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**COVID-19 AND CSR: ANALYSIS OF AFTER PANDEMIC
SCENARIO**

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Abstract:

The primary purpose of corporates is to earn profit. Entire economics centered academia believes that money multiplication is a motivation for the business. But there is another theory which believes that business entities operating around the world are responsible juristic citizens, hence they shall share social responsibilities along with economic progress, especially near their operating environment. In India, businesses were involved in charity since time immemorial and even today some big industries like TATAs are owned trusts which are largely engaged in philanthropic activities. The new companies act known as Companies Act 2013, provided mandatory CSR contribution in terms of money for the companies registered under it. During the difficult times of COVID-19, there is an unprecedented situation where businesses are pessimistic towards the future and due to fiscal pressure government ought to cut short its expenses. The low revenue inflow and high outflow will force the government to reduce its infrastructure expenditure which is essential for a growth-oriented and stable economy. In this situation, corporates can share the responsibility of certain expenditures and relieve the government to utilize those funds towards infrastructure. Hence, this will be mutually beneficial for both stakeholders. This article discusses the impact of COVID 19 over CSR expenditures as well as over corporates, the sector-wise scope of CSR contribution along with a brief introduction of CSR, and newly introduced regulations and amendments by government.

Keywords – CSR, Schedule VII, Ministry of Corporate Affairs, Fiscal Deficit, Annual Report.¹

Introduction

Corporate Social Responsibility is not a new concept in the world, especially in India. Earlier the businesses were owned by individuals who were deeply interested in philanthropic work. But now businesses are owned by a substantial number of people, in the form of shares, and run by a board of directors, whose primary objective is wealth creation for shareholders. Big corporations whose turnover is more than the GDP of the majority of countries in the world recruit lacs of people around the world and partners with numerous small businesses in the form of outsourcing. Actions of these corporates affect stakeholders, employees, environment, and society at large, so corporates share a moral responsibility to support all those whose life is affected by the activities of corporates. Social responsibilities of the corporates can be defined as “the obligations of businessmen to pursue those policies, to make those decisions, or to follow those lines of action which are desirable in terms of the objectives and values of our society”. CSR in the modern world is not limited to merely performing legal duties, but it extends to adopting efficient and environment-friendly technologies, minimizing the risk for lives involved, improving the lifestyle of communities living around the premises etc. Companies now measure their philanthropic activities in the form of money they spent over such activities and address such expenditure as CSR. Although the concept of CSR is wide enough even to cover volunteering by employees, but in India CSR is limited to money companies have spent over programs beneficial to society at large. Before the pandemic of COVID-19 companies’ inclination towards CSR was in trend and even small businesses were inclined towards making contribution to society in the form of CSR expenditure. But now the world is witnessing tough times and government as well as companies are expected to face cash crunch and revenue deficits, which will adversely impact philanthropic activities of corporates and welfare schemes of governments. In these challenging times, corporate may tend to reduce their expenditures towards non-productive activities and channelize their finances towards the production of primary products. Hence, the current situation may reverse the trend, and companies may adopt a conventional approach towards their social responsibilities i.e. limiting themselves to mere compliance with legal obligations.

Companies act and CSR in India

In the era of globalisation and liberalisation CSR is not mandatory anywhere in the world except India, but scholars and successful business leaders consider it necessary and beneficial for profitable corporates. Even in India the idea behind mandatory CSR is not to force corporates to do charity but it is based on three broad propositions, (i) to build a responsible business (ii) to promote sustainable business philosophy, and (iii) to encourage companies to come up with innovative ideas, robust management systems to address social and environmental concerns of the local area in country. Before 2013 even India do not have any mandatory provision for CSR, but Companies Act, 2013 created such provision under section 135. According to section 135, every company which is registered under the companies act, which have net worth of 500 crores or turnover of one thousand crores or earned a net profit of at least 5 crore during immediate preceding year is required to comply with CSR related norms.² The companies which fulfil the aforementioned criteria need to do the following things ;

- (i) Constitute a Corporate Social Responsibility Committee consisting of three or more directors, at least one of them be an independent director.
- (ii) CSR committee required to fulfil following tasks (a) formulation of CSR policy for organisation,³ (b) Recommending various activities under CSR, and their monitoring.⁴

² Companies Act, 2013, 18 of 2013, § 135 (1), hereinafter Companies Act.

³ Companies Act § 135(3)(a).

⁴ Companies Act §135(3)(b)(c).

