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Corporate Social Responsibility: Implications for Business Strategy

ABSTRACT

In the 21st Century, Corporate Social Responsibility (CSR) has become an integral part of corporate governance and business strategy. In this century, with globalisation and environmental crises, stakeholders are demanding more than their share; thus, it is no longer just financially responsible or socially responsible but ethical and environmental responsibility of the company. Moving beyond traditional philanthropy, CSR is not just a charity/donation; it is strategic management to balance financial requirements with sustainable development. In India, the Companies Act, 2013, under Section 135, has transformed the role of corporations by introducing mandatory CSR, hence making the corporation socially responsible under the corporate law and governance system.

This paper seeks to analyse the effect of CSR on Business strategy by discussing the CSR provisions within the context of Indian corporate law and relevant judicial developments on CSR, the role of CSR in improving brand image, stakeholder confidence, risk management and the survival of business in the long run.

An analysis of CSR practices in some select jurisdictions has also been done in this paper to establish international best practices and their relevance to Indian companies. The practical challenges have been enumerated to be implementation-related issues, compliance issues, impact assessment, and cosmetic CSR practices. Therefore, it is proposed that CSR should not be seen as a statutory liability but as an investment that companies make that generates value from the perspective of business as well as society at large. The paper further opines on the need for a strong governing framework, reporting standards, and alignment with the national development agenda and UNSDGs.

Keywords: *Corporate Social Responsibility (CSR); Business Strategy; Companies Act, 2013; Sustainable Development; Corporate Governance.*

INTRODUCTION

With the increasing importance of corporations to economic development and economic growth, the functions of business in the community and at the global level have widened and begun to extend to social, environmental, as well as commercial aspects of development and operations. CSR (corporate social responsibility) is considered as an important component of corporate governance in order to ascertain that businesses are being run in a sustainable manner by addressing environmental and societal impact as well as business goals.

India introduced its new corporate governance by legislating a mandatory CSR through section 135 of the Companies Act 2013, whereas many other nations allow companies to make their own choices for engagement in CSR activities. According to section 135 of the Indian Companies Act, 2013, certain criteria for qualifying companies to engage in socially beneficial activities have been defined and are prescribed, such as education, health, environmental sustainability, rural development, women and gender equality, old and sick people, among others. This law has contributed to changes regarding accountability towards various Stakeholders of the corporate organisation for national and global development goals.

Despite the positive impact of mandatory CSR, various issues regarding interpretation, implementation of CSR programmes, transparency, stakeholder engagement and alignment of CSR efforts with the core business values are the subject of ongoing research and discussion. Moreover, the global convergence of the financial markets towards Environmental, Social and Governance (ESG) issues continues to reinforce the focus and importance on the CSR of corporations and has implications on the overall business sustainability strategies.

This Paper intends to address the impact of CSR on business strategy while evaluating the legal provisions concerning CSR implementation in the Companies Act 2013, its interpretation by courts of law and how CSR practices vary across countries and, at the same time, raise concerns regarding its implementation and recommend measures for ensuring more efficacy of CSR programmes. [1]

LEGAL AND STRATEGIC PERSPECTIVE

[1] Companies Act, No. 18 of 2013, § 135 (India).

CSR is an idea that a business needs to operate in a way that takes social responsibility towards its employees and their family members, the immediate society/communities in the proximity of the business, the broader society and also the environment. CSR in today's time is not just voluntary giving and supporting local groups, but is a component of corporate strategy and governance whereby companies aim to fulfil economic responsibilities along with societal ones in respect of their employees, consumers, the society/local groups as well as stakeholders and the environment.[2]

Legal perspective: CSR revolves around the concept that because corporations leverage public resources and infrastructure for economic gain, they have duties toward society that go beyond profit-creation alone. As CSR also strives for sustainable growth that simultaneously encourages economic benefits, supports social development and protects the environment, CSR builds a high level of public trust and corporate responsibility by doing so.[3]

Strategic perspective: CSR enhances corporate image, stakeholder relationships, risk management, and innovation. Companies integrating CSR into their business strategies are better able to adapt to changing consumer behaviour, attract socially responsible investors, and ensure regulatory compliance, making CSR a source of competitive advantage. The Companies Act, 2013 institutionalises CSR by providing a statutory framework for eligible companies to integrate social responsibility into corporate governance.[4]

CORPORATE SOCIAL RESPONSIBILITY UNDER THE COMPANIES ACT, 2013

A statutory basis of CSR was also laid with the introduction of the Companies Act, 2013. India became the first-ever nation to impose mandatory obligations on CSR on specified companies. It combines Corporate Social Accountability with sustainable development by fostering Corporate firms to adopt CSR in their business practices and for their sustained strategic goals. This landmark Legislation, ‘The Companies Act, 2013 ', acknowledged that in addition to driving economic growth, India Inc. Is ethically obligated to give back to society and its ecosystems. It promotes corporate accountability while integrating social responsibility into business strategy. Section 135 of the Companies Act, 2013 requires companies meeting the prescribed financial thresholds to constitute a CSR Committee responsible for formulating the CSR Policy, recommending CSR expenditure, and monitoring its implementation. These

