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CORPORATE SOCIAL RESPONSIBILITY IN INDIA: A LEGAL ANALYSIS

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INTRODUCTION: MEANING AND EVOLUTION OF CSR IN INDIA

Corporate Social Responsibility, commonly referred to as CSR, describes the obligation of a business to conduct itself in a manner that benefits society at large, beyond the narrow pursuit of profit for its shareholders. In India, the idea is not entirely new. Long before any statute used the term, business houses such as the Tatas and the Birlas engaged in what was essentially philanthropic activity, influenced heavily by the Gandhian notion of trusteeship, under which wealth generated by industry was seen as something to be held and used for the welfare of the community rather than for personal accumulation alone.

For much of independent India's economic history, however, this remained a matter of individual conscience rather than legal compulsion. The Ministry of Corporate Affairs took a modest step in 2009 by issuing Voluntary Guidelines on CSR, but these carried no binding force and were followed unevenly. The real turning point came with the enactment of the Companies Act, 2013. Through Section 135, India became the first country in the world to convert CSR from a matter of corporate goodwill into an enforceable statutory obligation, applicable to companies that cross specified financial thresholds. This shift fundamentally altered how boardrooms across the country think about social spending, moving it from the margins of corporate strategy into the core of compliance.

LEGAL FRAMEWORK UNDER THE COMPANIES ACT, 2013

Section 135 of the Companies Act, 2013, read together with the Companies (Corporate Social Responsibility Policy) Rules, 2014, forms the backbone of India's CSR regime. The provision came into force on 1st April, 2014, and has since been amended more than once to close gaps that emerged during its implementation. Schedule VII to the Act lists the categories of activities

that qualify as CSR, ranging from eradicating hunger and poverty, promoting education and gender equality, ensuring environmental sustainability, protecting national heritage and art, to contributions toward the welfare of armed forces veterans, rural development projects, and disaster management. The list is descriptive rather than exhaustive, and the Ministry of Corporate Affairs has, from time to time, clarified through circulars what does and does not fall within its scope.

The Companies (Amendment) Act, 2019 and the Companies (Amendment) Act, 2020 introduced significant changes to this framework. What were originally reporting-based obligations, largely operating on a comply-or-explain footing, were converted into obligations backed by financial penalties. A company that fails to spend the mandated amount is now required to transfer the unspent sum, within a prescribed period, either to a fund specified under Schedule VII or to a separate Unspent CSR Account, depending on whether the amount relates to an ongoing project. Failure to comply with this requirement attracts penal consequences under Section 135(7), which were also amended to shift the offence from a criminal to a civil, monetary footing, in keeping with the government's broader decriminalisation of minor corporate offences.

KEY PROVISIONS: APPLICABILITY, COMMITTEE, AND SPENDING OBLIGATION

The threshold for applicability is laid down in Section 135(1). A company is brought within the fold of mandatory CSR if it has a net worth of rupees five hundred crore or more, a turnover of rupees one thousand crore or more, or a net profit of rupees five crore or more, during the immediately preceding financial year. Once a company meets any one of these thresholds, it is required to constitute a CSR Committee of the Board, consisting of at least three directors, one of whom must be an independent director, subject to certain relaxations for private companies and companies not otherwise required to appoint an independent director.

The core spending obligation is contained in Section 135(5), which requires the Board to ensure that the company spends, in every financial year, at least two percent of the average net profits made during the three immediately preceding financial years, in pursuance of its CSR policy. Details of the policy adopted, the projects undertaken and the amount spent must be disclosed in the Board's Report and on the company's website, allowing shareholders and the public to scrutinise compliance. The Ministry of Corporate Affairs, through its General Circular No. 14 of 2021, clarified certain recurring points of confusion — for instance, that activities benefitting

only the employees of a company and their families do not qualify as CSR, since the object of the provision is community welfare rather than employee welfare.

A further refinement was introduced through Rule 8(3) of the CSR Rules, which requires certain companies to carry out an impact assessment of their CSR projects through an independent agency. This requirement applies to companies with an average CSR obligation of rupees ten crore or more in the three immediately preceding financial years, and only for projects with outlays of rupees one crore or more that have been completed at least a year prior. The underlying intent is to move the regime beyond mere expenditure tracking toward an assessment of actual outcomes, though the requirement currently applies to only a small subset of larger companies and projects.

JUDICIAL AND REGULATORY INTERPRETATION

Although CSR is largely a matter of regulatory compliance rather than adversarial litigation, a body of case law has nonetheless developed around it, particularly concerning penalties for non-compliance and the tax treatment of CSR expenditure. In *DR ITM Ltd. v. Registrar of Companies, Punjab & Chandigarh*, the National Company Law Tribunal, Chandigarh Bench, dealt with a company's failure to disclose its CSR policy in the Board's Report for the financial year 2014-15, as required under the CSR Rules. The Tribunal compounded the offence and imposed a penalty on the company as well as its managing director personally, directing that the amount payable by the managing director be paid from his own funds rather than the company's[1]. The order illustrates the willingness of tribunals to fix personal accountability on officers in default, rather than allowing the burden of non-compliance to fall solely on the company and, by extension, its shareholders.

