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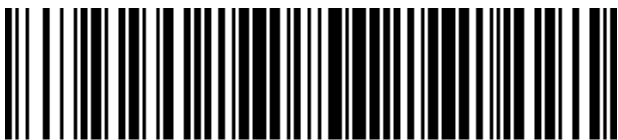
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Corporate Social Responsibility in times of COVID-19 Pandemic

Carol James

ABSTRACT

The outbreak of Corona Virus is an event which no man could anticipate or control. The ongoing global pandemic had several implications on the public health and global economy. In order to handle this pandemic, it is important to have joint effort by individuals, organisations and government. The Business sector provides aid during this pandemic time by contributing towards the Corporate social responsibility. The Companies Act, 2013 is an enactment of the parliament which deals with companies, its functioning, members, registration, winding up etc. Among the provisions one such important concept is Corporate Social Responsibility (CSR). The author of this research paper focuses on the scope of CSR, its meaning, functions and role. Further the author has also conducted a detailed study on the CSR contributions during the pandemic, the challenges faced by the corporates and necessary solutions to combat the challenges.

KEY WORDS: Corporate social responsibility, Business, Companies Act, Coronavirus

INTRODUCTION.

The outbreak of the novel coronavirus (COVID-19) pandemic is an unprecedented event that no individual or organization could have anticipated before and prepared themselves against well in advance. The WHO has now declared it a Pandemic. Amidst such crisis situations, while the entire world is grappling, any involvement from the corporate sectors is essential and is the need of the hour. Voluntary contributions made by the business entities for the sociological, economical, and ecological aspects of the society is called Corporate Social Responsibility. The companies were always in a good pace with regard to CSR in our country India since it had to follow the mandatory obligation under Section 135 of the Companies Act, 2013. However, it is this present outbreak of virus that has tested the active cooperation of companies towards CSR. Though, prior to the outbreak the companies were reasonably proactive towards CSR activities. It is this deadly corona virus outbreak, that made the corporates not only India but around the world, to realise that responsibility towards society is equally important as expanding their businesses. Therefore, the author has clearly dealt in this paper several aspects of CSR and its impact during the pandemic.

WHAT IS CSR?

Corporate Social responsibility (CSR) is defined as obligation to be fulfilled by the company for the benefit of the society. The companies are obligated to perform various activities such as reduction in pollution, contribute towards the education of the society and various other activities of similar nature.¹ CSR is not merely an action of charity rather an obligation on the corporation through which they show that they are contributing to the society. These activities do not act as a barrier to their profit. CSR acts as an aid for the company to integrate economic, social and environmental objectives of the company. Therefore, CSR also increases a corporates reputation.

APPLICABILITY OF CSR

▪ **CSR under the Companies Act, 2013**

The recent Companies Act, 2013 has replaced the 6 decades legislation of Companies Act, 1956 and has recognized the concept of CSR in the statute itself. The new act did not provide any definition for the term “Corporate Social Responsibility”. The focus of the legislation has been on self-regulation, disclosure, transparency and accountability. Section 135 Companies Act, 2013 provides that corporates should spend some percentage of their profit on CSR related activities as per the guidelines. The act requires to make disclosures to the Board regarding the amount spent on CSR activities and also disclose about any policy formulated regarding CSR. In case any company fails to make the necessary contribution towards CSR, the burden is on the company to specify a reasonable reason for the failure of contribution.

According to Section 135 of the Indian Companies Act, 2013 the first sub-section says that every company which has

- Net worth of Rs. 500 crores or more
- Turnover of Rs. 1000 crores or more.
- Net Profit of Rs. 5 crores or more during any financial year is required to constitute a CSR committee which should constitute 3 or more directors; among those at least one must be an independent director.²

¹ <https://blog.ipleaders.in/csr-laws-india/>

² Section 135 of Companies Act, 2013

In any case if a company does not fulfil the above conditions for 3 consecutive financial year then they are not required to comply with the CSR provisions. In case of a branch of foreign company in India it is mandatory to comply with the above-mentioned criteria.