[2] Archie B. Carroll, *A Three-Dimensional Conceptual Model of Corporate Performance*, 4 **Acad. Mgmt. Rev.** 497 (1979).
[3] Companies Act, No. 18 of 2013, § 135 (India).
[4] Michael E. Porter & Mark R. Kramer, *Strategy and Society: The Link Between Competitive Advantage and Corporate Social Responsibility*, 84 **Harv. Bus. Rev.** 78 (Dec. 2006).

companies shall spend minimum 2 percent of average net profit during the immediately preceding 3 years in pursuing their CSR Policy in identified social welfare activities as covered under the schedule of the Act.[5] Companies (Corporate Social Responsibility Policy) Rules, 2014 (along with modifications in 2021 and beyond): the rules also have specific provisions and lay down stipulations for disclosure of CSR policy, CSR activities taken up by the company, as also spent on account of CSR in annual reports as well as on the website of the company. Now companies' details on CSR projects/activities are also to be available on the website, besides being put up in the annual board's report, which ensures better transparency. 2021 amendments clarify the spending or utilisation of any CSR money not spent. All the prescribed CSR Expenditure shall be incurred towards the approved CSR project. If the company cannot implement and undertake prescribed CSR, it may be mandated to make up expenditure on any projects prescribed under SCHEDULE VII to the Act that matches the required balance spent on CSR by the company.[6] The CSR legislation also includes a requirement for eligible CSR activities to have conducted project impact assessments in order for CSR funds to be utilised for meaningful results and social impact.

IMPLICATIONS OF CORPORATE SOCIAL RESPONSIBILITY FOR BUSINESS STRATEGY

Corporate Social Responsibility (CSR) has become one of the critical business strategies of firms that affect how they develop, implement, and assess their long-term goals. Therefore, businesses now see CSR as integral to the corporate strategy that offers firms the platform to have a balance between economic benefits and social as well as environmental concerns.

Nowadays, customers are more willing to associate with companies that have a code of ethical business, environmentally conscious practices, as well as social awareness, which will also lead to greater customer loyalty, competitiveness and investor confidence in the companies. Corporations with strong CSR activities tend to command great public trust, and this will contribute to the firms' commercial prosperity in the long run. CSR also plays a central role in the strengthening of stakeholder relations with employees, customers, consumers, suppliers, communities, and organizations; by giving heed to concerns of employees, customers, consumers, suppliers, communities and shareholders corporations fosters an environment, which will be built on mutual trust, cooperation and responsibility; which reduce conflicts in

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[5] Companies Act, No. 18 of 2013, § 135 (India).

[6] Companies Act, No. 18 of 2013, sch. VII (India); Companies (Corporate Social Responsibility Policy) Rules, 2014, G.S.R. 644(E), Gazette of India, Aug. 27, 2014.

operations, improve employee satisfaction and result in responsible corporate governance. Therefore, the business will be more resilient against any business, financial, legal and reputational risk. One of the strategic contributions that CSR can have on firms is the stimulation of sustainable business growth. [7]

Corporations that invest in environmentally friendly actions, improvement of employee skills through development and training programs, promotion of literacy, health awareness and community development will ensure that the corporation operates in a relatively conducive social and economic atmosphere.

Investment in such activities contributes to the creation of value in the long term, besides contributing towards achieving sustainable development agendas of both governments and global organisations such as those in the UN SDGs. The focus on CSR now goes beyond contributing towards sustainability and the environment; CSR has stimulated businesses in conducting innovative activities through the designing of environmentally friendly products, using technologies that are conscious of the environment, as well as increased efficiency in business operations. Increasing attention towards standards for ESG (Environmental, Social, and Governance) has amplified the strategic significance of CSR to both stakeholders and firms in order to attract investment and competitive business advantages in global markets.

For the purposes of achieving these, it is important to not only understand that the implementation of CSR activities is a legal requirement as outlined under the Companies Act of 2013, but in essence it is another important investment into the business's stability and strong stakeholder trust in it.

