The Indian Journal for Research in Law and Management

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Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

CORPORATE SOCIAL RESPONSIBILITY IN INDIA: MOVING FROM *CHARITY* TO MANDATED SOCIAL CHANGE

(Tanvi Firodiya)

Abstract: In 2013, India became the first country in the world to mandate corporate social responsibility through law, embedding a statutory 2% spending obligation within Section 135 of the Companies Act. Over a decade later, the aggregate numbers suggest compliance; the ground reality tells a more complicated story. This article examines whether India's mandatory CSR framework has produced genuine structural change or has instead institutionalised a sophisticated form of paper compliance. Through an analysis of Section 135, Schedule VII, and the CSR Amendment Rules of 2021, the paper identifies critical design failures — including the absence of geographic targeting, the self-commissioning of impact assessments, and the concentration of spend in states where companies are headquartered rather than where developmental need is most acute. The article engages with key judicial interventions, including the Supreme Court's decision in *Orissa Mining Corporation v. Ministry of Environment and Forests* (2013), the Madras High Court's ruling in the Sterlite-Thoothukudi matter, and the Rajasthan High Court's 2021 directions in *Suresh Kumar Sharma v. Union of India*, to argue that courts are increasingly being called upon to fill accountability gaps that the statute deliberately left open. Drawing on the Parliamentary Standing Committee on Finance's 2021 findings, the paper concludes that meaningful transformation requires three structural reforms: independent impact assessment, geographically-weighted incentives, and integration of CSR funding

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into state development plans — shifting the regulatory question from how much was spent to what actually changed.

In 2013, India did something no other country had attempted — it legally compelled companies to spend money on society. Not encouraged. Not nudged with tax breaks. Compelled. Over a decade later, the honest question isn't whether companies are complying. Most are. The more uncomfortable question is whether any of it is producing real change, or whether we've built the world's most elaborate paper compliance machine.

What the Law Says — and What It Quietly Leaves Out

Section 135 of the Companies Act, 2013 looks clean enough on paper. Any company crossing one of three thresholds — net worth of ₹500 crore, turnover of ₹1,000 crore, or net profit of ₹5 crore — must spend 2% of its average net profits from the preceding three financial years on activities listed in Schedule VII. The board needs a CSR Committee under Section 135(1), a formalised policy under Section 135(2), and full expenditure disclosure in the annual report.

The CSR Amendment Rules of 2021 tried to add real teeth. Unspent funds must now move into a government-notified fund within six months of year-end — no more quietly rolling them over. Third-party impact assessments became mandatory for projects above ₹1 crore run by larger companies. When I first read those amendments, I thought the government had finally found its nerve. Then I noticed who commissions those third-party assessments. The companies. Themselves. That single structural flaw quietly swallows the entire accountability exercise.

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What the Act also never bothered to say is just as telling. It doesn't ask companies to match their spending to where they operate or what damage they may cause. It doesn't link obligation to local development need. The Parliamentary Standing Committee on Finance flagged this in its 2021 report, observing that CSR had drifted into a "numbers game" with minimal quality audit.[1] That report is years old now. Not much has shifted.

The Aggregate Numbers Look Like Success. Look Closer.

₹1.55L Cr

TOTAL CSR SPEND (FY14–FY23)

26,000+

COMPANIES FILING REPORTS (FY23)

~97%

COMPLIANCE RATE (FY22)

50%+

SPEND IN EDUCATION & HEALTH

The MCA's National CSR Portal logs over ₹26,000 crore disbursed in FY2023 alone, a near-97% compliance rate, and thousands of companies filing annual reports. On a government dashboard, this reads as a policy triumph. Look at the geographic map of where the money actually lands and the picture unravels fast. CSR spending clusters in Maharashtra, Gujarat, and Karnataka — states that are already better developed, and where most large corporate headquarters happen to sit. Bihar,

1 Parliamentary Standing Committee on Finance, Report on the Working of Corporate Social Responsibility (2021).

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Jharkhand, and Odisha, which have some of India's sharpest developmental deficits, consistently receive a fraction proportional to their need. The law says spend 2%. It has nothing to say about spend it where it matters most.

What's Really Happening on the Ground

Talk to someone who runs programmes in the development sector and they'll describe the same dynamic without much prompting. CSR money comes with invisible conditions: the activity must be visible, photogenic, and ideally completed before March 31st. Building a toilet block? Straightforward. A three-year girls' education programme that needs real flexibility and course corrections halfway through? Too complicated. Too hard to quantify for a board report. Too uncertain for a company that treats social spending as a liability rather than an investment. So the 2% goes to the safe option, the board approves the filing, and the cycle resets.

There's also a structural problem with implementing agencies. A significant share of CSR spending flows into foundations closely tied to company promoters — sometimes doing genuine work, but rarely with independent oversight or transparent auditing. The IICA-MCA study on CSR data (2019) found close to 60% of spend flowing through promoter-associated implementing entities.[2] The 2021 rules created a positive list of eligible agencies and tightened some requirements, but the auditing gap remains.

What the Courts Have Been Saying

2 Indian Institute of Corporate Affairs & Ministry of Corporate Affairs, Study on CSR Spending Patterns in India (2019).

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The judiciary has stepped into CSR territory more than most people realise, and the cases are instructive. In *Hindalco Industries Ltd. v. Union of India*[3] (2014), the Allahabad High Court upheld the constitutional validity of mandatory CSR obligations, treating Section 135 as a legitimate exercise of regulatory power under Article 19(6) rather than an expropriation of private property. It settled the legal foundation early, but it said nothing about whether the obligation would actually work.

