**CORPORATE SOCIAL RESPONSIBILITY: AN INDIAN PERSPECTIVE**

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**Introduction**

In today’s world there is always a growing importance for companies to ramp up their focus on social responsibility. "Social responsibility," in simple terms, means a business’s obligation to pursue achievable and good long-term goals for its people and the world at large. Corporate social responsibility (CSR) and sustainability have been recognized as important drivers of corporate reputation as well as financial performance pushing companies toward more proactive CSR/Sustainability management and reporting (Dawkins, 2004; Nielsen and Thomsen, 2009). This can be in the form of projects, movements or empowerment of individuals. Whatever form these corporate ventures take, they are definitely a win for both the company and the community alike. Companies are taking the lead and venturing into humanitarian projects ranging from the construction of roads to the alleviation of poverty. The role of the corporate community in social endeavors has received significant attention in recent years given the business climate within which they now operate; a world where discourses of climate change, poverty and human rights are vigorously discussed and debated (Kolk and van Tulder, 2010). Also, CSR/Sustainability commitments and engagements have also been found to positively impact employee satisfaction (Dhanesh, 2014) and stakeholder trust and support (Dean, 2003).

**Corporate Social Responsibility - Global context**

While there may be no single universally accepted definition of CSR, each definition that currently exists underpins the impact that businesses have on society at large and the societal expectations of them. Although the roots of CSR lie in philanthropic activities (such as donations, charity, relief work, etc.) of corporations, globally, the concept of CSR has evolved and now encompasses all related concepts such as triple bottom line, corporate citizenship, philanthropy, strategic philanthropy, shared value, corporate sustainability and business responsibility. This is evident in some of the definitions presented below:

The EC defines CSR as “the responsibility of enterprises for their impacts on society”. To completely meet their social responsibility, enterprises “should have in place a process to integrate social, environmental, ethical human rights and consumer concerns into their business operations and core strategy in close collaboration with their stakeholders”

The WBCSD defines CSR as “the continuing commitment by business to contribute to economic development while improving the quality of life of the workforce and their families as well as of the community and society at large.”

According to the UNIDO, “Corporate social responsibility is a management concept whereby companies integrate social and environmental concerns in their business operations and interactions with their stakeholders. CSR is generally understood as being the way through which a company achieves a balance of economic, environmental and social imperatives (Triple-Bottom-Line Approach), while at the same time addressing the expectations of shareholders and stakeholders. In this sense it is important to draw a distinction between CSR, which can be a strategic business management concept, and charity, sponsorships or philanthropy. Even though the latter can also make a valuable contribution to poverty reduction, will directly enhance the reputation of a company and strengthen its brand, the concept of CSR clearly goes beyond that.”

**ADVANTAGES OF CSR TO CORPORATES**

**CSR can help you attract and retain employees.**

From one perspective, a CSR strategy shows a company is compassionate and treats all people, including employees, well. And a business that is committed to improving the world is likely to attract more talent. This shows how important employees take social responsibility. CSR efforts also help foster a positive work environment for employees. It promotes volunteering and positive efforts from employees. Interventions that encourage and enable employees to participate are shown to increase employee morale and a sense of belonging to the company.

**CSR can improve customers' perception of your brand.**

The competition in the business world of today is quite challenging for a company to set itself apart in the eyes of customers. However, businesses that take social responsibility seriously can win consumers, as well as develop a platform to market and earn their audience's attention. CSR is also important when it comes to branding. To have a successful brand and retain customers, businesses must create trust with their target audience. This allows companies to position themselves as responsible corporate citizens.

**CSR shows a sign of accountability to investors.**

Business houses that are socially responsible appear more attractive to investors. Investors in a business have one common goal: to have greater returns than invested funds. Businesses that is able to manage finances while still helping their communities as accountable and transparent in their dealings. According to a 2016 report by Aflac, investments in CSR are not typically viewed by investors as a waste of money, but rather an "indicator of a corporate culture less likely to produce expensive missteps like financial fraud." The study said 61% of investors consider CSR a sign of "ethical corporate behavior, which reduces investment risk."