JUDICIAL INTERPRETATION OF CORPORATE SOCIAL RESPONSIBILITY

While the Companies Act 2013 established a statutory mandate of CSR and its accountability parameters, the Indian Courts in myriad instances had reiterated that mere compliance of law is not the threshold for corporate responsibility. Numerous judicial rulings have time and again pronounced that corporate actions are not limited within the ambit of legally stipulated requirements. The Indian Judiciary have time and again acknowledged the imperative nature of these actions by pronouncing that responsible corporate governance necessitates operating

[7] Michael E. Porter & Mark R. Kramer, *Strategy and Society: The Link Between Competitive Advantage and Corporate Social Responsibility*, 84 **Harv. Bus. Rev.** 78 (Dec. 2006).

responsibly with respect to society, environmental ecology and the rights of those impacted in a due and proper manner for sustained growth.

In *M.C. Mehta v. Union of India*, it was through the judgement of the Apex Court that 'Doctrine of Absolute Liability' was propounded under the ambit of hazardous and inherently dangerous enterprises. It was asserted that these enterprises have a non-delegable duty towards societal interest not to carry out any such enterprise as to cause damage or risk to any of its citizens to health, infrastructure, ecology and environment. Though this case did not involve direct issues on CSR, the judgement was instrumental in setting a baseline of business accountability towards stakeholders irrespective of the profit motive of business entities.[8]

Further, in the case of Indian Council for *Enviro-Legal Action v. Union of India*, it was the said 'Polluter pays Principle' enunciated by the apex Court, where it imposed complete financial burden for remediation of damage caused by any industrial enterprise. Here, the Supreme Court had strongly reiterated the concept of environmental rights and further stressed the idea of sustainable growth without detriment to its preservation and societal welfare. Thus, this is a direct augmentation of the aim of the concept of CSR by emphasising sustainable and ethical business.[9]

However, the concept of sustainable growth has truly taken centre stage when the Indian Apex Court reiterated it in *Vellore Citizens Welfare Forum v. Union of India* by adopting the 'Precautionary Principle' and 'Doctrine of Sustainable Development'. In this case, the Apex Court established these concepts as the intrinsic values of environmental jurisprudence in India, which aims to harmonise and maintain a balanced relationship between growth and preservation of the environment.[10]

It is amply evident from the foregoing judicial reasoning that it isn't only the statutory CSR spend under the Companies Act 2013 that the corporate entities shall have their responsibility pinned with it. Rather, the legal sphere has continuously elevated the standard of these responsibilities to a comprehensive level to make a business entity liable in all ethical, moral and socially responsible ways.

[8] *M.C. Mehta v. Union of India*, (1987) 1 S.C.C. 395 (India).
[9] *Indian Council for Enviro-Legal Action v. Union of India*, (1996) 3 S.C.C. 212 (India).
[10] *Vellore Citizens' Welfare Forum v. Union of India*, (1996) 5 S.C.C. 647 (India).

COMPARATIVE ANALYSIS OF CORPORATE SOCIAL RESPONSIBILITY: INDIA, THE UNITED KINGDOM, AND THE UNITED STATES

The philosophy behind corporate social responsibility (CSR) varies extensively in different countries of the world in view of their divergent legal system, public policies, management styles and corporate governance methods. While a few countries have implemented the statutory model with the mandatory provisions of a specified sum to be spent on CSR activities, some countries rely largely on the principles of responsible corporate governance and a set of guiding voluntary principles. These different models have been discussed and compared in the following analysis by studying the CSR frameworks of India, the United Kingdom and the United States of America.[11]

Corporate Social Responsibility in India: India has a mandated CSR approach under section 135 of the Companies Act, 2013, whereby every company above a certain threshold would constitute a CSR committee and the minimum spending that the companies need to do on CSR is around 2% of the average net profits of the preceding three financial years concerning projects listed under Schedule VII.[12]

The United Kingdom has a unique blend as its principles based model for CSR- in not having specific laws mandating it for companies but having provisions relating to it in its policy of Corporate Governance & CSR and in the duty of directors' specified in "Companies Act 2006"; these principles would ensure that no specific companies is compelled to spent or commit an specific percentage of its profits into specific CSR activities but an approach to it is considered in relation to various ethical aspect. While, USA's corporate social responsibility approaches in terms of compliance or enforcement are voluntary in nature rather than statutory with regulations but are backed by environmental norms, environmental concerns, market forces & also by several 'ESG' disclosure trends followed by several multinational corporation & therefore it means companies follow them not because of the state or legal restrictions but because of the pressure that comes from the market or from various stakeholders that may include their customers and investors. By comparison, when we talk about India, the state provides an impetus to the concept of CSR with its mandatory provision, while other countries such as the UK & USA rely more on voluntarism accompanied by Corporate governance principles and market forces, respectively.

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[11] Archie B. Carroll & Kareem M. Shabana, *The Business Case for Corporate Social Responsibility: A Review of Concepts, Research and Practice*, 12 **Int'l J. Mgmt. Rev.** 85 (2010).
[12] Companies Act, No. 18 of 2013, § 135 & sch. VII (India).

