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CORPORATE SOCIAL RESPONSIBILITY IN INDIA

~ *GUGASRIPRIYA SIVAGAMI RAVI*

Corporate Social Responsibility means a firm must think beyond profit and also consider social duties to society. In most places, this is still optional. Many firms follow voluntary rules. Sometimes investors push for it. Often the main driver is reputation. India is different, it was the first country in the world to convert CSR from an ethical aspiration into binding statutory obligation, embedding a mandatory spending requirement directly into company law.¹

The statutory foundation of India's CSR regime lies in section 135 of the companies Act, 2013. The provision applies to every company that, during the immediately preceding financial year, meets a prescribed threshold of net worth, turnover, or net profit. Such companies are required to constitute a CSR committee of the Board, consisting of at least three directors, one of whom must be an independent director where applicable. The Committee is tasked with formulating a CSR policy, recommending the amount of expenditure to be incurred, and monitoring the implementation of CSR activities undertaken by the company. The Board, in turn, is obligated to ensure that the company spends, in every financial year, at least two per cent of its average net profits made during the three immediately preceding financial years on CSR activities.²

The substantive content of permissible CSR activity is drawn from Schedule VII of the Act, which enumerates a broad range of permissible areas, including the eradication of hunger and poverty, promotion of education, gender equality, environmental sustainability, protection of national heritage, and contribution to relief funds, among others. The Companies (Corporate Social Responsibility Policy) Rules, 2014, framed by the Ministry of Corporate Affairs, supplement the Act by prescribing the manner of computing net profit, the modalities of implementation through registered trusts, societies, or section 8 companies, and the format for

¹ The Companies Act, No. 18 of 2013, 135, India Code (2013).

² Id. § 135(1), (5).

disclosure of CSR activities in the Board's report. Together, the Act and the Rules create a fairly detailed regulatory architecture that leaves little room for ambiguity regarding who must spend, how much must be spent, and where the money may be directed.³

the regime changed in the major way through the companies (Amendment) Act, 2019 and the companies (Amendment) Act, 2020. These changes added penalties for the people who did not follow the rules, they also made it clearer what happens to CSR money that is not used. After the amendment, any CSR amount left unused under a project that is still going has to be moved to a special "Unspent CSR Account". This transfer must happen within thirty days after the financial year ends. That money then has to be used within three financial years. If it is not used in that time, it must be moved to a fund named in Schedule VII. One example is the prime minister's National Relief Fund. If the CSR money is unused for reasons other than an ongoing project, it must go to such a schedule VII fund within six months after the financial year's end. These amendments signalled shift away from a purely disclosure based "comply or explain" model towards a regime with genuine financial consequences for default, including monetary penalties on both the company and its officers in default.⁴

Despite the apparent rigour of this framework, the Indian CSR mandate has attracted sustained academic and policy criticism. People have raised doubt about the idea of treating a two per cent contribution like quasi tax. They worry this could turn CSR into a box ticking task. In that case, it might replace real and spontaneous work with partners, instead of building it. Others point to a different issue; they say CSR money often goes to the same major causes. It also seems to land in the same areas again and again. There are also questions about how impact is checked, some think the review tools are not strong enough. A related concern is how CSR updates are done, some firms may focus on how things look. They may do less on what actually changes. The Ministry of Corporate Affairs has, over time, issued clarificatory circulars and frequently asked questions to address recurring ambiguities, including the eligibility of

³ The Companies Act, No. 18 of 2013, sch. VII, India Code (2013); Companies (Corporate Social Responsibility Policy) Rules, 2014, G.S.R. 129(E) (India).

⁴ The Companies (Amendment) Act, No. 22 of 2019, 21, India Code (2019); The Companies (Amendment) Act, No. 29 of 2020, India Code (2020); The Companies Act, No. 18 of 2013, 135(5)-(7), India Code (2013) (as amended).

contributions towards disaster relief, sustainable development goals, and more recently, COVID – 19 relief measures as qualifying CSR expenditure.⁵

Notwithstanding these tensions, India's CSR mandate has undeniably reshaped the relationship between big business and social welfare. It has channelled substantial private capital towards education, healthcare, rural development, and environmental causes, supplementing the state's own welfare efforts at a scale that voluntary CSR regimes elsewhere have rarely achieved.

As India's corporate sector continues to expand, and as regulators refine disclosure norms and impact assessment requirements, the CSR framework is likely to keep evolving. Its central achievement, however, is already evident: it has demonstrated that a legislature can, through careful statutory design, convert an ethical aspiration into an enforceable norm without entirely extinguishing the space for corporate discretion in choosing how that norm is fulfilled.

⁵ Ministry of Corporate Affairs, Gov't of India, General Circular No. 10/2020 on COVID-19 CSR Expenditure (Mar. 23, 2020).