**CSR can enable you to better engage with customers.**

CSR helps businesses to better engage with customers. Many forms of CSR involve businesses interacting directly with members of society, who may also be customers or potential customers. Getting feedback on what you are doing right and what your company needs to improve on. Word-of-mouth is still an effective form of advertising, and customers who have been part of the social responsibility created by a company are able to tell other potential customers about the business.

**CSR IN INDIA**

CSR is not new to India. Over the last four centuries, the scope and definition of CSR have shifted dramatically. In India several companies have started realizing that it is a sensible move to take up CSR activities and integrate it with their business process. The basic objective of CSR these days is to maximize the company’s overall impact on the society and stakeholders. Corporations are becoming increasingly aware of their role towards society. They are responsible bodies that feel a sense of duty towards the common welfare and the environment. This comes with a growing realization that they, as an integral part of this society themselves, can contribute to its upliftment and empowerment of the entire country in turn. Thus, companies now are setting up specific departments and teams that develop policies, strategies and goals which are for their CSR programs and allocate separate budgets to support them. These programs are based on well-defined social beliefs or are carefully aligned with the companies’ business domain. The programs are put into practice by the employees who are crucial to this process. CSR programs range from community development to development in education, environment, and healthcare and so on.

In the Indian context, the importance of CSR is paramount. The Indian economy is at a reasonable growth but poverty, education, primary health care, sanitation, skill gap, drinking water etc are numerous areas where a lot of focus and resource deployment is needed. Oxford Poverty and Human Development Initiative in its study estimated that approximately 51 percent of India’s population is poor. It shall now be a focus area for CSR to help poor in making them gainfully engaged, basic health, water, shelter, primary education available to them. In Indian context the CSR can lead to inclusive growth. It shall synergise the governmental efforts with corporate initiative towards sustainable development. Government’s welfare schemes sometimes do not reach to the last man for which it is meant but CSR supplement to government schemes can take care of this deficit by reaching unprivileged population. In year 2021, PSU companies spent around ₹ 4448.84 crores while Non-PSUs spent ₹ 20,416.62 crores on CSR activities. In Fy 2020-21, Reliance Industries Limited spent the highest amount on CSr i.e ₹ 922 crores followed by Tata Consultancy Services and Tata Sons Private Limited amounting to₹ 674 crores and ₹ 546 crores respectively.

**Issues and Challenges**

Several issues are challenging the effectiveness of CSR despite the fact that it has gained importance in India. There are many challenges faced by CSR like, no proper understanding of CSR, non-availability of authentic data, and specific information on the styles of CSR activities, coverage, and policy, etc. In addition to it, coaching and undeveloped staff are also creating problems that lead to a reduction in CSR initiatives.

* **Lack of interest of the Public in CSR activities**: There’s an absence of interest of the area people in participating and contributing to CSR activities of companies. So, it must be checked and folks should be told the benefits of the identical.
* **Need to create local capacities**: This initiative is way needed to make awareness at local levels and thus local capacities have to be built.
* **Lack of transparency**: As per the varied surveys, it’s noted that transparency has been dead and hence has been very problematic. CSR needs to play the matter of transparency and switches this negative into positive,
* **Visibility factor:** The role of media in highlighting good cases of successful CSR initiatives is welcomed because of its spreads good stories and sensitizes the local population about various ongoing CSR initiatives of companies.

**CSR during the Covid Pandemic**

2021 was a year that showed us the true capability that India has, and how much more we can do in 2022. The COVID-19 pandemic has had a serious and unprecedented impact across the economies and society in general, particularly in India. 2021 was different in every aspect and held more than its fair share of challenges. 2021 was a year where India demonstrated that our people come first – when lives depended on ensuring taking all necessary precautions. India implemented numerous initiatives towards ensuring the health, well-being and safety of our people.

