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UNSPENT CSR AND CORPORATE ACCOUNTABILITY: FROM REGULATORY COMPLIANCE TO SOCIAL IMPACT

~ Karthikeya B N

ABSTRACT

The Corporate Social Responsibility (CSR) framework under Section 135 of the Companies Act, 2013 has evolved over time in India, from prescribing CSR expenditure to establishing regulatory mechanisms governing unspent CSR amounts, ongoing projects, transfers to specified funds, reporting, and impact assessments. While these regulatory elements have ensured greater procedural legitimacy, an important question arises: whether compliance with the provisions governing unspent CSR amounts fulfils the very social purpose for which mandatory CSR obligations were implemented?

The paper seeks to examine the regulatory framework governing unspent CSR amounts and whether the lawful transfer of unspent CSR amount completely discharges a company from its obligation of corporate accountability, especially in cases where such a transfer effectively makes a disconnect between the CSR obligation on the part of the company and the actual social impact created through the use of such amount transferred. The paper explores the question of whether the present reporting mechanisms sufficiently translate into substantive corporate accountability for CSR outcomes.

Adopting a doctrinal approach, the paper examines Section 135 of the Companies Act 2013 and Companies (CSR Policy) Rules 2014, along with their amendments and other related regulations. It ultimately suggests for a gradual shift from an expenditure-based model of CSR compliance towards an impact-oriented framework that preserves regulatory certainty while strengthening accountability for the social objectives of mandatory CSR.

Keywords: Corporate Social Responsibility, Unspent CSR Funds, Corporate Accountability, CSR Governance

INTRODUCTION

Corporate Social Responsibility or CSR, literally translates to the responsibility of corporation towards taking social interests, i.e., society's welfare interests into consideration. This implies a shift of a corporation's focus from merely making profits and fulfilling shareholders' promises, towards a broader social environment comprising of stakeholders, local communities and the society at large.[1] CSR calls for a transition from a shareholder centric approach to a broader stakeholder centric approach.

The Indian jurisprudence has distinctively approached the development of CSR framework. This has been done through the formulation and implementation of Section 135 of the Companies Act, 2013, which has mandated the previous voluntary model of CSR, thus, imposing it as a binding obligation on certain corporations/companies.[2] Such a model that imposes a mandatory CSR obligation has been widely debated by scholars, raising questions of the differentiating factors of a mandatory model from that of a voluntary CSR framework. This Indian statutory framework is supported and read alongside the Companies (Corporate Social Responsibility Policy) Rules, 2014 ("CSR Rules"), creating a mechanical and structured framework governing CSR implementation, expenditure and reporting.[3]

Section 135 of the Companies Act, 2013, imposes a responsibility on certain companies upon fulfilling the qualification criteria stipulated under the provision to spend at least two percent (2%) of the average net profits of the preceding three financial years towards their CSR Policy, whereby, such resources are to be used by the board, on activities that fall under and are included within the CSR Policy.[4] In the case of such prescribed amount not being spent, the statutory framework prescribes separate and distinctive mechanisms for treatment of this amount. This distinction is made between unspent amount on ongoing projects and other unspent amounts. Upon the CSR amount remaining unspent for an ongoing project, the provisions prescribe the unspent amount to be transferred to an Unspent Corporate Social Responsibility Account, which shall be utilised subsequently within a prescribed period of time. In the event of failure to utilise such amount, it is required to be transferred to a Fund

[1] Nayan Mitra, Debmalya Mukherjee & Ajai S. Gaur, *Mandated Corporate Social Responsibility in India: Opportunities, Constraints, and the Road Ahead*
[2] Id. Mitra, Mukherjee & Gaur
[3] *Companies (Corporate Social Responsibility Policy) Rules, 2014*, G.S.R. 129(E) (India).
[4] *Companies Act, 2013*, No. 18 of 2013, § 135(1), (3)–(5) (India)

specified in Schedule VII.[5] Any non-compliance with these provisions shall result in an imposition of monetary penalties.[6]

While the provisions showcase the strengthening of financial and procedural accountability by ensuring that a comprehensive mechanism is in place, it does raise a substantial question of whether compliance with the legal provisions of CSR, particularly that of the unspent CSR amount, fulfil the very social purpose for which the mandatory CSR framework was designed. Simply put, while the regulatory framework is efficient in terms of specifying the amount that needs to be spent and the transfer of unspent amount, it does not necessarily address whether compliance with these specific requirements ultimately produces meaningful and measurable social impact.

