

## Corporate Social Responsibility Under the Companies Act, 2013: An Overview



Law

KEYWORDS:

Ms. Tanzima Contractor

Assistant Professor of Law Institution : BVDU, New Law College, Pune Contact information

### ABSTRACT

*In today's world of globalization, businesses can no longer limit themselves to using resources to engage in activities that increase their profits. They have to be socially responsible corporate citizens and also contribute to the social good. Corporate social responsibility (CSR) is now accepted as a means to achieve sustainable development of an organization. Recognizing the need for inclusion of socially unprivileged sections of the society in India's growth story, the new Company Law of 2013 has come up with a mandate for giant corporate to shell out atleast two percent of their three years annual average profits towards corporate social Responsibility (CSR) activities. The law is perhaps the first of its kind in Indian history recognizing the scope of utilizing corporate strengths towards fulfilling country's social objectives. The present research paper proposes to make an in-depth review of the new Companies act 2013, analyzing the concept of corporate social responsibility envisaged under the new legislation.*

### Introduction

The new Companies Act 2013 is a historic piece of legislation aimed at improving transparency and accountability in India's corporate sector. The new Companies Act will give this country a modern legislation, which will contribute to the growth and development of the corporate sector in India. The Act, will allow the country to have a modern legislation for regulation of corporate sector in India. The 2013 act is more of a rule based legislation containing only 470 sections, which means that the substantial part of the legislation will be in the form of rules. The 2013 Act has introduced several provisions which would change the way Indian corporate do business and one such provision is spending on corporate social responsibility activities. CSR, which has largely been voluntary contribution by corporates, has now been included in law.

### Concept of Corporate Social Responsibility

The idea of CSR first came up in 1953 when it became an academic topic in HR Bowen's "Social Responsibilities of the Business". Since then, there has been continuous debate on the concept and implementation. Although the idea has been around for more than half a century, there is still no clear consensus over its definition.

One of the most contemporary definitions is from the World Bank Group, stating, "Corporate Social Responsibility is the commitment of businesses to contribute to sustainable economic development by working with employees, their families, the local community and society at large, to improve their lives in ways that are good for business and for development."

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 strate-

gic business and strengthen 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."

### From the above definitions, it is clear that:

- The CSR approach is holistic and integrated with the core business strategy for addressing social and environmental impacts of businesses.
- CSR needs to address the well-being of all stakeholders and not just the company's shareholders.
- Philanthropic activities are only a part of CSR, which otherwise constitutes a much larger set of activities entailing strategic business benefits.

### CSR under the companies Act 2013 – An Overview

In an effort to properly position the Indian economy for the remainder of the century, India has replaced its fifty-seven-year old Companies Act 1956 with new Companies Act 2013. India, however, is setting itself apart from other asian countries by codifying corporate social responsibility (CSR) spending for targeted companies.

Under the new Companies Act 2013, S. 135 exclusively deals with the corporate social responsibility requirements. An analysis of this section gives us the following CSR mandate:

#### 1. What is the 2 percent requirement?

The act requires that companies set up a CSR Committee, which must consist of at least three directors, one of whom must be independent. That committee must ensure that the company spends at least 2 percent of the average net profits of the company made during the three immediately preceding financial years on CSR activities. If the company fails to spend this amount on CSR, the board must disclose why in its annual report.

#### 2. Who must follow this requirement?

The requirement will apply to any company that is incorporated in India, whether it is domestic or a subsidiary of a foreign company and which has

- Net worth of Rs. 500 crore or more , or
- Turnover of Rs. 1,000 crore or more or
- Net Profit of Rs. 5 crore or more

during any of the previous three financial years.

#### 3. How the requirement be enforced?

The board committee is responsible for reviewing, approving and validating the company's investments in CSR. Prior to each annual meeting, the board must submit a report that includes

details about the CSR initiatives undertaken during the previous financial year. The board's independent director helps ensure the credibility of this process. However, the act does not provide any guidance on what constitutes acceptable reasons for which a company may avoid spending 2 percent of CSR.