India proved the solidity of the COVID-19 strategy. This has helped India quickly adapt to new ways of being stronger together and gain greater momentum addressing key challenges. Government responses in the year 2022 continue to stand robust, both economic and in terms of meeting and exceeding people’s expectations. India’s COVID-19 vaccination coverage has exceeded 150.61 Cr on January 8, 2022. India is accelerating the pace and expanding the scope of COVID-19 vaccination throughout the country. The vaccination drive has been ramped up through the availability of enough vaccines, advanced visibility of vaccine availability for enabling better planning and streamlining the vibrant vaccine supply chain.

The Indian business cemented its strength with its persistent effort to enhance profitability by improving upon the overall quality of the business. During the year 2022, India needs to continually launch new initiatives and economic relief to Covid-19 affected people and businesses. While India has performed well in the year 2021, It has started 2022 on an optimistic note. People, civil society and businesses, who collectively enable India to create value by helping each other, will keep focusing on India’s strategic priorities and leveraging their strengths. Trust, confidence, and support to government efforts toward Covid-19 are key for overcoming challenges. Notwithstanding the challenges of the times, Indian businesses should continue to think from the heart and act with a high head – to care for people, covid-19 patients and communities.

Throughout 2021, India worked hard to strengthen the long-term value of people and business, to emerge stronger coming out of the pandemic. This has been possible due to the hard work, perseverance, and commitment of India’s people. Our priority for the year 2022 will remain to ensure the health and safety of our people. Let’s put in place extensive measures to protect our people and their families, yet sadly we lost several of our valued fellow citizens. All responsible corporate citizens must continue to extend all forms of support to COVID-19 relief efforts. In a year of turmoil, Indian corporations should be proud and humbled to have been able to serve our communities and needy people.

**CSR Provisions as envisaged in the Companies Act, 2013 in India**

Section 135 of the Companies Act, 2013 lays down provisions relating to Corporate Social Responsibility (CSR) that has been mandated for companies in India. These legal provisions are explained hereby:

**Applicability**

Every company having net worth of rupees five hundred crore or more, or turnover of rupees one thousand crore or more or a net profit of rupees five crore or more during any financial year

**Quantum of contribution towards CSR:**

The requirement for the applicable companies is to spend, in every financial year, **at least two per cent** of the average net profits of the company made during the three immediately preceding financial years and in accordance with the Corporate Social Responsibility Policy prepared by the Board in this regard.  However, the company can give preference to the local area and areas around it where it operates, for spending the amount earmarked for Corporate Social Responsibility activities.

**Requirement of a mandatory committee of the Board:**

Such companies who have been mandated need to constitute a Corporate Social Responsibility Committee of the Board consisting of three or more directors, out of which at least one director shall be an independent director.

**Reporting requirements:**

Such companies will have to furnish a report in their Board's report and also shall disclose the composition of the Corporate Social Responsibility Committee.

**Responsibilities of the CSR Committee:**

The Corporate Social Responsibility Committee shall,—

1. formulate 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;
2. recommend the amount of expenditure to be incurred on the activities referred to in clause (a); and
3. Monitor the Corporate Social Responsibility Policy of the company from time to time.

**Responsibilities of the Board:**

The Board has been cast numerous responsibilities with regard to CSR activities undertaken by the company.  Firstly, the Board has to, after taking into account the recommendations made by the Corporate Social Responsibility Committee, approve the Corporate Social Responsibility Policy for the company and disclose contents of such Policy in its report . This has also to be placed on the company's website.  Secondly, the board needs to ensure that the activities as  included in CSR Policy of the company are actually undertaken by the company. Thirdly, the Board needs to ensure that the company spends, in every financial year, at least two per cent. of the average net profits of the company . Here, the average of the net profits should be made during the three immediately preceding financial years.

**Comply or Explain provision:**

This provision in the legislation had initially given a small window for escape to many companies who are unable to comply with the mandated CSR requirements. The law has provided that if the company fails to spend such an amount, the Board shall, in its report, specify the reasons for not spending the amount.