Hence, this paper seeks to examine India's CSR framework - Whether the framework governing unspent CSR amount adequately fulfils its intended social impact. The paper analyses the gap through comprehensive understanding of the treatment of unspent amount, the statutory framework governing ongoing projects and the role of impact assessment. Further, the paper proposes a shift towards a more impact-oriented conception of CSR accountability.

Evolution and Architecture of India's Mandatory CSR Framework

The current framework of CSR in India is clearly distinct from the traditional concept of a CSR. Section 135 of the Companies Act, 2013, had introduced the mandatory CSR obligation framework for companies that satisfy the prescribed financial thresholds.[7] Further, the provisions call for such qualifying companies to constitute a Corporate Social Responsibility Committee (CSR Committee), to develop a CSR policy and ensure that such CSR activities are identified.[8] The Board shall additionally ensure that the amount of two percent (2%) of average net profits of preceding three financial years is spent in accordance with its CSR policy.[9] Currently, any company with:

(i) a net worth of ₹500 Crores or more; or

(ii) Turnover of ₹1000 Crores or more; or

[5] *Id.* § 135(5)–(6)
[6] Companies Act, 2013, § 135(7)
[7] Companies Act, 2013, No. 18 of 2013, § 135(1) (India)
[8] Companies Act, 2013, supra note 4, § 135(1), (3)–(4)
[9] Companies Act, 2013, supra note 5, § 135(5)

(iii) Net profit of ₹5 Crores or more; require to spend two percent (2%) of their average net profits in the preceding three financial years on CSR activities.

The framework under the Companies Act, 2013, was further made effective through the implementation of the Companies (CSR Policy) Rules, 2014, which prescribe the manner in which companies qualifying under the stipulated thresholds shall undertake and report their CSR activities.[10] This framework has transformed the concept of Corporate Social Responsibility from a discretionary function to a mandatory regulated corporate obligation.

Originally, Section 135 merely provided for the Board to disclose the reasons for failure of spending prescribed amount on CSR activities in its report. Section 135, Schedule VII and the CSR Rules were notified in February 2014 and came into force on 1 April 2014.[11] The provision did not provide the present statutory mechanism for dealing with unspent CSR amounts or the monetary penalties subsequently introduced under Section 135(7).[12] The framework, hence, was only about disclosure of not spending resources on CSR activities rather than prescribing how such amount is to be dealt with.

Over the years, this position changed as the Companies (Amendment) Act, 2019, introduced a more comprehensive framework for dealing with unspent CSR amounts. These provisions came into force in the year 2021.[13] The amended framework clearly differentiated unspent amount of an ongoing project and other unspent amounts.

Accordingly, when there is unspent amount with respect to an ongoing project, such amount shall be transferred to an unspent CSR account within thirty (30) days from the end of the relevant financial year. Such amount shall be completely utilised within a period of three financial years from the date of transfer. If still unspent, it shall be transferred to a Schedule VII Fund within thirty (30) days. In the case of the unspent amount not relating to an ongoing project, the amount is required to be transferred to a fund specified in Schedule VII within a period of six (6) months from the end of the relevant financial year.[14]

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[10] Companies (Corporate Social Responsibility Policy) Rules, 2014, G.S.R. 129(E), Gazette of India, Extraordinary, Part II, sec. 3(i) (Feb. 27, 2014)

[11] Ministry of Corporate Affairs, Government of India, *Annual Report on the Working and Administration of the Companies Act, 2013*, ch. V, ¶ 5.1.1.

[12] Companies Act, 2013, No. 18 of 2013, § 135(5) (2013), as originally enacted

[13] Companies (Amendment) Act, 2019, No. 22 of 2019, § 21 (India); Ministry of Corporate Affairs, Government of India, *Annual Report on the Working and Administration of the Companies Act, 2013*, ch. V, ¶ 5.2.1.