▪ **Functions of the CSR Committee:**

According to Section 135 of the Companies Act, 2013 the CSR committee has to

- Formulate and recommend to the board, a Corporate Social Responsibility Policy which is to indicate the activities to be undertaken by the company as specified in Schedule VII
- To recommend the amount of expenditure to be incurred on the indicated activities and
- To monitor the CSR policy of the company from time to time

Schedule VII to the Companies Act, 2013 prescribes that the Activities relating to following areas may be included by companies in their Corporate Social Responsibility Policies³:

- Eradicating extreme hunger and poverty;
- Promotion of education;
- Combating human immunodeficiency virus, acquired immune deficiency syndrome, malaria and other diseases
- Ensuring environmental sustainability;
- Social business projects;
- Contribution to the Prime Minister's National Relief Fund or any other fund set up by the Central Government or the State Governments.⁴

▪ **Constitution of CSR committee**

The Board of directors will constitute a CSR committee which shall comprise of three or more directors with at least one independent director. The mandate of the said committee is as follows:

- To formulate and recommend a CSR policy to the Board;
- To recommend amount of expenditure to be incurred on CSR activities;
- To monitor the CSR policy of the company from time to time.

³ Schedule VII of Companies Act, 2013

⁴ Section 135 of the Indian Companies Act, 2013.

CSR: A BOON OR A BURDEN FOR CORPORATES

There have been several debates regarding the compulsory contribution for CSR activities. It has been noticed that plethora of big industries and business houses voluntarily contribute a lot on several social activities. Such activities have resulted in a positive impact on the society and moulded the society with better resources. However, there is a second thought regarding the contributions made for CSR activities. Certain companies view the compulsory contribution for CSR related activities as an unjustified burden on corporates since the corporates may hit the bottom line by contributing 2% of their profits in CSR. It has been argued that the welfare of the people in a society is the responsibility of the State and a business entity cannot be expected to run their business to meet out such activities.

INITIATIVES TAKEN BY THE GOVERNMENT WITH REFERENCE TO CSR DURING COVID-19

The Ministry of Corporate Affairs (MCA) published several circulars and office memorandums to provide insights with regard to CSR during the COVID-19 pandemic, which are as follows:

Activities Considered as eligible CSR Expenditure:

- Contributions made to the Prime Minister's Citizen Assistance and Relief in Emergency Situations (PM-CARES) Fund;
- Contributions made to any State Disaster Management Authority for the purpose of COVID-19;
- Contributions made towards Relief Funds set up by Chief Ministers of various States or any State Relief Fund set up for the purpose of COVID-19;
- Salary or wages paid to the employees and other workers including contract labour;
- Wages paid to the temporary or casual or daily wage workers.

CONSTITUTION OF PM CARES FUND

In order to handle the Corona virus outbreak or other unforeseen distressing situations and provide aid and assistance to people who are affected because of such circumstances, a public charitable trust namely, Prime Minister's Citizen Assistance and Relief in Emergency Situations (PM-CARES) Fund was constituted on 28th March 2020.

The corporate sector of India (both public and private) has donated generously a considerable portion of their profit towards the PM CARES FUND as a part of their obligation towards the society. Some of the major contributions towards the PM CARES Fund includes, Tata Sons and Tata Group's ₹ 500

crores, Reliance Industries' ₹ 500 crores, National Thermal Power Corporation of India's ₹ 257.5 crore, Larsen and Toubro's ₹150 crores, REC Ltd.'s ₹ 150 crore, Infosys's ₹ 100 crores to name a few.