Far more pointed is the Vedanta story. The Supreme Court's judgment in *Orissa Mining Corporation v. Ministry of Environment and Forests*[4] (2013) — the Niyamgiri case — affirmed that the Dongria Kondh community had the right to reject bauxite mining on their sacred hills, regardless of any development or social investment the company had put forward. The court's reasoning implicitly rejected the logic that CSR spending can substitute for consent, ecological responsibility, or the protection of constitutional rights under Articles 21 and 29. You cannot fund a community into accepting harm.

Sterlite Industries v. Tamil Nadu — When CSR Becomes Irrelevant

In *Sterlite Industries (India) Ltd. v. State of Tamil Nadu*[5], the Madras High Court upheld the state government's decision to shut down the Thoothukudi copper plant following sustained protests, a documented pollution record, and at least thirteen deaths during demonstrations in 2018. Vedanta's CSR disclosures at the time showed hundreds of crores in annual social spending — schools, health camps, livelihood programmes. The court did not treat that record as a mitigating factor. The

3 Hindalco Industries Ltd. v. Union of India (Allahabad High Court, 2014).
4 Orissa Mining Corporation v. Ministry of Environment and Forests, (2013) 6 SCC 476 (India).
5 Sterlite Industries (India) Ltd. v. State of Tamil Nadu (Madras High Court, 2013).

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message, though the court didn't state it this plainly, was that CSR reporting and community accountability are two entirely different things. A company's own filings don't determine whether it has acted responsibly toward the people who live near its operations.

Tata Group — The Model the Law Aspires To But Didn't Create

Tata Trusts predates Section 135 by well over a century. Their work in cancer care through Tata Memorial Centre, multi-year livelihoods programmes across tribal districts, and long-running water and sanitation infrastructure isn't built around annual spending cycles — it's built on institutional relationships with local governments, co-designed with communities, and staffed by people with genuine domain knowledge. SEBI and MCA have cited Tata as a reference standard. Fairly so. But Tata had this culture before the law existed. The 2013 mandate didn't produce it. That's the uncomfortable truth at the centre of the whole policy debate: the best example of what mandatory CSR could look like is an organisation that didn't need the mandate to get there.

Suresh Kumar Sharma v. Union of India (2021) — Litigation Enters the Room

In 2021, the Rajasthan High Court admitted a petition in *Suresh Kumar Sharma v. Union of India*[6] challenging the adequacy of CSR monitoring for healthcare projects in underserved districts, questioning whether regulatory oversight was keeping pace with statutory obligations. The directions were largely procedural, but the case signals a shift: civil society is beginning to use litigation as a tool to hold companies and regulators jointly accountable for the gap between what CSR reports say and what communities experience. As awareness of Section 135 grows, courts will

6 Suresh Kumar Sharma v. Union of India, Writ Petition (Rajasthan High Court, 2021).

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be asked to answer harder questions about what compliance actually requires — and whether the MCA's current oversight architecture is equal to that task.

The Gap Nobody in Policy Circles Will Name Directly

The Companies Act mandated spending. It never mandated purpose. Schedule VII offers a broad menu — hunger alleviation Item I, clean energy Item IV, cultural heritage Item V, disaster management Item XII, and several additions since the original 2014 Rules — but no obligation to match that spending to the district-level needs where a company operates, or to the communities its activities most affect. A company in Jharkhand can fund a heritage project in Rajasthan, file a compliant report, and never be asked whether anyone benefited from its presence in Jharkhand at all. Arora and Dharwadkar, writing in *Business Ethics Quarterly*[7] (2011), described this distinction as the gap between "low-discretion CSR" — minimum required activity — and genuine social investment. India's framework, despite its mandatory character, still leaves most companies comfortably in the first category.

The mandate was always a political compromise. The voluntary camp lost; the mandatory camp won. But neither camp fought for what would have driven real structural change: a mechanism linking company spending to mapped development deficits, verified by parties with no financial stake in the company's reputation. Without that, compliance stays the goal — and companies are extraordinarily good at meeting goals that don't require them to actually change.

7 Seema Arora & Ravi Dharwadkar, 'Corporate Social Responsibility in India', Business Ethics Quarterly (2011).

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What Would Actually Move the Needle

None of the fixes needed here are technically complicated. They're just politically inconvenient, which is why none of them have happened yet. Impact assessments must be commissioned by MCA-empanelled independent bodies — not by the companies being assessed, which is the current arrangement and its own kind of joke. Geographic incentives need real weight: meaningful tax credits or a credible public CSR impact ranking for companies directing funds toward districts in the bottom quartile of Human Development Index scores. And CSR activity should be formally integrated with state and district development plans so the money reinforces existing public infrastructure rather than running alongside it as a disconnected charitable track that neither the company nor the government feels fully responsible for.

WHERE WE ACTUALLY STAND

India built the world's first mandatory CSR framework. That took political will and it deserves acknowledgment. Real money has moved that wasn't moving before. Some of the outcomes are genuine. But a decade in, the framework has largely produced compliance rather than transformation — companies that show up on paper without being accountable for what happens on the ground. The law forced companies into the room. The harder task, still unfinished, is holding them responsible for what they do once they're there. That won't come from more reporting requirements. It will come from the government finally asking the question the law never dared to ask: not how much did you spend, but what actually changed because of it?