Corporate Social Responsibility was introduced as a statutory obligation for certain based on net worth or turnover companies under Section 135 of the Companies Act 2013 to spend at least 2% of their 3-year annual net profit towards CSR activities (related to environment, education, gender equality or others as described in the Schedule VII of the Act) in a financial year. Thereafter, the Companies (Social Corporate Responsibility Policy) Rules 2014 were notified. CSR was not mandatory at that time and the approach was to “*comply or explain*”. If a company did not comply, it only had to mention the reasons for non-compliance in their report. Since there were serious compliance gaps, the Companies (Amendment) Act 2019 introduced punishments that included imprisonment, and hence, the approach shifted from “*comply or explain*” to “*comply or pay fine*”.

After facing resentment from companies, in 2020, criminal liabilities were removed from the 2013 Act but the penalties imposed were huge. In 2021, the Ministry of Corporate Affairs (**MCA**) notified [the Companies (Corporate Social Responsibility) Amendment Rules 2021](http://www.mca.gov.in/Ministry/pdf/CSRAmendmentRules_22012021.pdf) (**New Rules**) and also [notified](https://www.mca.gov.in/Ministry/pdf/CommencementNotificationCAA_23012021.pdf) the changes in Section 135 of the 2013 Act *via* [the Companies (Amendment) Act 2019](http://egazette.nic.in/WriteReadData/2019/209478.pdf) (**2019 Act**), and [the Companies (Amendment) Act 2020](https://www.mca.gov.in/Ministry/pdf/AmendmentAct_29092020.pdf) (**2020 Act**). The provision for utilization of unspent money and set-off of excess amounts introduced in the 2019 Act and the 2020 Act respectively have also been incorporated in the new CSR regime.  Thus, there is a shift from directional to mandatory CSR.

**Ongoing Projects concept:**

As per the amended Section 135 of the 2013 Act, if a company does not spend the CSR amount, it can retain such amount after identifying an ongoing project.

Ongoing projects have been defined under the New Rules as a multi-year project, but they cannot be longer than 3 years, excluding the year of commencement. The responsibility to identify an ongoing project is that of the Board of Directors (Board) of such a company. In case there is an ongoing project, the amount retained must be put in a bank account named ‘Unspent CSR Account’ within 30 days from the end of the financial year. That amount must be utilized in 3 years, else it goes to funds specified in Schedule VII within a period of 30 days from the date of completion of the 3rd financial year. In case no ongoing project is identified, it will be transferred to a fund under Schedule VII.

**Carry forward of Excess amount:**

The first mandate is that the company needs to spend 2% of their average net profits of 3 years on CSR. If the company fulfills the obligation, the same will be in the Board’s report. However, in case a company spends an excess amount, then that amount can be carried forward and spent in the next 3 years. This is due to the fact that various projects require huge investment which may go beyond the requirement of 2%, especially when there is a creation of capital assets.

**Activities that are not CSR New Definitions Introduced**

The New Rules prescribe a list of activities that shall not fall within the ambit of CSR. These are set out below.

1. Should not be a normal course of activity

Activities that will not be CSR have been prescribed in the New Rules. Firstly, any activity undertaken in pursuance of the normal course of business of the company will not be CSR. This came as a sharp response to the findings that many companies were doing activities by utilizing their own products and services under the garb of CSR. However, a company can use its managerial talent and knowledge to help society, and it need not be confined in its own sector. The object is to identify the genuineness of the matter. For example if there are companies involved in the R&D of vaccines, drugs, and medical devices, they may undertake COVID-19 related R&D and this can be treated as  part of CSR as the benefit extends to a larger goal.

1. Should not be pursued outside India

Activities pursued outside India will not be counted as CSR, as it will not benefit Indians. Again it is the genuineness of the matter that needs to be examined. Hence, Training of Indian sports personnel outside India can be treated as CSR.

1. Should not be to any political party

Any contribution to any political party is excluded from the ambit of CSR. Further, any activities benefitting the employees are excluded, and any CSR amount spent on employees is not considered as 'social spending'.