The board has to make sure that the company spends at least 2% of the average net profit of the preceding 3 financial years.⁵ In case a company has not completed three years since its incorporation, 2% of immediately preceding financial year shall be set aside as CSR expenditure.⁶ Schedule VII of the act provides a list of areas of expenditure. The list itself is long enough to cover almost every area of social concern. Act also gives freedom to companies to choose mode of implementation, decide budget of project and number of projects, companies can also donate to funds listed under schedule VII. Companies are free to design, implement, and finance CSR projects as per their wish. Although companies are suggested to give preference to areas near their premises. Companies act does not have any provision for tax benefits for CSR expenditure, but the income tax act provides tax benefits for some of the activities.

- **Provisions in case of default**

Before 2019 the provisions dealing with default in required CSR expenditure were absent in act, although section 134 provides for penalty in case the company fails to declare its CSR expenditure in its annual report. But in 2019 the act was amended, and related provisions were inserted. Now proviso is added to section 135 which requires companies to transfer the unspent amount in one of the funds mentioned in schedule VII, within 6 months of expiry of financial year, provided that the unspent amount was not related to an ongoing project. If unspent amount is related to an ongoing project, then it shall be deposited in a special bank account opened for that purpose only, and such deposits shall be used by the company within 3 years for CSR activities otherwise such deposit shall be transferred to any fund mentioned in schedule VII.⁷ The 2019 amendment imposed a penalty on those who fail to comply with the above-stated provisions, the penalty may extend from 50,000 to 25,00,000.⁸ When the 2019 amendment was introduced, there were provisions related to imprisonment for a maximum term of 3 years for those who were responsible for such default, but after severe criticism, the government announced to recall such provision.⁹ although the government is likely to propose an enhanced pecuniary penalty.

- **Amendments due to COVID -19.**

To overcome challenges emerged due to unprecedented COVID-19, Ministry of Corporate Affairs allowed CSR fund to be spent towards COVID – 19 related activities under schedule VII through a circular.¹⁰ CSR funds can be spent towards activities mentioned under entry VII and XII i.e. disaster management including rehabilitation and reconstruction activities.¹¹ Wages/Salaries paid during lockdown are not included under CSR expenditure but ex gratia payment to the daily wage workers/ temporary workers/ casual workers specifically for COVID -19 is also included under expenditure under CSR during COVID 19.¹² Furthermore, MCA issued another circular notifying Prime Minister CARE Fund qualified under schedule VIII of the act.

⁵ Companies Act § 135 (5).

⁶ Companies Act § 135 (5).

⁷ Companies Act § 135(6).

⁸ Companies Act § 135(7).

⁹ <https://economictimes.indiatimes.com/news/economy/policy/government-constituted-panel-suggests-making-csr-non-compliance-civil-offence/articleshow/70662585.cms?from=mdr>

¹⁰ General Circular no. 10/2020, Ministry of Corporate Affairs.

¹¹ Id.

¹² F. No. CSR-01/4/2020-CSR-MCA, Ministry of Corporate Affairs.

Ministry also faced severe criticism when it did not include various state government funds created especially for COVID – 19 under funds qualified under schedule VII.¹³ The criticism was based on discriminatory treatment of state fund and central funds as well as encouraging corporates to discriminate between state and central funds in terms of contributions.

Corporates and their CSR Contribution during Pandemic

After the announcement of Lockdown, Indian corporates and their philanthropic wings donated crores in terms of money, offered their services free of cost, and supplied ambulances, lifesaving medical equipment to hospitals, and supplied food to needy and poor. Most of this expenditure was under various heads of CSR expenditure. Contribution of some of the major Indian corporate giants is discussed below-

- **TATA SONS**

Tata Sons is the parent company of hundreds of TATA companies and its majority share is owned by TATA Trusts. Tata Sons along with Tata Trusts pledged to donate 1,500 crore rupees to tackle COVID-19.¹⁴ The amount will be spent towards the procurement of respiratory systems, testing kits, building modular hospitals, and training to medical professionals.¹⁵ TATA also donated ambulances to the BMC.

- **Reliance Industries Ltd.**

Reliance Foundation, the philanthropic hand of the Reliance Industries provided a 100 bed COVID dedicated hospital and 5 crore rupees to Maharashtra CM relief Fund. Reliance also offered quarantine centers, its digital wing JIO build a chatbot for mygovcorona Helpdesk free of cost. Reliance Foundation also feed numerous children and migrant labourer during this pandemic and provided PPEs to corona warriors.

