Review of the Mandate of Corporate Social Responsibility

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ABSTRACT

The worry about private unethical practices in business houses is becoming a public concern. Most Indian Citizens are disgusted with the state of ethics, sick of dishonesty and unethical dealings. This review is done in the backdrop of implementing mandated Corporate Social Responsibility (hereinafter referred to as **"CSR"**) by India Inc in the last five years. The deployment of funds by any business house for Social cause shall be out of interest and not out of sceptism. The Social cause funding is a matter of Conscience versus action, heart versus mind and the numbers versus the results. The Corporate expenditure for social causes is mandated by Indian Government to benefit Indian citizens assuming that the social benefits proclaimed by the Government of India do not reach the supposed targets on account of leakages and red tapes within the system. The CSR range is now growing bigger and in the upcoming years it would turn as a unique knowledge base for analyzing and achieving goals as among various large economies. CSR legislative mandate in India is considered as one of the major factors in driving and achieving the proclaimed economic progress as envisaged by the Government of India.

Keywords: Mandated Corporate Responsibility, Social Cause, Economic Progress

INTRODUCTION

Corporate Social Responsibility (CSR) refers to the efforts of the large corporate organizations coming up with business ways to undertake projects helpful to the society and environment. With CSR activities, the business organizations is expected to realize a balance of environmental and social imperatives besides economic problems. Organization not solely gain competitive benefits by rising brand image and name however conjointly enhance shopper loyalty. It can facilitate corporations get easy accessibility to capital and markets that helps in increase of sales and profit.

Corporate philanthropy is not which India is unaccustomed. Sir Ratan Tata Trust, established in 1919, by TATA group of companies is one of India's oldest philanthropic organizations. Also, The Azim Premji Foundation had received huge funds from its founder for the philanthropical activity. Indian corporates have been voluntarily spending for social cause through Trusts incorporated by the founders. Institutionalized philanthropy will not rely on individual preferences. A prescriptive model by mandating the corporate spend towards social cause is healthier than a voluntary one.

India is the first and probably only country till date to mandate CSR spends by large corporates. It was part of Companies Act2013, as a significant measure to promote corporate activity that would push the pace of India's economic growth. Implementing Corporate Social Responsibility spends in the last five years in India reflect that the objective on social activities is achieved by Nifty 50 companies as they spend

104% of the mandated amount and there is tremendous potential to grow year on year. The funds of around 2 Billion USD per year is made available in India for Social activities by implementing mandatory contribution from companies registered in India.

LEGAL PROVISION RELATING TO CSR IN INDIA

Corporate Social Responsibility aspect in India is legally mandated through introduction of Section 135 of the Companies Act 2013 and amendments thereto made till date hereunder wherein the parameters has been provided for evaluating the CSR eligibility of a company, regulation of Implementation and Reporting of their CSR Policies. Section 135 of the Companies Act states that companies having a net worth of INR 5 billion or more, a turnover of INR10 Billionor more, or a netprofit of INR50 Millionor more in a given financial year, are required to spend 2 percent of their average net profit (of a block of previous three years or where the company has not completed three years since its incorporation, during such immediately preceding financial years) made by the company on CSR activities.

This section of the CompaniesAct,2013 was a"comply or explain"(COREX) provision, wherein no defrayment of the CSR quantum was needed to be reported by the company in its Director's Report. With the Companies (Amendment) Act, 2019, the amendments have gone to the extent of converting a COREX clause into a punishable obligation. Section 135 of the Companies Act, 2013 provides for 3 years imprisonment or with rigorous fine or both.

The Practice of Corporate Social Responsibility (CSR) around the World

India is perhaps the sole country to have implemented corporate social responsibility (CSR) into law. The CSR is all concerning business models and nota financial aid all over the world.

The United Nations has had a significant role to play in international acceptance of the concept of CSR with their promotion of the "Global Compact" to which many countries are members.

This "Global compact" binds the members to universally accepted principles of social responsibility which the businesses in those countries are expected to follow, which is tracked for implementation. The Asian and Latin American continents were lagging for a long time in recognizing that businesses have a social responsibility.

Many commentators in West earlier discouraged the idea of CSR implementation considering CSR is a luxury in the same way that early adopters in US and Europe felt. However, in the recent times, India and Brazil have taken the lead in making businesses perceive the policies that are socially useful, environmentally conscious, addressing human needs and optimum use of natural resources without causing any disturbance to the nature.

CSR and Corporate Governance: Two Sides of the Same Coin

Companies that practice good corporate governance are generally socially and environmentally responsible. A good corporate citizen means that companies are well governed and responsible to the stakeholders as well as to the public. In other words, CSR and corporate governance are two sides of the same coin.

Unless corporates practice good governance, they may not be able to be socially conscious. Hence, the first step towards CSR is practicing the art of effective corporate governance.

The Corporates shall set their own houses in order and then comply with social and environment. In the recent times, a great thought that emerges voluntarily among the corporates to be ethical, socially responsible and conscious.

The total CSR fund investment by companies in India is estimated to cross around INR 6 Billion totallyby31stMarch2020, since the applicability of the mandatory CSR. A large chunk of this is towards education and skills development projects, followed by healthcare and sanitation initiatives, both of which are top priorities for the central government as well. CSR compliance in-line with the prescribed annual CSR spends by large corporates is going to increase and expected to reach in the range of 97-99% by FY 2019-20.

NEED TO REVISIT HE MANDATE OF CSR FROM CORPORATES PERSPECTIVE

The Companies in India do a lot to the society voluntarily by generating jobs and incomes, meeting social wants and needs, paying taxes, allowing people's savings to be converted into capital that generates returns for the suppliers of that capital and by carrying out research and development tha produces new technology.

Many companies go beyond to address problems of the environment, social under development and rehabilitation of those displaced for their sake. Ethical investors and conscientious consumers favour them. The Government should have left it at that.

Mandating CSR is like levying additional tax. Asking the companies to spend the proceeds themselves may not achieve the desired and expected results by the Government. Companies that are good at doing CSR, would do it on their own, in any case. Hence many critics argue that CSR mandate is more of harassment.

The business houses in India face difficulties, in the current economic scenario, to carry on business activities, earn profit, pay taxes, repay debts and then do well to the society.

A Government panel has recommended that violations of corporate social responsibility rules should be regarded as civil offences, such spending should be eligible for tax deductions and companies should be allowed to carry forward unspent balances for three to five years.

The panel has suggested that CSR violations be only made a civil offence and also that CSR should not be regarded as a means of resource -gap funding for government schemes. CSR spending should be made a corporate driven process to provide innovative technology-based solutions for social problems.

CONCLUSION

CSR mandate is undoubtedly the major factor driving India's economic progress projected by the Government to make India achieve 5 Trillion economy in another five years.

In order to make the CSR mandate to be purposeful and more effective for Indian Economic growth, it is suggested that the Section 135 (1) of the Companies Act, 2013 be amended by deleting **"or"** in the section and inserting **"and"** to make the mandatory spend only by Profit earning corporates. It is unfair to make the CSR expenditure mandatory for the corporates achieving the stipulated sales but incurring loss.

The Government may also pool such amounts into a separate fund managed by Government itself in order to align the spends towards social projects designed and implemented by the Government.

The Government shall also allow the CSR expenditure as a business expenditure under section 37 of the Income Tax Act to benefit the corporate making such spends. The non-compliance is suggested to be considered only as a civil offence. This will motivate all business houses including profit earning corporates other than large corporates and MSMEs to allocate a part of their profit towards social cause and spend to benefit the society voluntarily.

References: *Economic Timess; Indian Companies Act, 2013 including amendments thereto till date*