#### 4. How does the act define "CSR"?

The act defines CSR as activities that promote poverty reduction, education, health, environmental sustainability, gender equality and vocational skills development. Companies can choose which area to invest in, or contribute the amount to central or state government funds earmarked for socioeconomic development. While this definition of CSR is broad and open to interpretation, it clearly emphasizes corporate philanthropy rather than strategic CSR. The act does, however, specify that companies "shall give preference to the local area around where it operates."

Thus the Companies Act, 2013 has introduced the idea of CSR to the forefront and through its disclose – or – explain mandate, is promoting greater transparency and disclosure. Also by discussing a company's relationship to its stakeholders and integrating CSR into its core operations, it suggests that CSR needs to go beyond communities and beyond the concept of philanthropy.

#### Conclusion

In a country such as India, where one-third of the population is illiterate, two-thirds lack access to proper sanitation. The passage of the companies Act, 2013 should be hailed as a positive step forward in ensuring that business contributes to equitable and sustainable economic development. However considering the darker side, by making CSR mandatory, companies may treat it as a "check the box" exercise rather than looking at ways to generate a return from doing social and environmental well. Hence it will be interesting to observe the ways in which this will translate into action at the ground level, and how the understanding of CSR is set to undergo a change.

## REFERENCE

- \* Assistant Professor, New Law College, Pune | [1] Companies Act 2013: Five Key Points About India's 'CSR Mandate', Chhavi Ghuliani, Manager, Partnership Development and Research, India, available at <http://www.bsr.org/en/our-insights/blog-view/india-companies-act-2013-five-key-points-about-indias-csr-mandate>, last visited at 09/07/2014 | [2] Companies Act, 2013: A Boon to Indian Corporate Social Responsibility, Anita A. Patil, International Journal of Research and Analysis Volume 2 Issue 3, 2014, available at [http://ijra.in/uploads/41832.4466978704fullpaper\\_Anita%20A.%20Patil.pdf](http://ijra.in/uploads/41832.4466978704fullpaper_Anita%20A.%20Patil.pdf) | [3] "Grant Thornton, Implications of Companies Act, 2013: Corporate Social Responsibility", Available at [http://gtw3.grantthornton.in/assets/Companies\\_Act-CSR.pdf](http://gtw3.grantthornton.in/assets/Companies_Act-CSR.pdf), last visited on 9/07/2014 | [4] Handbook on Corporate Social Responsibility in India, available at [http://www.pwc.in/en\\_IN/in/assets/pdfs/publications/2013/handbook-on-corporate-social-responsibility-in-india.pdf](http://www.pwc.in/en_IN/in/assets/pdfs/publications/2013/handbook-on-corporate-social-responsibility-in-india.pdf), last visited at 09/07/2014 | [5] Kordant Philanthropy Advisers, "The 2% CSR Clause: New Requirements for Companies in India", Available at [www.kordant.com/assets/2-Percent-India-CSR-Report.pdf](http://www.kordant.com/assets/2-Percent-India-CSR-Report.pdf), last visited on 09/07/2014 | [6] Message given by D. S Rawat, Secretary General, ASSOCHAM, Available at <http://www2.deloitte.com/content/dam/Deloitte/in/Documents/tax/thought-papers/in-tax-asso-cham-companies-bill-noexp.pdf>, last visited on 01/07/2015 | [7] See [http://ec.europa.eu/enterprise/policies/sustainable-business/corporate-social-responsibility/index\\_en.htm](http://ec.europa.eu/enterprise/policies/sustainable-business/corporate-social-responsibility/index_en.htm) last visited on 9/07/2011 | [8] See <http://www.wbcsd.org/work-program/business-role/previous-work/corporate-social-responsibility.aspx> last visited on 9/07/2011 | [9] See [http://www.unido.org/what-we-do/trade/csr/what-is-csr.html#pp1\[g1\]/0/](http://www.unido.org/what-we-do/trade/csr/what-is-csr.html#pp1[g1]/0/), last visited on 9/07/2011 | [10] The Challenges of Social Corporate Social Responsibility: Facts for You, May 2013, pp. 38-39