A separate line of disputes has arisen under the Income-tax Act, 1961, concerning whether CSR expenditure can be claimed as a deductible business expense. Explanation 2 to Section 37(1), inserted by the Finance (No. 2) Act, 2014, provides that expenditure on CSR activities referred to in Section 135 of the Companies Act shall not be deemed to be incurred for the purposes of business or profession, and is accordingly disallowed as a deduction under Section 37(1). In *Pr. Commissioner of Income Tax v. Steel Authority of India Ltd.*, the Delhi High Court held that this disallowance operates only prospectively, that is, from assessment year 2015-16 onward, and cannot be applied to CSR expenditure incurred in earlier years[2]. More recently, in *Ratna Sagar (P) Ltd. v. ACIT*, the Income Tax Appellate Tribunal held that although CSR expenditure is disallowed as a business expense under Section 37(1), this does not automatically bar a

company from claiming a deduction for the same amount under Section 80G, since CSR spending, once treated as an application of income, continues to form part of the assessee's total income and Section 80G operates independently of Section 37(1)[3]. This interpretation has since been followed in similar disputes, including one involving Blue Dart Express Ltd., where the Tribunal reaffirmed that disallowance under Section 37(1) does not, by itself, extinguish an otherwise valid claim under Section 80G[4].

CHALLENGES IN IMPLEMENTATION

Despite more than a decade of mandatory compliance, several challenges continue to undermine the effectiveness of the CSR regime. The categories listed under Schedule VII are broad and occasionally vague, which has led to inconsistent interpretation by companies as to what genuinely qualifies as CSR and what is merely routine business expenditure dressed up as social spending. There is also a persistent concern regarding monitoring and impact assessment — while companies are required to disclose amounts spent, there is no uniformly enforced mechanism to verify whether that spending produced any meaningful social outcome, as opposed to being a box-ticking exercise undertaken to satisfy the two percent threshold.

A further difficulty lies in the uneven geographical and sectoral distribution of CSR funds, with urban and already well-served regions often receiving disproportionately higher allocations compared to remote or underdeveloped areas that arguably need it more. The involvement of implementing agencies, including non-governmental organisations, adds another layer of complexity, since companies must exercise due diligence in vetting these agencies to avoid diversion or misuse of funds. While the 2019 and 2020 amendments have improved accountability by introducing monetary penalties and mandatory transfer requirements for unspent amounts, the underlying question of whether legally mandated CSR genuinely fosters a culture of social responsibility, or merely produces compliance-driven spending, remains a matter of ongoing debate among policymakers and academics alike.

There is, in addition, a recurring criticism that CSR spending sometimes functions as a form of reputational insurance rather than genuine social investment, with companies gravitating toward visible, easily publicised projects rather than less glamorous but more urgently needed interventions. Civil society organisations have periodically flagged instances where CSR funds were routed through related-party implementing agencies with limited on-ground presence, raising questions about due diligence at the stage of agency selection. Strengthening independent verification, standardising impact-reporting formats, and encouraging greater

collaboration between companies and established development organisations are frequently suggested as ways to narrow the gap between statutory compliance and genuine social impact.

CONCLUSION

The statutory mandate under Section 135 has undeniably transformed the scale of corporate spending on social causes in India, with cumulative CSR investment crossing rupees one lakh fifty-three thousand crore within a decade of the provision coming into force. India's experiment of legally compelling CSR remains a fairly unique model globally, and it has placed the country at the centre of an ongoing conversation about whether social responsibility can, or should, be enforced through law rather than left to voluntary corporate conscience. What is clear is that the framework continues to evolve, with courts, tribunals and the Ministry of Corporate Affairs regularly stepping in to fill gaps and resolve ambiguities. Going forward, the real test for Indian CSR law will not be whether companies spend the mandated two percent, but whether that spending translates into tangible and lasting social value.

CITATIONS

1. DR ITM Ltd. v. Registrar of Companies, Punjab & Chandigarh, NCLT Chandigarh Bench (2019).

2. Pr. Commissioner of Income Tax v. Steel Authority of India Ltd., Delhi High Court (Jan. 27, 2023).

3. Ratna Sagar (P) Ltd. v. ACIT, ITA No. 2556/Del/2023 (ITAT Delhi).

4. Blue Dart Express Ltd. v. PCIT, ITAT Mumbai, ITA No. (Assessment Year 2017-18).

5. Companies Act, 2013, § 135, No. 18, Acts of Parliament, 2013 (India).

6. Companies (Corporate Social Responsibility Policy) Rules, 2014, G.S.R. 129(E) (India).

7. Income-tax Act, 1961, § 37, Explanation 2 (India).

8. Ministry of Corporate Affairs, General Circular No. 14/2021 on CSR (Aug. 25, 2021) (India).

9. Economic Survey 2023-24, Ministry of Finance, Government of India.