CHALLENGES IN THE IMPLEMENTATION OF CORPORATE SOCIAL RESPONSIBILITY

Although we do have comprehensive CSR in the form of a statutory framework under the Companies Act, 2013, there are many practical and legal challenges in ensuring a successful implementation. Since the advent of mandatory CSR in the Indian corporate sector, there has been greater engagement of corporates towards social development; However questions persist over the efficiency, effectiveness and transparency of the CSR expenditure, more particularly, its longer-term social impacts. One of the significant limitations arises from the approach to CSR where it is seen as a mere compliance requirement to be met annually to avert penal consequences, rather than an integral element of business responsibility towards societal welfare. Many companies focus merely on the spending mandatory threshold to escape legal punitive consequences rather than the way the CSR programme itself gets infused in the core corporate functions to contribute to sustainable development goals.

Thus, CSR activities are conducted as a set of philanthropic interventions, disconnected from other business goals, and devoid of any long-term value creation ability for society in the truest sense. Another substantial issue lies in the inadequate assessment of the social and environmental impact of CSR projects. While companies are mandated to disclose the quantum of CSR expenditure in their statutory annual reports, the measure of social or environmental outcomes generated by these projects is seldom undertaken by most companies with equal vigour or seriousness. It seems more important to just ‘spend money’ rather than measuring the value that the CSR project contributes to the community, its long-term sustainability and the socio-environmental ramifications of its execution in the long term.[13]

Effective oversight by the Board of Directors and CSR Committee is needed so as to ensure the CSR spending is effected in the way it is envisioned by the Companies Act, 2013 and there are no incidents of non-disclosure, diversion of CSR funds, etc.

There has been some growing tendency towards some companies that are included within prescribed statutory thresholds and smaller companies, as they may face financial & operational impediments while planning or implementing their CSR programmes. They lack an established framework & have a scarce pool of expertise & other human resources required

[13] Ministry of Corporate Affairs, *Report of the High Level Committee on Corporate Social Responsibility 2018* (Gov't of India 2019).

for CSR planning & project implementation. To tackle the ongoing challenges, there is a need to enhance regulatory & monitoring mechanisms.

There is a Ministry of Corporate Affairs, need for transparency on the part of the reporting Companies; the impact assessment initiatives have to be independent. In a nutshell, to make CSR meaningful and impactful in India, Companies need to strategically align CSR with their corporate objectives, values and operational frameworks in the planning, implementation, reporting and monitoring of the programmes.

RECOMMENDATIONS AND SUGGESTIONS

Despite the fact that India's CSR legal regime has significantly bolstered the degree of participation of corporations in social issues, some policy reforms are required to augment its implementation. "Firstly, companies should proactively integrate CSR into their mainstream strategy and vision and not view it as an additional compliance to statutory and regulatory requirements. They must align it with strategic business purpose to ensure that their CSR practices generate double-stakeholder value- company as well as societal stakeholders as values.

Secondly, emphasis must be shifted from the volume of expenditure in CSR practices to the impact generated as a result and independent as well as uniformly developed criteria, tools, framework can provide such a necessary mechanism for effective monitoring and accountability to the system.

Lastly, stakeholder participation in planning and implementation, including participation of the local communities and civil society in the Identification, selection and implementation of CSR projects or programs and Alignment of CSR initiatives to the national development agendas and the United Nations Sustainable Development Goals.

CONCLUSION

CSR is no longer a voluntary philanthropic activity as has traditionally been perceived, but is an integral part of corporate governance and business strategy. By enacting Section 135 of the Companies Act, 2013, India has become the first in the world to introduce a statutory framework on CSR, signalling the intent of the lawmakers to inculcate business involvement in the socio-economic progress of the nation. This statutory regime has given rise to undertaking CSR activities in diverse fields like education, healthcare, environment, rural development, etc., strengthening the bond between business and society.

The research shows that CSR is no longer merely legal compliance or an act of benevolence. Rather, it's a proactive strategy that builds brand image, confidence of stakeholders, sustainable growth of businesses and ensures long-term value creation. The interpretation by the courts and a comparative study also reveal that whereas the Indian mandatory CSR regime ensures corporate accountability, countries like the United Kingdom and the United States operate with their voluntary corporate governance practices and market-driven forces, and both approaches have their own lessons to impart in framing a responsible CSR model.

Although the current regime has its successes, there are some challenges concerning the execution of projects and strategies, disclosure and impact assessment, and involvement of all stakeholders. These issues need to be addressed and resolved by improving governance, transparency and making CSR a strategic imperative rather than only a social venture. It would ultimately result in enhancement of corporate performance and social well-being. CSR needs to be perceived as a long-term investment for sustainable development, responsible governance and inclusive growth.