[14] Companies Act, 2013, No. 18 of 2013, § 135(5)-(6) (India)

Failure to comply with these provisions shall result in monetary penalties provided under section 135(7), which include the company having to pay twice the amount required to be transferred to the fund or unspent account or ₹1 Crore, whichever lower. Additionally, every officer in default shall be liable for a penalty of one-tenth (10%) of the amount required to be transferred, or ₹2 Lakh, whichever lower.[15] Thus, it is clear that there has been a significant evolution in the CSR framework. The regime has moved from a disclosure-oriented model to a model that emphasizes on financial and procedural accountability.

Delving further into the current CSR framework, the CSR Rules provide certain procedural requirements including compliance with impact assessment for specified companies and qualifying CSR projects. This assessment shall be undertaken through an independent agency, which shall make a report, and subsequently be placed before the Board and annexed to the annual CSR report.[16]

Thus, the framework operates across multiple stages of governance, i.e., prescribing expenditure, treatment of unspent amounts, permitting continuation (limited) of ongoing projects and requiring impact assessment in certain circumstances. It is imperative to note that these mechanisms collectively strengthen regulatory oversight. However, the issue of whether compliance with the stipulated requirements translates to substantive accountability for the social outcomes that CSR intend to produce still remain in question.

The Compliance–Impact Gap: Limits of the Present CSR Accountability Framework

The recent amendments pertaining to Section 135 of the Companies Act, 2013, post 2021, have strengthened the consequences of non-compliance with CSR obligation, particularly with respect to unspent CSR amounts. The amendment provided for a distinction between CSR amounts that remain unspent with respect to ongoing projects and other unspent amounts, prescribing respective periods for transfer of such amounts and bringing in monetary penalties for non-compliance.

However, financial accountability and substantive accountability are not necessarily synonymous. The law dictates the manner in which the unspent amount is to be transferred or dealt with. While the law requires a reason to be stated in the CSR report for the amount

[15] Companies Act, 2013, supra note 6, § 135(7)
[16] Companies (Corporate Social Responsibility Policy) Rules, 2014, r. 8(3), as amended by Companies (Corporate Social Responsibility Policy) Amendment Rules, 2021, G.S.R. 40(E) (Jan. 22, 2021)

remaining unspent, it merely serves as a compliance check box. The law does not address whether the CSR designed by the company was appropriately designed or if the company changed its approach from existing circumstances that prevented the CSR amount to be utilised in the first place. This distinction is crucial to note as the ultimate objective of introducing CSR framework is to push big corporations with huge resources to utilise them towards social development. Hence, the paper seeks to shed light on certain regulatory gaps pertaining to the governance of unspent CSR funds that require to be addressed.

A. **Financial Compliance does not establish substantive CSR accountability**

Section 135 provides for a quantifiable expenditure obligation to companies meeting the stipulated thresholds.[17] This ensures that there is a clear and unambiguous compliance threshold. The framework is justified as social impact is usually difficult to standardise. A CSR project's success may depend on several factors outside the control of the company, thus, making it hard to set a social goal as a benchmark for compliance. This is the very reason the legislature enacted compliance in the form of financial benchmarks, i.e., a company having to spend two percent (2%) of its average profits of the preceding three years. Enacting a certain level of social outcome as a condition for compliance could be vague and arbitrary. Hence, companies are rightly not held liable upon failing to produce intended social outcomes. Such criteria would not only be hard to monitor, but would also unreasonably expand the ambit of corporate law in producing social outcomes.