- **Mahindra Group**

Mahindra Group pledges its financial as well as non-financial support to government and various other agencies involved in the fight against COVID-19. Its chairperson Mr. Anand Mahindra donated his salary and asked its employees to do the same. Group offered its Mahindra Holidays resorts to be used as quarantine centers and promised to create a dedicated fund to help people engaged in its supply chain.

- **Hindustan Unilever**

Hindustan Unilever is one of the largest FMCG company in India. It slashed the price of its personal care and hygiene products including sanitizers and pledged to donate 100 crores towards fight COVID 19.

¹³ FAQs, General Circular No. 15 /2020, Ministry of Corporate Affairs.

¹⁴ Newsroom, (1 May 2020, 11 PM), <https://www.tata.com/newsroom/covid19>

¹⁵Twitter Handle of Anand Mahindra (1 May 2020, 11 PM) https://twitter.com/TataCompanies?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1243890147352915968&ref_url=https%3A%2F%2Fwww.vogue.in%2Fwhats-new%2Fcontent%2Findian-industrialists-businesses-donating-money-coronavirus-covid-19-research-ventilators

A list of some other major corporate houses and PSUs and their respective contribution till the month of May is given below -

| S. NO. | Name of Company | Amount Contributed |
|--------|-------------------------|---|
| 1 | Coal India Ltd. | 221 Crore to PM CARE Fund. |
| 2 | SBI Foundation | 30 Crore to COVID relief |
| 3 | Coco-Cola India | More than 100 Crore to COVID relief |
| 4 | Bosch Group | 50 Crore |
| 5 | National Stock Exchange | 26 Crore to PM CARE Fund |
| 6 | Dalmia Bharat Group | 25 Crore to PM CARE Fund |
| 7. | ONGC | 300 Crore to PM CARE Fund |
| 8 | Larsen & Turbo | 150 Crore to PM CARE Fund |
| 9 | JSW Group | 100 Crores to PM CARE Fund |
| 10 | Godrej Group | 50 Crore to support and relief in a pandemic. |

Impact of Covid-19 Over CSR Funds

COVID-19 has been declared a pandemic by WHO. The only solution to contain the spread of COVID-19 is social distancing, use of masks, and frequently washing our hands. When western world suffered casualties of such numbers which were never thought of before, the government panicked and imposed lockdown to ensure strict adherence to social distancing and prepare its healthcare facilities for worst. During lockdown which stretched for more than 2 months most of the economic activities were at a halt. This led to widespread unemployment, unused stocks, and nil revenue. Hence, the pandemic created both demand and supply-side crisis in the market, which will ultimately affect all types of expenditures by the government as well as corporates. Hence, CSR expenditure is also expected to suffer severely. Some new challenges may arise out of the present situation, which may derail the concept of philanthropic corporates at least for a short period of time.

The various challenges faced by the corporates and their impact on CSR are discussed below:

- **Less CSR Fund**

CSR funds of the companies depend upon the profit earned by companies, but during this pandemic, companies suffered a huge loss, even before lockdown India was suffering from an economic slowdown, as the GDP growth was at 3.1% during the fourth quarter ended

in March.¹⁶ The future is uncertain and most of the economies of the world are expected to witness a negative growth rate. Even if we notice the trend of compliance of CSR before the pandemic, the CSR expenditure dipped by 6.9% in 2017-18¹⁷, and reporting of CSR also witnessed a dip in percentage.¹⁸ Hence, there was a trend of decline in CSR funds even before this pandemic which is expected to further decline during such difficult times. Thus, it can be safely concluded that contribution towards CSR is expected to shrink in the present financial year.

- **Re channelizing the CSR Fund**

As mentioned above Indian Corporates has donated large chunks of money under towards PM CARE fund and other activities that qualify under schedule XII. The expenditure on Pandemic is an unplanned one, but there are planned expenditures under CSR including some long-term projects aimed at sustainable development. Since CSR rules, 2014 also promote long term projects¹⁹ under CSR expenditure, so companies were largely indulged in such projects. But keeping in mind the ongoing expenditure during the pandemic and upcoming economic crisis which is expected to severely affect the CSR fund,²⁰ the long-term projects may find themselves in peril. The corporates may need to cut short their overhead costs of CSR activities and one time but significant activities such as health camps, school kit distribution initiatives may suffer largely. The CSR policies may need restructuring, some of the new activities such as sanitation drives may become focus areas for CSR expenditure to check contamination or spread of COVID -19.

