



Corporate Social Responsibility: Current Scenario

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Abstract

This paper traces the evolution of CSR in India. Apart from gauging the changes in the CSR scenario after the introduction of the Companies Act 2013, it throws light on the guiding principles laid down by the Draft Corporate Social Responsibility Rules (prepared by the Ministry of Corporate Affairs) and analyses the industry's reaction to the mandate. Also discussed are the steps that the society can take to maximize the benefit from the company's expenditure.

Keywords: Corporate social responsibility (CSR), companies Act 2013, draft CSR rules, CSR committee.

Introduction

Out of all the companies across Europe and the Americas, approximately 70 percent report about the Corporate Social Responsibility initiatives taken by them. Guidelines related to reporting on CSR initiatives exist in countries like France, Australia, Sweden, Norway, the Netherlands and Denmark. However, with the introduction of Companies Act 2013 (hereinafter called 'the act') along with clause 135, India has become the first country to introduce statutory provisions with respect to Corporate Social Responsibility.

The concept of CSR has existed in the country since ages. It however lacked the statutory mandate. In 2008, a joint project between the Indian Institute of Corporate Affairs and the German technical agency and bilateral donor GIZ lead to the development of "an Indian concept" for CSR guidelines and reporting.

The "National Voluntary Guidelines on Social, Environmental, and Economic Responsibilities of Business" were a result of these discussions. After the Securities and Exchange Board of India (SEBI) ordered the 100 largest companies listed on the BSE and NSE to disclose their CSR activities along with the percentage of after-tax profits devoted to CSR, these guidelines crystallized into rules. Passing of the Companies Bill by the Lok Sabha in 2012 gave CSR rules the hue of a mandate.

Discussion

Evolution of Corporate Social Responsibility in India: The evolution of Corporate Social Responsibility in India can be divided into four phases. i. First phase: CSR motivated by charity and philanthropy, ii. Second phase: CSR for India's social development, iii. Third phase: CSR under the paradigm of the "mixed economy", iv. Fourth phase: CSR at the interface between philanthropic and business approaches¹.

The first phase was characterized by the inclination of industrial families of the 19th century such as Tata, Godrej, Modi, Birla, Singhanian towards economic as well as social considerations. The fund allocation wasn't however solely for selfless or religious motives. It was driven by caste groups and political objectives.

The Second Phase started with the independence movement. Mahatma Gandhi's influence put pressure on various industrialists to act towards building the nation and urged them to emphasize upon socio-economic development. The Indian companies were referred to as *temples of modern India* by Gandhi. Schools, colleges, training centers etc were set up by various companies during the second phase.

The third phase of CSR revolved around labor and environment laws being introduced in an independent India. The companies at the helm of CSR initiatives were mostly Public Sector Undertakings (PSUs).

In the fourth phase (1980 until the present) Indian companies started abandoning their traditional engagement with CSR and integrated it into a sustainable business strategy. As Western markets became more and more concerned about labor and environmental standards in the developing countries, Indian companies which exported and produced goods for the developed world were required to pay close attention to compliance with international standards.

Current Scenario in CSR

In the year 2003, Corporate Responsibility for Environmental Protection (CREP) was introduced by the Indian government as a guideline for 17 polluting industrial sectors. There was however no real pressure for implementation or internalization.

Besides individual efforts by all the countries, internationally also some CSR standards and guidelines have been defined. These international CSR standards and guidelines include the

ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy, OECD Guidelines for Multinational Enterprises, UN Global Compact and The Universal Declaration of Human Rights².

In India, the Companies Act 1956 does not contain any provision regarding corporate social responsibility. The scene of CSR in India changed with the introduction of Companies Act 2013. The industrial lobbies are abuzz with the CSR clause introduced by the Companies Act 2013.

According to the Indian Institute of Corporate Affairs, of the 1.3 million companies in India, about 6,000-7,000 companies are covered under the new CSR rule³. Scholars, industry insiders, politicians and the civil society are debating the earmarking of 2% of the net profits of a qualifying company for CSR initiatives and earmarking the avenues for CSR initiatives under Schedule VII. The same has been discussed in detail under 'Industry Sentiments'.

Draft Corporate Social Responsibility Rules

Reporting on CSR initiatives taken by the companies shall commence from Financial Year 2014-15. To clarify the government's stance on such CSR and CSR reports Draft Corporate Social Responsibility Rules have been framed by the Ministry of Corporate Affairs. Major provisions of the Rules are as under⁴: i. 2% for CSR spending would be computed as 2% of the average net profits made by the company during every block of three years. For the purpose of First CSR reporting the Net Profit shall mean average of the annual net profit of the preceding three financial years ending on or before 31 March 2014. ii. 'Net Profit' refers to the net profit before tax as per books of accounts and is exclusive of profits arising from branches outside India. iii. As per the Draft, companies that fall under any of the following limits shall constitute a CSR committee: i. Net Worth of Rs. 500 Crores or more OR ii. Turnover of Rs. 1000 Crores or more OR, iii. Net Profit of Rs. 5 Crores or more. iv. The Board shall consult the CSR Committee on the CSR projects to be taken up by the company. Only after such consultation, the CSR policy shall be framed. v. Such policy shall be declared by the Board in its report and also on the company's website. vi. The policy statement shall include: i. A list of projects and programmes that are to be undertaken along with necessary details such as area/ sector chosen, implementation timeline etc. ii. A statement to the effect that surplus arising out of the CSR activity will not be part of business profits of a company. iii. A statement that the corpus would include the following: (a) 2% of the average net profits, (b) Any income arising therefrom, (c) Surplus arising out of CSR activities. vii. In case the company fails to expend 2% of its Net Profits on CSR, an explanation is required to be given by the Board in the Board Report. Although the law does not stipulate penalties for non-compliance, companies are required to justify any shortcomings in this regard. viii. As per the Draft Rules, the Central Government plans on giving the liberty of

conducting/ implementing CSR activities through trusts, societies or section 8 companies operating in India which may or may not be set up by the company itself. ix. The Draft also promotes collaborative efforts by companies i.e. companies can pool their CSR funds together to carry out CSR activities.

