

Impact of CSR under Companies Act 2013

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1. Introduction

It has been over a sometime since the new rules for Corporate Social Responsibility (CSR) have come into force as per the Companies Act, 2013. The rules under section 135 mandate that companies with a net worth of Rs. 500 crores or revenue of Rs. 1,000 crore or net profit of Rs. 5 crore should spend 2% of their average profit in the last three years on social development-related activities. By creating this provision, India became the first country to legally mandate corporate social responsibility (CSR).

2. Implementation

The projection at the time of its enactment was that the rules would apply to some 8,000 companies, and inject up to Rs.24,000 crore into development work over the year, but CSR experts say companies have missed the spending target by a mile and this is evident from the data culled from the annual reports of 85 of the top 100 companies by market capitalization on the National Stock Exchange. Companies which fall under the law are required to share a report on their activities and spending. Those reports must include information about the company's CSR policy, the composition of its CSR committee, the amount of CSR expenditures and details on the projects where it was spent. If the company does not spend the required amount, it must publicly disclose it and the reasons why. Failure to report is punishable under the Act. The implementation was marked by inconsistencies based on nature, size, domain of the companies as well as region wise and sector wise spending.

3. Reasons for Poor Implementation

. The most common reason that companies cited for not meeting the target is that they had undertaken Long Term Projects. This means that the amount was earmarked for a long-term initiative and the company is carrying forward the spend.

. Many companies also said that they lacked prior expertise and delay in project identification as reasons for not spending. It is only since 2012-13 that firms have started allocating funds for CSR activities specifically. This was in response to the SEBI circular dated August 2012, which mandated all top 100 listed companies to include business responsibility report as a part of their annual report.

. Also, reluctance to give money to construct stadiums and other infrastructure because companies did not have much time with projects whose impact is difficult to measure at the end of a year.

. Trust deficit in the not-for-profit sector - Section 135 of the Companies Act allows companies to partner with non-profits to implement CSR initiatives. The idea is that non-profits can bring expertise in various fields of development. However, there are not many such tie-ups seen.

. Traditionally work regarding social issues by companies started with providing the bare minimum facilities in and around their plants—like educational institutes, vocational training and healthcare for their own employees. New areas introduced had little or no takers among majority companies.

. Some companies have also taken advantage of unclear definitions. Reliance Industries Ltd included the setting up of the Sir H.N. Reliance

Foundation Hospital in Mumbai for Rs.553 crore as part of its CSR activity for 'eradication of hunger'. It is a multi-speciality tertiary care hospital and has 20% of its beds are subsidised. Technically the money has been categorised under CSR spend in the annual report, but it is an investment. In any case, all private hospitals must offer subsidised beds as a requirement under the law. Chennai's Shriram Transport Finance Co. Ltd's "Subscription towards Share Capital of the Company Licensed under Section 8 of the Companies Act, 2013" which have been accounted under this heading.

2.2. Areas of implementation

- . Eleven areas were identified under the Companies Act, 2013, for corporate social responsibility (CSR) expenditure
- . The six areas that failed to attract significant interest are slum development; technology incubators at academic institutions; promotion of rural as well as Paralympics and Olympic sports; the Prime Minister's Relief Fund; preservation of national heritage, art and culture; and welfare of armed forces veterans and war widows.
- . The pattern of CSR spending in FY14-15 was driven by factors like accessibility to professionals, tangible results, governmental push, brand visibility and traditional pool of social development initiatives.
- . New entrants to CSR might be reluctant to spend on arts and culture or sports as they do not produce immediate visible results
- . Schemes like building toilets and the Swachh Bharat Abhiyaan are "low-hanging fruit" for companies, they can fulfill targets as well as publicize immediate results.
- . Also, getting clearances, licenses and other regulatory requirements for a project from local authorities becomes easy as the government itself is pushing the scheme
- . Tree plantation was the major activity under Environmental sustainability. Experts believe that this is another instance of circumventing actual CSR activities.