- **The conflict between CSR expenditure and capacity development**

The choice between profit and charity is always a conflicting one and lies in the root of arguments against mandatory CSR contribution. This argument becomes more pertinent in times like this, where stagnation and uncertain future exist. Under such circumstances, the business world wants to use the maximum of the money available to bring stability, certainty, and growth to its business. It may be possible for big business to continue their contribution especially for those involved in software industry whose business is not severely affected by lockdown, but largely micro, small and medium enterprises will face such conflict, where they need more funds to reinvest but will be forced to do charity by law. Hence, the government may grant certain relief to such industries under sub-section 6 of section 135 of the companies act. Industries need to develop their capacities in the form of trained human capital and modern machinery, hence, industries will need capital, there are two ways to acquire capital, (i) through loans, share market etc, (ii) reinvestment of profits. The first one depends upon economic conditions, usually industrialists are reluctant to choose outside sources of finance during uncertain times, but reinvestment is always desired by all. Hence, industries will be reluctant to do charity in the coming times which will further dry up money in pockets of philanthropic hands of corporates.

¹⁶GDP growth faces slump, (1 May 2020, 11 PM) <https://www.livemint.com/news/india/covid-19-impact-india-gdp-growth-at-3-1-in-q4fy20-11590751970512.html>

¹⁷ High Level Committee Report, 26.

¹⁸ High Level Committee Report, 27.

¹⁹ CSR rules by MCA, 2014

²⁰With CSR fund going to feed million, NGO face steep reduction in support from corporates, (21 May 2020, 1 PM) <https://thewire.in/government/csr-covid-19-ngos>

Covid-19 and its Sector Wise impact on CSR

Governments around the world are expected to suffer revenue losses, the fiscal discipline is bound to be disturbed.²¹ Government of India has already announced an economic package and also expected to announce further packages in coming future.²² Hence, budget cuts in infrastructure as well as welfare schemes are inevitable for the government. Corporates in collaboration with governments at various levels can share the burden of government. There are various sectors where corporates can play a significant role in relieving government to spend on other significant things. Some of the sectors are discussed below:

- **Education**

Education is essential to build a civilisation. Teacher's training, infrastructure for school and college, scholarships, awareness campaign regarding traffic rules, gender sensitization, financial literacy, training development etc are some of the focus areas of CSR expenditure in the country. Corporates spent 7,499.26 crores in around 35 states and union territories on education during 2018-19.²³ Out of 7,499.26 crores, 758.95 crores, 5,717.78 and 173.89 crore were spent on education, special education, and vocational skills respectively.

India is expected to have the largest working population in the world by 2022,²⁴ thus the need for education to every Indian is inevitable, schools and colleges are closed by orders of governments, hence online education becomes important. But teachers need training and teaching material for imparting education digitally.

Teachers' training can be enhanced using innovative technology. Training modules and teaching material can be prepared digitally at low cost through collaborations with various experts. Corporates can leverage their technology, resources, and infrastructure to ensure standardized training to a large number of teachers and institutes. Online support to the educational institutes especially through platforms such as TCS ION during pandemic can be duplicated at the national level.

Hence, corporates can function as a socially responsible corporate citizen by pooling their resources and building institutional supports for educational institutes.

- **Health**

The world is facing a health emergency, even developed countries are facing casualties on such scale, that was not even thought by any stretch of imagination. Health Care is divided into two categories for the sake of convenience (i) preventive healthcare and (ii) Treatment. Companies are indulged in both categories of healthcare through their CSR fund. During 2018-19 around 4,303 companies spent 4,958.48 crores on healthcare, hunger, poverty and malnutrition, sanitation, and safe drinking water.²⁵ 3,216.10 crores were spent on healthcare, which also includes preventive health care, 440.5 crores spent on sanitation, and 211.81 crores

²¹Challenges and traps before Indian economy, (2 June 2020), <https://www.bloombergquint.com/coronavirus-outbreak/covid-19-policy-challenges-and-traps-in-restarting-indias-economy>

²²More Steps to be taken by government, (28 May, 2020 1:21 PM), <https://economictimes.indiatimes.com/news/economy/policy/its-only-a-pause-more-steps-to-come-to-deal-with-covid-19-crisis-anurag-thakur/articleshow/75893809.cms?from=mdr>

²³(3, June, 2020) https://www.csr.gov.in/mactivity.php?csr_spent_range=&compCat=&state=&district=&year=FY+2018-19&mact=Education,%20Differently%20Abled,%20Livelihood

²⁴Reduction in India's Education Budget, (4 June 2020), <https://www.moneycontrol.com/news/business/economy/budget-2020-education-sector-allocation-up-5-4892771.html>

²⁵(1 June 2020, 10 PM), <https://www.csr.gov.in/developmentlist.php>

spent on safe drinking water. After this pandemic preventive healthcare became essential to contain the spread of COVID-19, hence preventive health care in form of awareness campaigns, technological aid, protective gear to workers engaged in healthcare are some of the activities which may become focus areas for companies. Even during pandemic companies assisted health professionals through the free supply of PPEs, but this practice must continue at least for a year. Another critical area of support is providing dedicated COVID-19 wards in the hospitals run by corporates. Pharma and healthcare giants such as Fortis, Apollo, RBH, Ranbaxy may provide more meaningful and essential supplies to healthcare institutes during this pandemic.