ISSUES AND CHALLENGES DURING COVID-19

The ongoing pandemic has already proven itself to be potential challenge for the government, companies, and the entire population. In response to the battle against Corona virus, the Government both at the centre and state level, the companies and several other organisations have started a plethora of initiatives to provide aid to the people in India, yet there have been few loopholes. Some of which the author has mentioned below:

- The Ministry of Corporate Affairs had clarified that any contributions made by the companies to the PM fund would be considered a contribution under activity (viii) of the Schedule. Such centralised contributions are beneficial since the government being the apex authority has the power to reach overall country in comparison to a company that has only restricted access to the area it is located. There is however 1 question that is unsettled whether such contributions made to centralised funds reach every individual in need of it in a timely manner.
- The majority of countries have made their contributions to the central funds like the PM-CARES to fulfill their obligations towards the society. However, only a few companies had made contributions to the state level funds such as the CM Relief fund. Probably the reason for this could be that such contributions made to the 'Chief Minister's Relief Fund' or 'State Relief Fund' were not qualified as a CSR expenditure as stated by the Ministry of Corporate Affairs wide General Circular No. 15/202023 dated 10.04.2020.
- The companies as well as the Government of India have made huge efforts to reach the unprivileged population yet it has been practically impossible to provide aid to every individual affected by the pandemic. The initiatives introduced have failed to consider the aspects of migrant workers, in adequacy of food and shelter and several health concerns. However, on the other hand great measures were taken to bring back stranded Indian citizens from other countries.
- A very clear issue faced by India in the wake of pandemic is that India lacks infrastructure to deal with emergencies. Only a handful of companies have worked along with district

administrations, the rest had worked along directly with the NGO or CSR arms leading to an issue of lack of proper administration.

- The majority share in the contributions made to the CSR activities are only to meet out short term needs such as food, temporary shelter etc. Such activities can be carried out by the charity since the major objective of CSR that is to long term goal is not fulfilled.

SUGGESTIONS

Companies in India have contributed greatly to provide aid to the society in these unforeseen circumstances of Corona virus outbreak. A few organisations have not only earned a mark in India but have been recognised globally as top funders. The most significant matter at present is that corporates and government should actively join hands and collaborate with each other to curb this pandemic. In order to ensure that the companies accomplish their objectives and overcome the challenges mentioned above, the author has made few suggestions to tackle the problems:

- In the present times it clearly depicts that laborers and migrant workers are struggling even for the basic essentials of food, shelter, clothing. Therefore, the corporates can take up responsibilities to provide sufficient aid to such people by actively using its CSR arms in working along with district administration and government bodies.
- The current pandemic is an unforeseen event which is not possible to have prepared to curb in advance. If there was an already existing provision which had mandated equitable distribution of funds amongst all activities, the corporates would have been more prepared. Apart from this there can be emergency relief funds created by each company top provide aid to its employees only during such unanticipated times and the same shall be considered as a CSR activity.
- Corporates have a responsibility to contribute towards the society which also includes obligations towards their own employees. However, the organizations witnessed companies laying off their workmen as certain industries have come to a standstill. Thus, changes must be introduced in the Companies Act, 2013, to bring under its purview un-anticipated situations whereby, a company meeting the threshold in previous years but unstable revenues in the

current year, to utilize its CSR Funds towards the society along with or after fulfilling the obligations towards its employees in order to retain them from being laid off.

- Every single contribution count, however a contribution made as joint effort of governments, companies, NGOs would be highly beneficial to the society at large.
- The present situation of imposing lockdown has resulted in small scale business to come to a halt. It is not only the obligation of the government but also the corporate sectors to provide aid to the small business entities during emergencies.

CONCLUSION

It is of no doubt that introduction of new provision of CSR in the Companies Act, 2013 is of vital importance from the social point of view provided it is of with the spirit to help and not just mere compliance of a legal obligation. In the present paper the author had provided an elaborate understanding on the concept of CSR and its impact during the COVID-19 outbreak. The study conducted by the author shows the necessary steps taken by the corporate sector in this pandemic. Therefore, the CSR activities not only act as voluntary contribution but has also earned a great reputation for the business sectors among its customers.

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