3. Impact Assessment

Corporate social responsibility (CSR) Rules, 2014 have no clear indication or requirement of impact assessment. In the first year of the rules taking effect, most companies were focused on compliance rather than on tracking how their initiatives fared. Following issues were observed in the domain of impact assessment:

- . Evaluating impact may be premature at this stage, as impact is usually achieved over a long term. Many feel that impact can truly be assessed only after a particular activity has been in place for 3-5 years.
- . For most top listed companies, CSR initiatives have been part of sustainability reports for over five years now but for companies undertaking CSR for the first time there is little or no impact to assess
- . Third party assessments are being done by professional companies in some instances. However, adoption is low and the reports are not made public.
- . Most firms used their own foundations to carry out CSR. Companies preferred this route as it enables better control over the funds and hence, better monitoring of the initiatives. Should government define a Framework? In the absence of a framework, the assessments have been far and varied. Some feel a structure is needed, which would help streamline the measurement of these social initiatives. However, others believe that CSR is subjective in nature and cannot have assessments or audits like financial accounts. The government should only encourage assessment, not define parameters for it.

4. Smaller vs Larger Firms

Smaller firms with lesser resources at their disposal are less likely to adopt strategic CSR. They usually adopt philanthropy and community development activities such as schools for kids of employees, donations to religious organisations etc.

CSR activities closely linked to the company's business goals and falling in the purview of

strategic CSR (for example—women hygiene classes by fast moving consumer goods majors) have higher payoffs and are mostly done only by larger companies.

Hence, positive correlation between profit and CSR expenditure is enhanced as the size of the firm increases. It is advantageous for a large company to spend on CSR, as it strategically differentiates its product, which ultimately pays off in the long run. Strategic differentiation may also spur innovation, which might improve delivery of services.

5. PSU vs Private Sector

Public sector companies spent only 66.7% while private companies spent 82% of the prescribe spend in the first year of mandatory CSR spending, according to the data compiled through research. Earlier, public companies needed to set aside anywhere between 0.5% to 5% of net profits based on the profits of the company, according to the 2010 CSR guidelines issued by department of public enterprises. Hence, effectively state-run companies had a five-year head start with respect to setting aside funds for corporate social responsibility (CSR) initiatives.

Under Companies Act of 2013, both public and private companies had to set aside 2% of their net profits. Public companies are mostly in industries where customer perception of the company does not matter (ONGC, NDMC, NTPC, etc.) as much as it does for a private company and this has led to a degree of complacency in meeting the CSR spending target.

Public companies outspent private companies in one area in a big way - environment. This may be because many PSUs are natural resource companies and since they have a direct impact on environment, they have taken it up as a cause.

6. Women led companies

Six women-led companies—State Bank of India, Axis Bank Ltd, ICICI Bank Ltd, Hindustan Petroleum Corporation Ltd, LIC Housing Finance, Apollo Hospitals Ltd—of

the 85 of the top 100 companies by market capitalization on the National Stock Exchange saw their CSR spending amounting to 90.5% of what they had to spend.

7. Regional variations

While the increase in CSR budgets has resulted in some companies expanding the geographies they are present in, most choose to spend in areas where they have a business presence. CSR capital is concentrated in developed states with a strong manufacturing presence such as Maharashtra, Tamil Nadu, Gujarat, Andhra Pradesh, Rajasthan and Karnataka. These states are also among those with the highest gross state domestic product.

Another reason for these states being favoured by companies is because of the vast network of NGOs that work in them. Maharashtra and Gujarat have the largest number of NGOs working at the grass-roots level.

Some states have been very active in wooing firms. Maharashtra and Karnataka asked corporate to contribute to areas such as drought relief and tourism. The Gujarat government even set up a dedicated department called Gujarat CSR Authority

The strong presence of manufacturing facilities across the state, in addition to much of corporate India having Mumbai as their headquarters, has resulted in more than 50% of the top 100 companies by market capitalization on NSE deploying their CSR spends in Maharashtra in one way or the other.

Besides developed states, resource-rich locations such as Odisha and Chhattisgarh are also able to attract a fair number of companies due to the overwhelming presence of metals and mining units. All of these companies resettle and rehabilitate those displaced as part of their business.

8. Conclusion:

From all the above we can conclude that the required impact which is to be assessed of CSR under Companies Act 2013 is so far unclear and the point which can be

extracted from the above points states that it is more negligible positive impact and laws needs to be more clarity regarding CSR under Companies Act 2013. Finally I would like to conclude that more time

is required to assess the exact impact of CSR and can also be said that with long time from more adaptation of the CSR will be done by the various companies and benefit the society for the good of society.

9. References

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- . Ministry of finance GOI [www.finmin.nic.in]
- . RBI documents [www.rbi.gov.in]