1. Should not be for own marketing benefit

If an activity results in marketing benefits, the same will be excluded. This does not mean that all the activities on a sponsorship basis are excluded. For example, beautification of parks and gardens may come under the purview of CSR, if there are no direct or indirect marketing benefits derived by a corporation but benefits the public at large.

1. Should not be a statutory obligation

Similarly, activities carried out for the fulfillment of any other statutory obligations under any law in force in India cannot be treated as CSR.

**Registration Requirement for Implementing Partners**

Implementing agencies are the intermediaries who work with the principal and the end beneficiaries, and they identify CSR opportunities and also monitor their implementation. It is not possible for every company to monitor its policies on a regular basis, and hence, this work can be delegated to the implementing partners.

The requirement is that these agencies have to mandatorily be registered with the MCA irrespective of the fact whether they are public, government or statutory agencies. Similarly, Captives (which are the corporate’s own implementing bodies) also need registration. These agencies are required to be registered under Section 12A and Section 80G of the Income Tax Act 1961 as well. The objective behind this registration requirement is that the non-governmental organizations (**NGOs**) that undertake CSR activities of corporations can be monitored and has more transparency in the system. This will also give statutory confirmation to organizations involved in charitable activities.

**Stricter Rigor for Internal Control**

The practice followed by many companies was that the annual budget and areas of activities were being recommended by the CSR Committee and the manner of execution was decided by the Board. Now the New Rules require that the CSR committee is required to draw a detailed annual ‘Action Plan’ to undertake the CSR program.

**Utilization Certificate**

The Board has to ensure that the CSR fund is utilized for the purpose and manner approved by it. Therefore there is a requirement of CFO or alike to give a ‘Utilization Certificate’ of the disbursements made. Earlier many companies simply selected an activity under Schedule VII as a CSR activity, but now the government intends the Board to do strategic planning with respect to the CSR activities to be undertaken by the company.

**Capital Assets to be transferred**

With regard to capital assets that are created/acquired by the company, the company cannot own the asset but will have to ensure that it is transferred as specified. Thus, the assets that have been created or acquired by a company has to transfer either to :

1. A company established under Section 8 of the 2013 Act, or
2. A registered public trust or
3. A registered society, beneficiaries or a public authority.

The objective behind this requirement is that the overall benefit is for the public's goodness. An example to illustrate the point is that many companies create assets in their books of accounts and these assets keep on appreciating in value and resulting in economic benefits too to the respective company only. If these assets are created for the public good, their ownership should also lie with the public.

**CSR Vs. Income Tax - In-admissibility of CSR expenses as deduction**

The Income Tax Act, 1961 regulates the law relating to payment of corporate tax. Section 37 of the Act prescribes the guidelines for in-admissibility of certain business expenses. Here, it is provided that expenditure on CSR activities undertaken by a company will not be treated as a business expenditure and hence will be disallowed at the time of identifying the taxable income. The income tax allows only expenses to be treated as expenses which are wholly and exclusively incurred for the purpose of the respective business. The CSR being an statutory obligation of the company is not regarded as a business expense as per the Income tax Act.

