per the new Companies Act, 2013. If most companies actually comply with the requirement of spending 2% of their profits on CSR, an estimated INR 20,000 Crore and substantial expertise will flow to the social sector. Let us now analyse the immediate position of CSR contribution by Sensex companies immediately before the mandatory requirement of CSR under Companies Act, 2013

TABLE 1: SENSEX COMPANIES CONTRIBUTION TOWARDS CSR FOR THE YEAR 2013

	Company	Industry	Actual Amount Spent on CSR during 2013 (Cr)	2% of Average Profit after tax of 2010, 2011, 2012 (Cr.)
1	Hero Motocorp	Automotive	1.27	43.58
2	Mahindra & Mahindra	Automotive	33.52	50.85
3	Tata Motors	Automotive	19.14	35.29
4	Maruti Suzuki	Automotive	18.90	42.80
5	Bajaj Auto	Automotive	51.73	53.63
6	State Bank Of India	Banking	123.27	194.25
7	HDFC Bank	Banking	39.01	80.27
8	ICICI Bank	Banking	116.55	104.27
9	Larsen & Toubro	Conglomerate	73.16	85.26
10	ITC	Conglomerate	82.34	101.41
11	Housing Development Finance Corporation	Consumer finance	NA	68.89
12	Hindustan Unilever	Consumer goods	69.09	47.99
13	Bharat Heavy Electricals	Electrical equipment	63.00	115.75
14	Infosys	Information Technology	NA	138.10
15	Wipro	Information Technology	14.13	93.29
16	Tata Consultancy Services	Information Technology	65.21	161.09
17	Hindalco Industries	Metals and Mining	29.79	41.93
18	Sterlite Industries	Metals and Mining	NA	2.86
19	Coal India	Metals and Mining	NA	NA
20	Oil and Natural Gas Corporation	Oil and gas	261.58	405.42
21	Reliance Industries	Oil and gas	357.05	377.07
22	GAIL	Oil and gas	64.65	69.03
23	Dr. Reddy Laboratories	Pharmaceuticals	16.82	17.67
24	Cipla	Pharmaceuticals	7.65	21.10
25	Sun Pharmaceutical	Pharmaceuticals	4.55	28.01
26	Tata Power	Power	7.88	20.38
27	NTPC	Power	79.53	180.35
28	Tata Steel	Steel	170.59	124.05
29	Jindal Steel & Power	Steel and power	99.14	37.69
30	Bharti Airtel	Telecommunication	29.56	152.48

Source: Compiled from Annual reports of the respective companies

From the above we can conclude that only 4 companies that are ICICI Bank, Hindustan Unilever, Tata Steel and Jindal Steel & Power are contributing beyond 2% of the average profit of the previous year's 2010, 2011 and 2012 when CSR was not mandatory. Data for 4 companies are not available in their annual reports or their websites. From the table we conclude that companies are gaining at the cost of society but in return paying meagre amount towards its welfare so we can conclude that this provision is very much necessary.

8. CONCLUSION

Some companies are paragons of socially responsible behaviour but no one can deny the fact that many companies are not under this category as we can analyse from the above table which is just an overview of 30 companies. Many companies were not acting in socially responsible manner for past so many years either they disregard this concept or they perceive this as if it reduces their profits. So companies Act, 2013 incorporates the concept of corporate social responsibility mandating that companies give 2% of their average net profits for past three years to social causes. At this point we hope that this pragmatic provision will bring drastic changes in the functioning of corporate India and society as a whole.

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