However, it is imperative to note that the distinction between outcomes and inputs are quite important. While the formalization of CSR has led to increased expenditure, it has raised questions of whether such expenditure was incurred towards meeting stakeholder demands. This accordingly creates gaps in formal stakeholder accountability and its actual implementation.[18] Thus, the expenditure criteria are not inappropriate requirements per se, but the gap arising here pertains to the expenditure becoming the final point of accountability. This means that corporations can fulfil their CSR obligations in terms of expenditure without having to show any accomplishment of social goals, the reason for failure or poor progress towards the social goals and necessary changes in future CSR planning to make better progress towards social objectives. Accordingly, in the cases where unspent CSR amounts remain, the leftover funds indicate problems in planning and implementing the project, engaging stakeholders or

[17] Companies Act, 2013, supra note 5, § 135(5)
[18] Mallika Tamvada & Onyeka Osuji, Corporate Accountability and Formalised Corporate Social Responsibility: Insights from India's Energy Public Sector Undertakings, 25 J. Corp. L. Stud. 539, 559–64 (2025)

allocating resources, while the statutory framework simply emphasises on expenditure and transfer of the CSR funds.

B. **Transfer of Unspent CSR amount resolves the status of the amount, but not the circumstances of non-expenditure**

As previously stated, the CSR regulation provides for transfer of unspent amount within prescribed timelines, depending on the nature of the unspent amount, i.e., whether it is being utilised for an ongoing project or if there is no project being undertaken.[19] The legislative intent behind this framework is to prevent companies from retaining funds devoted towards CSR activities indefinitely. Consequently, such amount is simply not carried forward and retained due to strict timelines for utilisation or transfer of such funds, and hence, ensures that the funds are put into socially beneficial activities. The monetary penalties under Section 135(7) further reinforce this obligation.[20] Thus, such a transfer mechanism is valid and not defective.

However, the focus here, is not on the company's transfer of the CSR funds, but rather the company's own conduct before such a transfer. Unspent CSR amount might arise due to bona fide reasons such as delays in implementation of the project, need for re-designing of an intervention or the project being a genuine long-term project that has not yet been completely accounted for. On the other hand, the unspent amount could also be a direct or indirect result of poor planning and ineffective implementation.

Furthermore, there is an absence of genuine and meaningful stakeholder involvement during the implementation of CSR projects. Accordingly, increasing CSR spending does not necessarily translate to accountability, especially to those, whose needs the expenditure is intended to address. This results in the framework creating a state of "disguised voluntarism," where companies meet legal expenditure requirements through a selective "pick and choose" approach towards certain regions and projects rather than addressing the primary needs of impacted local communities. The findings illustrate how top-down corporate governance models fail to deliver authentic corporate accountability. In Research conducted on CSR spending by energy PSUs revealed that, despite clearly prescribed financial commitments under CSR guidelines, there are inadequate mechanisms to ensure community participation in identifying and prioritising local needs. Consequently, companies may fulfil their CSR

[19] Companies Act, 2013, supra note 14, § 135(5)-(6)
[20] Companies Act, 2013, supra note 6, § 135(7)

obligations by directing expenditure towards pre-selected focus areas rather than addressing the actual, context-specific needs of the communities they intend to benefit.[21]

C. **Impact Assessment Recognises the Expenditure–Impact Problem, But Does Not Entirely Resolve It**

The CSR framework in the recent years has brought the concept of impact assessment into existence. Rule 8(3) of the CSR Rules requires specified companies to undertake impact assessment through an independent agency in relation to qualifying CSR projects, with the resulting report being placed before the Board and annexed to the annual CSR report.[22] The purpose of introducing the provision was to evaluate the social impact of a CSR project, encourage more considered decisions before deploying CSR funds, and provide feedback for better resource allocation.[23] Hence, it would not be appropriate to argue that the current CSR framework completely ignores social impact.

Having stated that, it is argued that impact assessment leaves two residual concerns. The first concerns the limited statutory coverage of CSR framework. Rule 8(3) of Companies (CSR) Rules, 2014, prescribe impact assessment for companies having an average CSR obligation of at least ₹10 crore in the preceding three financial years, and the relevant CSR project must have an outlay of at least ₹1 crore and have been completed at least one year before the assessment.[24] Accordingly, every company qualifying the threshold of mandatory CSR obligations is not required to undertake impact assessment from independent third-party agencies. Companies falling outside the prescribed impact assessment requirements may voluntarily opt for impact assessments. [25] Hence, there is a disproportionate assessment of social impacts that companies create.