Activities Qualifying as CSR Initiatives

The Draft Rules for CSR list the following areas towards which a company can direct its CSR funds: i. Eradicating extreme hunger and poverty, ii. Promotion of education, iii. Promoting gender equality and empowering women, iv. Reducing child mortality and improving maternal health, v. Combating human immunodeficiency virus, acquired immune deficiency syndrome, malaria and other diseases, vi. Ensuring environmental sustainability, vii. Employment enhancing vocational skills, viii. Social business projects, ix. Contribution to the Prime Minister's National Relief Fund or any other fund set up by the Central Government or the State Governments for socio-economic development and relief and funds for the welfare of the Scheduled Castes, the Scheduled Tribes, other backward classes, minorities and women, x. Such other matters as may be prescribed⁵.

The list given above is only a rough sketch and has not been finalized. The Central Government shouldn't however restrict the areas in which a company can invest as an exclusive list would hamper the degree of innovation.

Also, CSR initiatives shall exclude the projects or programmes undertaken in pursuance of normal course of business. Apart from this CSR funds shall not be used for the benefit of the employees or the family members of the employees.

Industry Sentiments

On August 8 2013, by passing the Companies Act 2013 along with Clause 135, India gave wings to its dream of converting billions of cash reserves available with the companies into development. The opinions drawn by the move is a mixed bag.

While some don't believe that the provisions are stringent enough to be classified as a mandate, some are dissuaded by the term mandatory (a position that was mostly reported second-hand, in business papers, as "corporate India's views"—though many business leaders came out in favor of the newly passed Bill in a 14 August Google Hangout session with Corporate Affairs Minister of State Sachin Pilot⁶). The rest? Well, they were not pleased with the idea of government interference in CSR.

Analysts all around the country are estimating the amount of funds that the corporate would inject into social development. The new regulation would mean that the top 100 companies by annual net sales in 2012 will spend Rs.5,611 crore on CSR activities, compared with the Rs.1,765 crore that they are

spending now, according to a March report published in Forbes India magazine⁷. Such influx of funds would multiply the existing reserves with NGOs, social businesses and others working with social issues. This would not only create a huge demand for fund managers in NGOs but would also require development of proper reporting mechanisms in order to trace the funds (given by companies to NGOs not setup by them).

Ernst and Young, the audit and advisory company estimates that the law would cover about 3,000 companies in India and about \$2 billion of expenditures on CSR activities⁸. This implies that the scope of Corporate Social Responsibility Consulting is bound to increase as the companies would now be required to spend structurally on social initiatives.

Concerns

Industrialists are concerned about the deductibility of CSR expenditure under the Income Tax Act. With the allowance of CSR expenditure as a deduction, the funds allocated for social development would increase by leaps and bounds, voluntarily. This would obviate the need for a mandatory provision.

Another area of concern is the absence of deterrent clauses in case companies fail to set aside 2 percent of net profits for CSR initiatives. It is not clear whether companies can get away with the requirement by simply disclosing the reasons for not spending mandatory amount or they would be liable to pay penalties.

There are a lot of companies in the country which report net profits of approximately 5 crores. The clause that binds companies with net profits of merely Rs. 5 crores to set aside 2% of net profits could promote window dressing of financial statements in such companies.

Proper systems for fund management and fund allocation would be required to be developed in order to ensure compliance with the 2 percent rule. Also, proper mechanisms to gauge the effect of CSR initiatives taken by the companies need to be devised.

Public Support

How can the public assist the corporations in making the CSR initiatives effective?

Problems are community specific or region specific. The set of problems faced by people living in a desert are different from those living in the interiors or in the coastal areas. Some might need access to clean drinking water while others may require fishing boats, shelter, healthcare facilities etc. If a company wants to enhance the sustainability and effectiveness of its CSR initiatives, it should devise methods to involve and consult the local community in identification of the relevant problems

which need attention on priority basis. Also help should be sought while devising a game plan to alleviate such problems.

Instead of concentrating on the avenues set out by Schedule VII of the Companies Act 2013, companies should analyze the problems faced by the community around its plants/ production units/ outlets. For conglomerates, concentrating on the society specific issues can bring more accolades than donating to NGOs which more often than not fail to keep a track outlay of allocated funds.

Conclusion

Clause 135 introduced by the Companies Act 2013 would go a long way in strengthening the social initiatives taken by the companies. Apart from boosting transparency and accountability, it would also open up the avenue for Corporate Social Responsibility Consulting. However, steps are required to be taken to sort out issues of penalties in the event of non disclosure, scope of Schedule VII, internal controls etc.

If the law is followed in true letter and spirit, India Inc. would succeed in discharging its social responsibility in an effective and efficient manner.

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