**Social Impact Assessment**

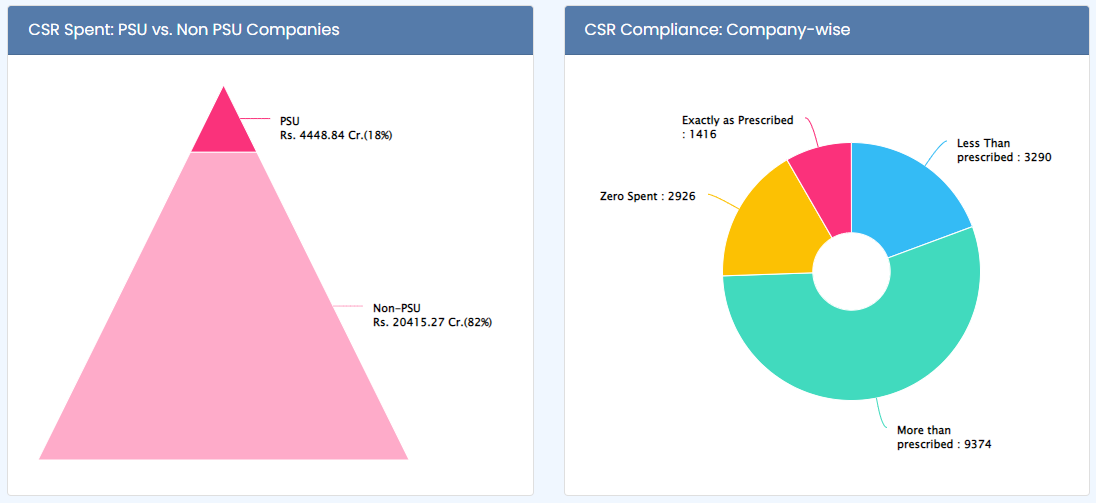
It is not sufficient that companies just need to spend the specified amount on CSR; they are also required to justify the social impact created out of the CSR exercises. There is a need for every company having average CSR obligation of INR 10 crores or more in the 3 immediately preceding financial years to undertake an impact assessment. This is known as the social impact assessment which needs to be done through an independent agency. The social impact assessment needs to be done of CSR projects having outlays of INR one crore or more. Social impact assessment is to be done through an independent body. Other small companies not falling within the threshold need not undertake such an impact assessment, given that this exercise is cost-intensive and time-consuming.

**Conclusion**

Statistics indicate that in FY 17-18, about 9,753 companies did not report any data on CSR despite them coming under the purview of Section 135 of the Act. In FY 19-20, Indian corporates just spent INR 8,691 crores on CSR, which is too small when compared to the size of Corporate India. However, over a span of years, after the approach behind implementing CSR changed from “*comply or explain*” to “*comply or pay fine*.” has indicated that more spending is being done. Corporates are not only supposed to allocate money for a project anymore, but they are also supposed to use their managerial expertise, talent, and capital to create a social impact in the society and justify the same.

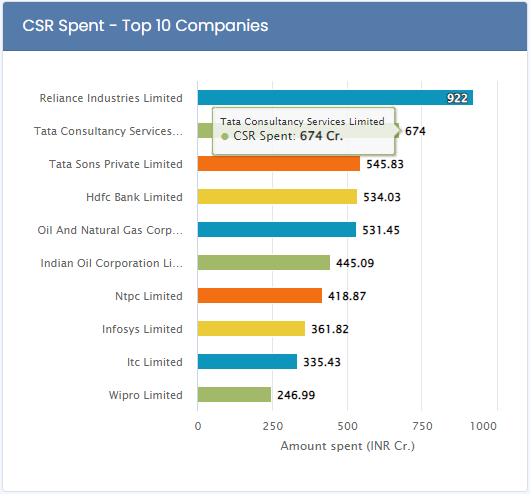
**ANNEXURES**

1. **CSR Expenditure by Companies in FY 2020-21.**

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 Source: National CSR Portal

1. **CSR spent by Top 10 companies In FY 2020-21.**



Source: National CSR Portal

1. **Amount of CSR spent for different purposes in FY 2020-21.**

|  |  |
| --- | --- |
| **Purpose** | **Count of CSR Spent as on "FY 2020-21" (INR Cr.)** |
| Any Other Fund | 28 |
| Clean Ganga Fund | 9 |
| Education, Differently Abled, livelihood | 35 |
| Encouraging Sports | 31 |
| Environment, Animal Welfare, Conservation of Resources | 33 |
| Gender Equality, Women Empowerment, Old Age Homes, Reducing Inequalities | 33 |
| Health, Eradicating Hunger, Poverty and Malnutrition, Safe Drinking water, Sanitation | 35 |
| Heritage Art And Culture | 26 |
| Other Sectors (Technology Incubator And benefits To Armed Forces And Admin Overheads) | 23 |
| Others | 25 |
| Prime Ministers National Relief Fund | 27 |
| Rural Development | 34 |
| Slum Area Development | 19 |
| Swachh Bharat Kosh | 21 |

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