Second, while the impact assessment undertaken gives out information about the CSR project's standing in terms of achieving the goal it initially sought to attain, what is made of this information? The rules state that once an impact assessment report is completed, it shall be

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[21] Tamvada & Osuji, supra note 18, at 559–60
[22] Companies (Corporate Social Responsibility Policy) Rules, 2014, r. 8(3) (India), *amended by* Companies (Corporate Social Responsibility Policy) Amendment Rules, 2021, G.S.R. 40(E) (Jan. 22, 2021)
[23] Companies (Corporate Social Responsibility Policy) Rules, 2014, Rule 8(3) (India), *as clarified by* Min. of Corp. Affairs, Gov't of India, General Circular No. 14/2021, Q. No. 9.1 (Aug. 25, 2021)
[24] Companies (Corporate Social Responsibility Policy) Rules, 2014, r. 8(3), *supra* note 22, *amended by* Companies (Corporate Social Responsibility Policy) Amendment Rules, 2021, G.S.R. 40(E) (Jan. 22, 2021)
[25] Companies (Corporate Social Responsibility Policy) Rules, 2014, Rule 8(3) (India), *as clarified by* Min. of Corp. Affairs, Gov't of India, General Circular No. 14/2021, Q. No. 9.2 (Aug. 25, 2021)

placed before the Board and shall be annexed to the Annual Report on CSR. Such a report shall be made publicly available as well. These rules do not push or incentivise the company to transform ineffective activities into effective ones, as a poor performance report, does not necessarily mandate the company to take necessary action to improve the same. Thus, there remains room to strengthen the governance consequences of the information generated from these impact assessments.

There is strong argument upon disclosure itself being a self-imposing accountability mechanism, whereby companies having to disclose their CSR reports to the public, incentivises them to make progress in their social activities to maintain public trust. While the argument is completely sound, transparency is a necessary condition of accountability, not necessarily its complete substitute. While disclosure addresses what information the company needs to show, accountability covers a much broader ambit demanding explanations and reasons for a company's actions. Simply put, a disclosure report may show the amount that remained unspent, and the mechanism that was dealt with, in order to transfer such unspent amount and brief reasoned explanations as to why the amount remained unspent. The disclosure may not answer whether the original project was appropriately designed, whether stakeholders were consulted, or whether the company's subsequent CSR strategy responded to the underlying difficulty. The reasoned explanation for unspent amount in the report is deemed to be complied with, even if the reasons given in the report are not very specific, provided the transferring of funds is performed in accordance with the provisions. The framework governing CSR does not prescribe substantive, qualitative standards or objective criteria for what constitutes a legally justifiable reason. Additionally, the provision only deals with financial accountability, which asks the question of what happened to the unspent amount and briefly the reasons for the same. Substantive accountability on the other hand asks the question of what does the unspent amount reveal about the CSR intervention, and how should the company respond. Hence, the principal shortcoming is not the absence of regulation, but the incomplete transition from regulating the amount of money spent to regulating the quality of the decision-making and response underlying CSR expenditure.

Suggestions: From Explanation to Responsive Accountability

The purpose of reforms is not to hold companies legally liable (through imposition of monetary penalties) for guaranteeing social impact. The reforms aim at strengthening the existing framework by ensuring that the information generated through non-spending of CSR funds and

impact assessments, help corporate respond appropriately and efficiently. Such a reform would mean moving from a mere recording mechanism of compliance towards a compliance mechanism that examines the response of a company when the CSR expenditure does not occur as intended. Hence, in order to achieve the same, two major reforms can be brought about.

A. From Reasons for Non-Spending to a Requirement of Corporate Response

Section 135 of the Companies Act, 2013, requires the Board to specify reasons for failure to spend prescribed CSR amount.[26] The reform proposed pertains to the same provision, whereby, along with the existing statement of reasons, a statement of action taken proposed in response to the identified reasons shall also be made mandatory. Both the statement of reason and action to be taken shall be made public, thus, setting a higher accountability standard to be followed by every company undertaking CSR.