Sanitation was important even before this pandemic, but now it becomes indispensable for us. Swachh Bharat Mission received a considerable amount of money through CSR from corporates, but now the government needs to change the focus area of the scheme from building toilets to ensuring hands cleaning facilities, sanitization, and awareness about wearing masks.

Sanitation needs more funds due to its role in checking the spread of virus and preventive healthcare needed to be promoted on a large scale, thus corporates need to plan their CSR expenditure accordingly.

- **Rural Development**

Mahatma Gandhi once said 'India lives in villages' which is true even now. Rural India accommodates the majority of Indians. After mass migration due to pandemic, rural India faces the danger of being a hub of COVID – 19 infection. Due to poor healthcare facilities, poor connectivity, and lack of employment options, it may become difficult for those who migrated from cities to sustain themselves in villages, it may lead to widespread poverty and violence. Although the government increased budget allocation to employment schemes such as MNERGA by 40,000 crores.²⁶ 2,309 crores by around 3,898 companies were spent over rural development projects during 2018-19.

Beyond their CSR expenditure required by law, companies may provide institutional support to agriculture-based start-ups and social entrepreneurs. Co-operative societies and self-help groups (SHGs) may become a partner in the growth of companies. The strategic CSR expenditure will yield greater results and capacity building of the rural population will improve their earning as well as living standard. Rural India holds infinite opportunities for corporates to explore new businesses and cost-saving techniques.

- **Environment**

Environmental protection in the modern world gained momentum especially in 21st century where the world is more concerned about global warming. After the United Nation's resolution for sustainable development, big companies around the world adopted principles of environmental protection and sustainable development in their business philosophy. The company's concern about the environment is of two-fold²⁷ (i) sustainable development and (ii) environment protection. Nature-friendly campuses such as google campus, Infosys campus at Bengaluru, Microsoft campus reflects the brand's conscience about their concern for the environment. Although the pandemic has not imposed any new challenges in terms of environmental degradation, but lack of funds will affect important ongoing projects.

The corporates may choose to ignore new projects under environment protection and may cut the budget of those which are ongoing. Although such practice in the long term may be detrimental to corporates as well as mother earth.

²⁶20 Lacs crore package explained, (20 May 2020, 4:45 PM), <https://indianexpress.com/article/explained/atmanirbhar-package-full-break-up-of-rs-20-lakh-crore-nirmala-sitharaman-lockdown-6414044/>.

²⁷ Environmental awareness as a universal European Value Visegrad Project: 11540386, International May Conference on Strategic Management - IMKSM2016, 28-30. May 2016, Bor, Serbia.

Conclusion

Corporate Social Responsibility is neither a new concept in the world nor a strange thing in India. India is known for its philanthropic businesspeople and socially concerned enterprises. Section 135 of the companies act, 2013 introduced mandatory CSR in India to cultivate philanthropic tendencies among Indian businesses. The COVID -19 forced businesses to face unprecedented challenges during tough times of slow economic progress, and economies around the world are expected to grow negatively while numerous MSMEs were forced to shut down their operations. Companies are facing a cash crunch and the economy is witnessing supply as well as demand-side crisis. CSR contributions are expected to decrease while the need for CSR remains unaffected. CSR policies are expected to be amended to tackle the crisis. Long term strategic projects may face a cash crunch or may face forced closure. But companies should strike a fine balance between non-strategic activities and strategic projects because abandoning an on-going project will result in wastage of resources which are already in use. Resource pooling is the best and most affordable way to fund on-going projects. Reducing overhead CSR costs may also help. But spirit to serve society is most important, CSR must remain an important part of the policy and essential to business goodwill otherwise it will lose its relevance. There are challenges before government and corporates but, there are opportunities also which can be explored and exploited by both. CSR fund during pandemic feed crores of needy people and help lacs to reach their destination, need for CSR can't be undermined even in this pandemic and corporates should continue to use their expertise and resources to help those who are not able to help themselves.