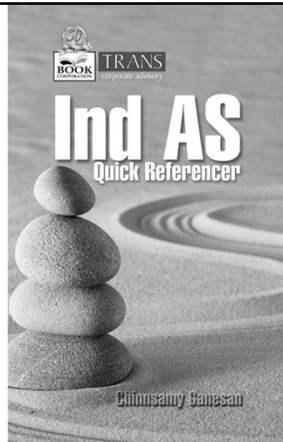


## Corporate Social Responsibility under the Companies Act 2013

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## Corporate Social Responsibility

India became the first country to mandate spend on CSR activities through a statutory provision

Section 135 of the Companies Act, 2013

## Corporate Social Responsibility

### The buzz around CSR under the Legal Framework

One Section (Sec 135)

5 Sub-sections

2 Provisos

One explanation

One Schedule (Schedule VII)

One set of Rules [Companies (CSR) Rules 2013]

## Corporate Social Responsibility (Sec 135)

Mandatory for all companies having

- Net-worth of Rs.500 Cr or more; or
- Turnover of Rs.1000 Cr or more; or
- Net Profit of Rs.5 Cr or more

Even if any one condition is fulfilled, the Company has to follow CSR provisions

Effective from financial year 2014-15

For determining the threshold of the specified net worth, turnover, or net profit to constitute a CSR committee, the words 'any financial year' implies 'any one of the preceding 3 financial years' (as per notification in June 2014)

### Check point

As per the CSR report issued by the  
Lok Sabha Secretariat

Top 100 Companies based on Sales	
Average of 2% Profit after tax	5,611 Crores
Actual spent on CSR	1,765 Crores

### Comparison of current vs. possible CSR- PSU's (Rs. Crores)

PSU	Actual	2% of PAT	% gap
ONGC	121	473	74.42
Coal India	119	235	49.36
IOC	83	156	46.79
SBI	71	261	72.80
SAIL	61	103	40.78
GAIL	54	78	30.77
NTPC	49	187	73.80
BHEL	37	116	68.10
HPCL	27	22	-22.73
BPCL	8	29	72.41

### Amount to be spent on CSR activities

Amount to be spent is minimum 2 % of average profits before tax of the last 3 years

'Net Profit' for the purposes of section 135 shall mean, net profit before tax as per books of account and shall not include profits arising from branches outside India

### Proposed amendments

To remove ambiguity, the term 'average net profit' in Section 135 (5) should be replaced with the words 'net profit'

Actual expenditure incurred to be reported with no obligation to carry forward unspent money

Amount spent in kind does not qualify as CSR spend

## CSR – Procedural aspects

Purposes listed in Schedule VII to the Act and preference shall be given to the local area in which company operates

Board shall appoint 3 or more directors as part of CSR committee, including one independent director

Private companies need not have independent director for the CSR committee

## CSR – Other proposed amendments

Deposit to State Cooffers/ any CSR authority established by a State Government is not a qualifying CSR spent for Government companies

Section 8 Companies shall continue to be covered by CSR requirements

A Company ceases to be covered by Section 135 (1) in any year, need not spend on CSR activities for that year

## CSR Committee

3 or more directors form the CSR committee, including minimum of one independent director

CSR Committee will formulate/ monitor and recommend to the Board, a Corporate Social Responsibility Policy which shall indicate the activities to be undertaken by the Company as specified in Schedule VII

CSR Committee will recommend the amount of expenditure to be incurred on the activities

## Board's obligations

Onerous responsibility on the Board to report and comply with a wide set of requirements and reports

To approve the Corporate Social Responsibility Policy

Board's report to contain the details about the policy developed and implemented by the company on corporate social responsibility initiatives taken during the year

Directors' report shall disclose reason for not spending the amount prescribed

## Schedule VII on CSR

Purposes are listed in Schedule VII to the Act

- Eradicating extreme hunger, poverty and malnutrition and providing preventive healthcare
- Promotion of education
- Gender equality and empowering women (including setting of hostels for orphans, day care centre and old age homes)
- Environmental stability
- Protection of national heritage, art and culture
- Measures for the benefits of veterans of armed forces, war widows
- Training and developing rural sports
- Contribution to PM National Relief Fund /Central/ State Government Relief Funds
- Contributions or funds provided to technology incubators
- Rural development projects

## Amendments to Schedule VII

Notification dated 18 June 2014

The entries in the said Schedule VII must be interpreted liberally so as to capture the essence of the subjects enumerated in the said Schedule.

The items enlisted in the amended Schedule VII of the Act, are broad-based and are intended to cover a wide range of activities as illustratively mentioned in the Annexure

## Amendments to Schedule VII

Slum area development is also included as a recognized purpose as per notification dated 6 August 2014

The term 'slum area' shall mean any area declared as such by the Central Government or any State Government or any other competent authority under any law for the time being in force

## Amendments to Schedule VII

Notification dated 24 October 2014

Contribution to the Swachh Bharat Kosh set-up by the Central Government for the promotion of sanitation

Contribution to the Clean Ganga Fund setup by the Central Government for rejuvenation of river Ganga

### Check point

Whether One-off events such as marathons/ awards/ advertisement/ sponsorships of TV programmes etc. would be qualified?

Whether CSR activities include activities for the benefit of employees and their family members?

Whether expenses incurred by companies for the fulfillment of any Act/ Statute of regulations qualify as CSR expenditure?

What about the "National Voluntary Guidelines on Social, Environmental & Economic Responsibilities of Business" issued by MCA before?

### Check point

Can the salaries paid by the companies to regular CSR staff as well as to volunteers of the companies (in proportion to company's time/hours spent specifically on CSR) be factored into CSR project cost?

Whether the expenditure incurred by Foreign Holding Company for CSR activities in India will qualify as CSR spend of the Indian subsidiary if, the CSR expenditure is routed through Indian subsidiaries?

Whether contribution to Corpus of a Trust/ society/ section 8 companies etc. will qualify as CSR expenditure?



Thank you



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