This would ensure that the public's expectation upon reading the statement of action would act as a mechanism to keep the company's progress towards attainment of social goals in check. The requirement would thereby not attach accountability on failure to produce a particular social outcome, but would affix itself to the quality of the company's response to the circumstances that prevented expenditure. While it can be argued that the statement of action may also be used as a mere compliance box, the proposed reform adds a second layer of accountability and enhances public scrutiny to a broader extent, thus, prompting companies to take better action than they previously did. The CSR Committee is required to formulate and recommend the CSR policy and monitor its implementation, while the Board is responsible for satisfying itself regarding the utilisation of CSR funds.[27] The proposed reform could be made effective through an existing governance structure rather than creating a new regulatory institution. This reform would also address the issue of an expenditure-based framework – where expenditure itself provides evidence of financial compliance, but does not necessarily establish whether the expenditure corresponds to the needs that the CSR framework is intended to address. Research examining mandatory CSR expenditure in India similarly cautions against assuming that increased expenditure necessarily produces corresponding benefits, noting difficulties in aligning CSR investment with associated benefits.[28]

[26] Companies Act, 2013, supra note 5, § 135(5)
[27] Companies Act, 2013, § 135(3)–(5); Companies (Corporate Social Responsibility Policy) Rules, 2014, r. 5(2)
[28] K.M. Oware, *Mandatory CSR Expenditure and Firm Performance in Lag Periods: Evidence from India*, 9 Cogent Bus. & Mgmt. 2147126 (2022)

B. Making Impact Assessment Consequential Within CSR Governance

A similar reform is proposed in relation to impact assessment. Impact assessment marks a significant shift from regarding spending as the only metric of the performance of CSR. Yet the effectiveness of it relies on the degree to which the information gathered through the process shapes future decisions of the company.

Current research on the practice of CSR in India found that despite being largely expenditure-focused, the information from outcome evaluation is also not used consistently.[29] Therefore, it is suggested to focus more on impact disclosure in order to move from financial compliance to developmental accountability. The proposed reform shall go a step further. Companies that meet the requirements of having to undertake an impact assessment mandatorily (along with the companies voluntarily opting for an impact assessment), shall submit the final assessment report through existing CSR reporting mechanism, to a designated CSR review function within the Indian Institute of Corporate Affairs (IICA). The Institute operates under the Ministry of Corporate Affairs, through its Centre for Excellence in CSR & Corporate citizenship and National Foundation for Corporate Social Responsibility undertakes and performs impact assessment, monitoring, research and policy advisory functions.[30] IICA is proposed not as a new adjudicatory regulator, but as an existing institutional body with established expertise in CSR impact assessment, monitoring and policy research.

The body reviewing the impact assessment report will not possess any adjudicatory or penal powers. Instead, it would examine the impact assessment reports submitted and issue non-binding suggestions and recommendations regarding the company's CSR project continuation, modification, implementation and future resource allocation strategy. The company would remain free to accept or reject the recommendation. However, the company's impact assessment report, the recommendation of the reviewing body and the company's response to the same shall be placed in public domain. This would ensure an additional layer of public accountability without imposing stringent binding obligations on the company.

CONCLUSION

[29] Anushree Poddar et al., *Aligning corporate social responsibility with sustainable development goals in India across pandemic phases,* 6 Discover Sustainability 1355, 17 (2025)
[30] Indian Institute of Corporate Affairs, Centre for Excellence in CSR & Corporate Citizenship, Centre for Excellence in CSR & Corporate Citizenship (last visited August 24, 2026)

India's mandatory CSR framework has enhanced corporate accountability by transforming a largely voluntary concept to a mandatory, financially and procedurally regulated obligation. While subsequent amendments and changes made to the provisions have strengthened expenditure accountability and compliance, there is a need for establishing mechanisms that promote corporate response to inefficient social outcomes arising from undertaking CSR activities, as the very essence of CSR is to foster social development.

In order to achieve the same, rather than imposing liabilities for unsuccessful CSR activities, the framework may lean towards setting incentivised and responsive accountability standards. Ensuring submission and public scrutiny of action reports and non-binding recommendatory reports would balance corporate discretion and accountability over undertaking and performance of socially beneficial activities under CSR. Such reforms would allow the existing framework to move beyond the question of whether CSR funds were spent towards the more meaningful question of whether corporations learn, respond and adapt when those funds do not produce their intended results.